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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION**

In re: JAMES ANDREW GONZALES and ESTELA ORTEGA GONZALES, Debtor(s).	CASE NO.: 6:15-bk-13359-SY CHAPTER: 7 <p style="text-align: center;">NOTICE OF SALE OF ESTATE PROPERTY</p>
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Last Day to Submit Bids: March 11, 2016

Sale Date: Final Bidding Round/Court Hearing: 4/14/16	Time: 9:30 am
Location: United States Bankruptcy Court, 3420 Twelfth Street, Ctrm. 302, Riverside, CA 92501	

Type of Sale: Public Private **Last date to file objections:** 03/31/2016

Description of property to be sold: Real Property located at 1501 Front St., #421, San Diego, CA 92101-2977

Terms and conditions of sale: Free and clear of liens, if any, pursuant to Bankruptcy Code §§ 363(b)(1) and (f)
Purchase price of \$345,000.00, subject to overbids. See attached for Bidding Procedures.

Proposed sale price: \$ 345,000.00

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

Overbid procedure (if any): Potential overbidders must bid an initial amount of at least \$5,000.00 over the consideration offered by the Buyer (total of at least \$355,000.00.) Minium bid increments after that shall be \$1,000.00

See attached for more information.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

April 14, 2016 at 9:30 a.m.

Courtroom 302

U.S. Bankruptcy Court

3420 Twelfth Street

Riverside, CA 92501

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Rika M. Kido, Esq.

SHULMAN HODGES & BASTIAN LLP

100 Spectrum Center Drive, Suite 600

Irvine, CA 92618

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Date: 03/22/2016

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6 Attorneys for Lynda T. Bui,
Chapter 7 Trustee
7

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION**
10

11 In re

12 **JAMES ANDREW GONZALES and**
13 **ESTELA ORTEGA GONZALES,**

14 Debtors.

Case No. 6:15-bk-13359-SY

Chapter 7

**CHAPTER 7 TRUSTEE’S MOTION FOR
ORDER:**

(1) **APPROVING THE SALE OF REAL
PROPERTY OF THE ESTATE FREE AND
CLEAR OF LIENS PURSUANT TO
BANKRUPTCY CODE §§ 363(b)(1) AND
(f), SUBJECT TO OVERBIDS, COMBINED
WITH NOTICE OF BIDDING
PROCEDURES AND REQUEST FOR
APPROVAL OF THE BIDDING
PROCEDURES UTILIZED;**

(2) **APPROVING PAYMENT OF REAL
ESTATE COMMISSION; AND**

(3) **GRANTING RELATED RELIEF;**

**MEMORANDUM OF POINTS AND
AUTHORITIES AND DECLARATION OF
LYNDA T. BUI IN SUPPORT THEREOF**

[Real Property located at 1501 Front St. #421, San
Diego, CA 92101-2977]

Hearing Date:

Date: April 14, 2016

Time: 9:30 a.m.

Place: Courtroom 302

United States Bankruptcy Court
3420 Twelfth Street
Riverside, CA 92501

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1 **TO THE HONORABLE SCOTT H. YUN, UNITED STATES BANKRUPTCY JUDGE,**
2 **THE OFFICE OF THE UNITED STATES TRUSTEE AND ALL INTERESTED**
3 **PARTIES:**

4 **I. INTRODUCTION**

5 Lynda T. Bui, the duly appointed, qualified and acting Chapter 7 trustee (“Trustee”) for
6 the bankruptcy estate (“Estate”) of James Andrew Gonzales and Estela Ortega Gonzales
7 (collectively referred to here as the “Debtors”), hereby brings this Motion for Order: (1)
8 Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to
9 Bankruptcy Code § 363(b)(1) and (f), Subject to Overbids, Combined With Notice of Bidding
10 Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving
11 Payment of Real Estate Commission; and (3) Granting Related Relief (“Sale Motion”).

12 The Trustee has received an offer from Jack A. Gersten (“Buyer”) to purchase the real
13 property located at 1501 Front Street #421, San Diego, CA 92101-2977 (“Property”) for
14 \$345,000.00, subject to overbids. The offer by the Buyer is the best offer the Estate has received
15 thus far for the Property, and is the result of negotiations between the Trustee and the Buyer for
16 the highest and best offer. Through the sale, the Trustee is expected to generate proceeds of at
17 least \$83,121.46 for the benefit of the Estate and its creditors. Further, in the event the purchase
18 price is increased by a successful overbid, the estimated net proceeds will increase and provide
19 greater distribution to creditors.

20 Accordingly, the Trustee believes that good cause exists to grant the Sale Motion so the
21 Trustee does not lose this favorable business opportunity.

22 **II. RELEVANT FACTS**

23 **A. Case Background**

24 The Debtors filed a Voluntary Petition for relief under Chapter 11 of the Bankruptcy Code
25 on April 3, 2015 (“Petition Date”).

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1 On April 30, 2015, the United States Trustee (“UST”) filed a Motion on shortened time
2 seeking the dismissal or conversion of the Debtors’ case on the grounds that the Debtors failed to
3 provide evidence of insurance coverage on their real properties and failed to provide compliance
4 information to the UST.

5 Following a hearing held on May 21, 2015, the Court granted the UST’s motion and
6 entered an order directing the appointment of a Chapter 11 trustee. As such, the Trustee was
7 appointed the Chapter 11 trustee pursuant to an Order entered May 27, 2015. The Trustee’s
8 appointment was approved by the Court pursuant to an Order entered June 4, 2015.

9 On July 9, 2015, the Trustee filed her Motion for Order Converting Case to Chapter 7
10 (“Motion to Convert”). At the hearing on the Motion to Convert on July 30, 2015, the Debtor,
11 through his counsel, appeared at the hearing and did not oppose the Motion to Convert. On
12 August 10, 2015, an order was entered by the Court approving the Motion to Convert and the
13 underlying bankruptcy case was converted to a case under Chapter 7 of the Bankruptcy Code.

14 On August 10, 2015, the UST appointed the Trustee as the duly appointed and acting
15 Chapter 7 trustee of the Debtors’ Estate.

16 The initial 341(a) Meeting of Creditors (“Meeting of Creditors”) in the Chapter 7 was
17 scheduled for September 15, 2015. The Meeting of Creditors has been continued several times
18 and is currently scheduled for March 31, 2016.

19 The last day to timely file a proof of claim in the Debtors’ bankruptcy case was
20 November 23, 2015. Currently, there are twenty-one (21) claims filed in this case for a total
21 amount of \$8,437,217.33, including secured claims for \$702,468.64, priority claims for
22 \$6,432,167.71 (including a claim filed on November 20, 2015 by the County of Riverside
23 Department of Code Enforcement in the amount of \$6,660,958.00) and an administrative claim
24 in the amount of \$975.00.

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1 **B. The Property**

2 On their Schedule A, the Debtors list the Property, which is legally described as follows:¹

3 THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIEGO,
4 IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS
FOLLOWS:

5 PARCEL 1:

6 AN UNDIVIDED 1/230TH FEE SIMPLE INTEREST AS A TENANT IN COMMON IN AND
7 TO THE COMMON AREA (AS DEFINED IN THE DECLARATION OF COVENANTS,
8 CONDITIONS AND RESTRICTIONS OF PALERMO RECORDED IN THE OFFICE
9 RECORDS OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA ON
10 AUGUST 31, 2004, AS INSTRUMENT NO. 2004-0828994) AS SHOWN ON THE PALERMO
11 CONDOMINIUM PLAN RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF
12 SAN DIEGO COUNTY ON AUGUST 31, 2004, AS INSTRUMENT NO. 2004-0828993 AND
13 FIRST AMENDMENT TO PALERMO CONDOMINIUM PLAN RECORDED IN THE OFFICE
14 OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON SEPTEMBER 7, 2004, AS
15 INSTRUMENT NO. 2004-0847428 (“CONDOMINIUM PLAN”), LOCATED WITHIN
16 PARCEL 1 OF PARCEL MAP NO. 19527, IN THE CITY OF SAN DIEGO, COUNTY OF SAN
17 DIEGO, STATE OF CALIFORNIA, IN THE OFFICE OF THE COUNTY RECORDER ON
18 JULY 13, 2004.

13 PARCEL 2:

14 RESIDENTIAL UNIT 4-21, AS SHOWN AND DEFINED ON THE CONDOMINIUM PLAN.

15 PARCEL 3:

16 NON-EXCLUSIVE APPURTENANT EASEMENTS IN AND TO THE ASSOCIATION
17 PROPERTY AND THE COMMON AREA FOR USE OF THE ASSOCIATION PROPERTY
18 AND THE COMMON AREA PURSUANT TO THE TERMS OF THE DECLARATION,
19 SUBJECT TO ANY EXCLUSIVE SUE EASEMENT AREAS AND ANY OTHER
20 RESERVATIONS SET FORTH IN THE DECLARATION.

21 AS USED IN THIS DEED, REFERENCES TO “ASSOCIATION PROPERTY”,
22 “RESIDENTIAL UNIT”, “EXCLUSIVE USE EASEMENT AREAS” AND ANY OTHER
23 DEFINED TERMS SHALL HAVE THE MEANINGS AS SET FORTH IN THE
24 DECLARATION AND CONDOMINIUM PLAN.

22 PARCEL 4:

23 AN EXCLUSIVE USE EASEMENT OVER THE PORTION OF THE COMMON AREA
24 AND/OR ASSOCIATION PROPERTY DESIGNATED AS BEING APPURTENANT TO THE
25 RESIDENTIAL UNIT IN THE CONDOMINIUM PLAN, WHICH AREAS MAY INCLUDE AN
26 EXCLUSIVE USE BALCONY AREA, AN EXCLUSIVE USE ROOF DECK AREA OR AN
27 EXCLUSIVE USE PATIO AREA (ALL AS DEFINED IN THE DECLARATION AND
28 SHOWN IN THE CONDOMINIUM PLAN).

26 APN: 533-364-15-21

28 ¹ The legal description for the Property is believed to be accurate but may be corrected or updated by the title company in the transfer documents as necessary to complete the proposed sale transaction.

1 The Debtors valued their interest in the Property at \$280,000.00. On their Schedule D,
2 the Debtors list a secured claim against the Property in favor of Green Tree Servicing in the
3 amount of \$230,860.00. The Debtors did not claim any exemptions in the Property.

4 The Property is 749 square foot condominium with 1 bedroom and 1 full bathroom
5 located in downtown San Diego. The Property was previously occupied by a tenant pursuant to
6 a rental agreement entered Post-Petition by the Debtors (without knowledge or consent from the
7 Trustee). As of March 1, 2016, however, the Property is currently vacant.

8 After conducting an on-site inspection, the Trustee was informed by her real estate broker
9 that the Property was worth approximately \$345,000.00 and recommended listing the Property for
10 sale at \$345,000.00.

11 **C. Employment of Real Estate Broker, Marketing Efforts and Basis for the Value of**
12 **the Property**

13 On October 14, 2015, the Court entered an Order authorizing the employment of W.
14 Darrow Fiedler of Keller Williams Realty/KW Commercial as the Trustee's real estate broker
15 ("Broker") to assist her with listing and marketing the Property for sale, as well as negotiating a
16 sale price to prospective buyers to provide a benefit to the Estate ("Employment Order"), Docket
17 No. 126.

18 The Broker has almost forty (40) years of experience as a real estate broker. The Broker
19 is familiar with the sale of real property in the context of a bankruptcy case and has worked
20 closely with several bankruptcy trustees in the sale of real property. As of the hearing on this Sale
21 Motion, the Property will have been marketed for approximately two (2) months by the Trustee
22 with the assistance of the Broker. The marketing by the Broker has included listing the Property
23 on the Multiple Listing Service ("MLS") and the reciprocal Syndication List for the MLS, as well
24 as on the Court's website pursuant to the Notice of Sale of Estate Property on Local Bankruptcy
25 Form 6004-2.

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1 On or about February 16, 2016, the Trustee received an offer to purchase the Property in
2 the amount of \$345,000.00 from the Buyer. The Trustee also received at least four (4) other
3 offers, all below asking price or with Veteran’s Affair loans or Federal Housing Administration
4 loans. She countered the Buyer’s offer for \$345,000.00, specifically including bankruptcy terms
5 of sale. The Buyer accepted the counter-offer.

6 The Buyer’s offer that is the subject of this Sale Motion represents the best offer received
7 by the Trustee. As set forth below, the Trustee believes the sale of the Property will benefit the
8 Estate and its creditors.

9 **D. Liens and Encumbrances Against the Property and Their Proposed Treatment**
10 **Through the Sale**

11 The following chart sets forth the liens and encumbrances against the Property as detailed
12 in the Amended Preliminary Title Report dated February 29, 2016 (“Title Report”), a copy of
13 which is attached as **Exhibit “1”** to the Declaration of Lynda T. Bui (“Bui Declaration”), and the
14 proposed treatment of the liens and encumbrances through the sale:

<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owed</u>	<u>Treatment of Lien Through the Sale</u>
San Diego County Treasurer-Tax Collector	Real property taxes: 1) Unpaid first installment of 2015-2016 assessment in the amount of \$1,941.92; and 2) Second installment of 2015- 2016 assessment in the amount of \$1,941.92. ²	\$3,883.84	All outstanding real property taxes will be paid through escrow on the sale transaction.
Action Property Management	Piazza Palermo Owners Association	\$281.01 (as of 9/18/15)	All outstanding homeowner association dues will be paid through escrow on the sale transaction.
Ditech Financial LLC f/k/a Green Tree Servicing LLC	First Deed of Trust in favor of Mortgage Electronic Registration Systems, Inc. (MERS), solely as nominee for Green Tree Servicing LLC, recorded on June 3, 2013, in the Official Records of San	\$230,113.69	This lien will be paid through escrow on the sale transaction. Thus, this lien will be released, discharged and terminated at the close of escrow and the Property will be sold free and clear of this

² Second installment for 2015-2016 assessment is due on April 11, 2016.

<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owing</u>	<u>Treatment of Lien Through the Sale</u>
	<p>Diego County, Document No. 2013-0346417.</p> <p>Assignment of the beneficial interest under said deed of trust, assigned to Green Tree Servicing LLC, a Delaware limited liability company, recorded on May 1, 2015 as Document No. 2015-0216251.</p>		<p>lien and the lien will not attach to the sale proceeds.</p>
<p>Canyon Lake Property Owners Association</p>	<p>Abstract of Judgment recorded on October 5, 2009, in the Official Records of San Diego County, Document No. 2009-0553337 ("Canyon Lake Abstract").</p> <p>The Canyon Lake Abstract relates to a judgment entered on August 25, 2009 in the total amount of \$4,809.12 against the Debtors.</p>	<p>\$7,311.34 (as of February 19, 2016)</p>	<p>This lien will be paid through escrow on the sale of the real property located at 570 Central Avenue #E, Lake Elsinore, CA 92530-2741 ("Central Property"), which is anticipated to close well before the sale of the Property.</p> <p>As such, the Property will be sold free and clear of this lien and this lien will not attach to the sale proceeds.</p>
<p>Sierra Dawn Estates Homeowners Association</p>	<p>Abstract of Judgment recorded on May 24, 2013, in the Official Records of San Diego County, Document No. 20130328996 ("Sierra Dawn Abstract").</p> <p>The Sierra Dawn Abstract relates to a judgment entered on October 26, 2012 in the total amount of \$42,675.95 against the Debtors.</p>	<p>\$13,764.85 (as of October 14, 2015, with per diem interest of \$3.53)</p>	<p>This lien will be paid through escrow on the sale of the Central Property, which is anticipated to close well before the sale of the Property.</p> <p>As such, the Property will be sold free and clear of this lien and this lien will not attach to the sale proceeds.</p>
<p>Pacific Western Bank</p>	<p>Abstract of Judgment recorded on February 26, 2014, in the Official Records of San Diego County, Document No. 2014-0264791 ("PWB Abstract").</p> <p>The PWB Abstract relates to a judgment entered on February 26, 2014 in the total amount of \$127,694.00 against James Gonzales, an individual.</p>	<p>\$132,154.14 (as of February 13, 2016, with per diem interest of \$30.40)</p>	<p>This lien will be paid through escrow on the sale of the Central Property, which is anticipated to close well before the sale of the Property.</p> <p>As such, the Property will be sold free and clear of this lien and this lien will not attach to the sale proceeds.</p>

All costs of sale, including escrow fees and real estate commissions will be paid at closing.

E. The Purchase Offer and Summary of the Sale Terms

The Buyer has offered to purchase the Property for \$345,000.00. The purchase price includes a deposit of \$34,500.00. Attached as **Exhibit “2”** to the Bui Declaration is a true and correct copy of the Commercial Property Purchase Agreement and Joint Escrow Instructions and Counteroffer re Purchase and Sale of 1501 Front Street #421, San Diego, CA 92101-2977 (collectively the “Agreement”).

A summary of the Agreement’s terms and highlights are discussed below, but the summary and discussion are not meant to be a complete review of every provision of the Agreement. The Agreement itself is the legally binding document the Trustee seeks approval of and, in the event of any inconsistency between the terms, provisions or effect of the Agreement and the description of it in these pleadings, the Agreement alone shall govern and not these pleadings or the descriptions herein.

In summary, the principal terms of the sale of the Property shall be as follows (the Trustee is referred to at times as the “Seller” in the following summary):

Buyer:	Jack A. Gersten
Purchase Price:	\$345,000.00, subject to the Bidding Procedures set forth below. \$34,500.00 to be paid as a deposit and the remainder to be paid at closing.
Due Diligence Period	Buyer acknowledges that he/she/it is familiar with the property and that the Buyer has previously viewed the property. Nevertheless, at Buyer’s sole expense, Buyer shall have until 2:00 p.m. PDT, Friday, March 11, 2016, to obtain all investigations, appraisals and tests, and to complete any and all due diligence which the Buyer desires (the “Due Diligence Deadline”). By no later than the Due Diligence Deadline, Buyer may advise Seller, in writing, of his/her/its election to cancel the Sale, in which case Buyer shall receive a full refund of the Deposit (the “Notice to Cancel”). Absent Buyer’s submission of a Notice to Cancel in accordance with this paragraph 3, the Sale shall be without any further contingencies or due diligence requirements of the Buyer. Without limiting the generality of the foregoing, Buyer’s silence shall be deemed an acceptance and affirmative election to proceed with the Sale without any further contingencies or due diligence requirements.
Bankruptcy Court Approval	The Sale is expressly subject to Bankruptcy Court approval in the Debtor’s bankruptcy case. As soon as reasonably practical following expiration of the Due Diligence Deadline without Buyer’s submission of a Notice to Cancel, the Seller will file a motion to approve the Sale with the Bankruptcy Court pursuant to section 363 of the United States Bankruptcy Code (11 U.S.C. § 363) (the “Approval Motion”). As part of such motion, the Seller will request a finding of the Buyer’s “good faith” in accordance with section 363(m) of the Bankruptcy Code.

1 2	Tender of Balance of Purchase Price/Closing	The Sale shall close, with Buyer tendering the full Purchase Price, not more than fifteen (15) calendar days after the entry of an order of the Bankruptcy Court authorizing the Sale.
3 4 5 6 7	Property Sold "As Is," "Where Is"	The Buyer acknowledges that the Seller is a Trustee appointed to administer a Bankruptcy Estate. The Seller and/or Seller's agents have not, and will not, inspect the Property or determine its condition, fitness or use for any particular purpose, nor will any of them provide any written disclosures, guarantees or warranties of any kind. Seller and Seller's agents are exempt from complying with the requirements of Article 1.5 of the California Civil Code Sections 1102-1102.17 relating to disclosures upon transfer of real property. The sale shall be "as-is" and "where is" with no warranty or recourse whatsoever. If any state or local ordinance laws require that the Property be brought into compliance, the Buyer, at his/her/its sole expense, shall comply with and pay for any such requirements.
8 9	Transfer of Property	Transfer of the Property by Seller shall be by Trustee's Fiduciary Quitclaim Deed. The Seller shall convey and the Buyer shall accept the marketable title to the Property that will be insured by Fidelity National Title Company, without material exception, subject only to the terms of the Agreement and any further documentation of the Sale consistent with the Agreement.
10 11	Liens, Claims, Encumbrances and Interests	The Sale shall be free and clear of such Liens, with the extent, validity and priority of such liens to attach to the net proceeds of the Sale.
12 13 14 15 16 17 18	Assessments, Taxes and Escrow Fees	The following assessments, taxes and other costs shall be allocated as follows: (a) all allowable assessments and real property taxes shall be prorated through the closing date of the Sale to the applicable accounts of the Seller and Buyer, such that the amounts applicable to the account of the Buyer shall not be deducted from the Purchase Price; (b) escrow fees shall be split equally between the Buyer and Seller (50/50), such that the amounts allocable to the Buyer shall be deducted from the Purchase Price; (c) the Seller shall pay real property transfer tax (County and State only) and the costs of a standard issue title insurance policy, such that these taxes and costs shall be deducted from the Purchase Price; and (d) City transfer tax shall be split equally between Buyer and Seller (50/50), such that the amount allocable to the Buyer shall not be deducted from the Purchase Price. <u>All other costs are at Buyer's sole expense and are not to be deducted from the Purchase Price.</u>
19 20 21	Overbid	The Sale is subject to notice to creditors and other parties and shall be subject to higher and better bid through and including the hearing on the Approval Motion, pursuant to sale and overbid procedures determined in the Seller's sole discretion and subject to Bankruptcy Court approval. Initial overbid will be \$350,000 and thereafter in minimum \$1,000 increments.
22 23 24	Brokers and Commissions	The Buyer is represented by CFL Realty, CABRE #01870869 ("CFL") and the Seller is represented by Keller Williams Realty and KW Commercial, CABRE #01854035 ("KWR & KWC"). Subject to Court approval, the Seller shall pay commission as follows, through escrow: Six percent (6%) total of the Purchase Price: 2.5% to CFL, 1.75% to KWR, 1.75% to KWC. No commission shall be due and payable except from the cash proceeds of an actual sale of the Property to the Buyer and upon closing of such sale.
25 26 27 28	Seller Right to Terminate	The Seller may decline, at her option and sole discretion, to consummate the Sale for any reason, including without limitation: (a) the dismissal or closure of the Debtor's bankruptcy case; (b) the conversion of the debtor's Chapter 7 bankruptcy case to any other chapter under the Bankruptcy Code; (c) the inability to subordinate any liens on the Property to the expenses of administration; (d) the inability to obtain approval of the Sale by the Bankruptcy Court; or (e) the inability to sell the Property on the terms and conditions set forth herein. The Seller reserves the right, in her sole discretion, to determine not to consummate, and to terminate, the sale of the Property by serving a notice of such

	<p>termination on the Buyer. No liability or obligations shall accrue to the bankruptcy estate or the Seller, either personally or in her capacity as Trustee, as a result of any such termination. The Buyer's sole remedy, in the event that escrow fails to close as a result of Seller's inability to close escrow, shall be a refund of the Deposit in full.</p>
<p>Non-Refundability and Forfeiture of Deposit</p>	<p>Except as set forth above in paragraph 12 to the Counteroffer, immediately upon expiration of the Due Diligence Deadline without Buyer's submission of a Notice to Cancel in accordance with paragraph 3 to the Counteroffer, the entirety of the Deposit shall be absolutely non-refundable and forfeited to the Seller. Notwithstanding the immediately preceding sentence, in the event: (a) the Bankruptcy Court enters an order that does not authorize Seller to sell the Property to the Buyer; or (b) the Bankruptcy Court enters an order that authorizes the sale to another bidder and the Buyer is not a backup bidder, Seller shall refund the entire Deposit to the Buyer within ten (10) calendar days following entry of such order of the Bankruptcy Court. In the event the Buyer is overbid and is a backup bidder, Seller shall refund the entire Deposit to the Buyer only if the Sale closes to the winning bidder and within ten (10) calendar days following such closing.</p>
<p>Escrow Instructions</p>	<p>Escrow instructions shall be signed by Buyer and Seller within thirty (30) calendar days after execution of the Counteroffer. In the event that Buyer is unable to close escrow within fifteen (15) calendar days after entry of the Bankruptcy Court's order authorizing the Sale (the "Closing Date"), the Buyer shall compensate the Seller one hundred dollars (\$100.00) per day for each day beyond the Closing Date that the Sale does not close for a total extended period of no more than ten (10) calendar days. Thereafter, the Seller shall have absolute discretion to either: (a) provide further extensions of the Closing Date at the same rate of compensation; or (b) terminate the Sale to the Buyer and retain the entirety of the Deposit as liquidated damages.</p>
<p>Bankruptcy Court Jurisdiction</p>	<p>The Bankruptcy Court for the Central District of California, Riverside Division ("Court"), shall have jurisdiction to interpret and enforce the terms of the Counteroffer/agreement. The Counteroffer/agreement shall be construed pursuant to the laws of the State of California, except to the extent preempted by applicable Federal bankruptcy law.</p>

F. Tax Consequences of Sale

The Trustee has consulted with her proposed accountants who informed her that there will not be any tax consequences for the sale of the Property.

G. Notice of Bidding Procedures

The Trustee has determined that it would benefit the Estate to permit all interested parties to receive information and bid for the Property instead of selling the Property to the Buyer on an exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of the creditors of this Estate, the Trustee also seeks Court approval of the following bidding procedures ("Bidding Procedures"):

1. Potential overbidder(s) must bid an initial amount of at least \$5,000.00 over the Purchase Price, or \$350,000.00. Minimum bid increments thereafter shall be \$1,000.00. The Trustee shall have sole discretion in determining which overbid is the best for the Estate and will seek approval from the Court of the same.

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1 2. Overbids must be in writing and be received by the Trustee and the Trustee's
2 counsel, Shulman Hodges & Bastian LLP to the attention of Rika M. Kido on or before **three (3)**
3 **business days prior to the hearing on this Sale Motion.**

4 3. Overbids must be accompanied by certified funds in an amount equal to three
5 percent (3%) of the overbid purchase price.

6 4. The overbidder must also provide evidence of having sufficient specifically
7 committed funds to complete the transaction, or a lending commitment for the bid amount and
8 such other documentation relevant to the bidder's ability to qualify as the purchaser of the
9 Property and ability to close the sale and immediately and unconditionally pay the winning bid
10 purchase price at closing.

11 5. The overbidder must seek to acquire the Property on terms and conditions not less
12 favorable to the Estate than the terms and conditions to which the Buyer has agreed to purchase
13 the Property as set forth in the Agreement attached as **Exhibit "2"** to the Bui Declaration
14 including closing on the sale of the Property in the same time parameters as the Buyer.

15 6. All competing bids must acknowledge that the Property is being sold on an "AS
16 IS" basis without warranties of any kind, expressed or implied, being given by the Trustee,
17 concerning the condition of the Property or the quality of the title thereto, or any other matters
18 relating to the Property. The competing bid buyer must represent and warrant that he/she is
19 purchasing the Property as a result of their own investigations and are not buying the Property
20 pursuant to any representation made by any broker, agent, accountant, attorney or employee
21 acting at the direction, or on the behalf of the Trustee. The competing bidder must acknowledge
22 that he/she has inspected the Property, and upon closing of Escrow governed by the Agreement,
23 the competing buyer forever waives, for himself/herself, their heirs, successors and assigns, all
24 claims against the Debtors, her attorneys, agents and employees, the Debtors' Estate, Lynda T.
25 Bui as Trustee and individually, and her attorneys, agents and employees, arising or which might
26 otherwise arise in the future concerning the Property.

27 7. If overbids are received, the final bidding round for the Property shall be held at
28 the hearing on the Sale Motion in order to allow all potential bidders the opportunity to overbid
and purchase the Property. At the final bidding round, the Trustee or her counsel will, in the
exercise of their business judgment and subject to Court approval, accept the bidder who has
made the highest and best offer to purchase the Property, consistent with the Bidding Procedures
("Successful Bidder").

8. At the hearing on the Sale Motion, the Trustee will seek entry of an order, *inter
alia*, authorizing and approving the sale of the Property to the Successful Bidder. The hearing on
the Sale Motion may be adjourned or rescheduled without notice other than by an announcement
of the adjourned date at the hearing on the Sale Motion.

9. In the event the Successful Bidder fails to close on the sale of the Property within
the time parameters approved by the Court, the Trustee shall retain the Successful Bidder's
Deposit and will be released from her obligation to sell the Property to the Successful Bidder and
the Trustee may then sell the Property to the first back-up bidder approved by the Court at the
hearing on the Sale Motion ("First Back-Up Bidder").

10. In the event First Back-Up Bidder fails to close on the sale of the Property within
the time parameters approved by the Court, the Trustee shall retain the First Back-Up Bidder's
Deposit and will be released from her obligation to sell the Property to the First Back-Up Bidder
and the Trustee may then sell the Property to the second back-up bidder approved by the Court at
the hearing on the Sale Motion ("Second Back-Up Bidder").

1 **III. ARGUMENT**

2 **A. The Court May Authorize the Sale When There is a Good Faith Purchaser**

3 The Trustee, after notice and hearing, may sell property of the estate. 11 U.S.C. § 363(b).
4 The standards to establish are: (1) that there is a sound business purpose for the sale, (2) that the
5 sale is in the best interests of the estate, i.e., the sale is for a fair and reasonable price, (3) that
6 there is accurate and reasonable notice to creditors and (4) that the sale is made in good faith. *In*
7 *re Wilde Horse Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); *In re Lionel Corp.*,
8 722 F.2d 1063, 1069 (2d Cir. 1983). Business justification would include the need to close a sale
9 to one of very few serious bidders where an asset has been shopped and a delay could jeopardize
10 the transaction. *See, e.g., In re Crowthers McCall Pattner, Inc.*, 114 B.R. 877, 885 (Bankr.
11 S.D.N.Y. 1990) (extreme difficulty finding a buyer justified merger when buyer found). The
12 Trustee's proposed sale of the Property meets the foregoing criteria.

13 **1. Sound Business Purpose**

14 The Ninth Circuit has adopted a flexible, case-by-case test to determine whether the
15 business purpose for a proposed sale justifies disposition of property of the estate under Section
16 363(b). *In re Walter*, 83 B.R. 14 (B.A.P. 9th Cir. 1988). In *Walter*, the Ninth Circuit, adopting
17 the reasoning of the Fifth Circuit in *In re Continental Air Lines, Inc.*, 780 F.2d 1223 (5th Cir.
18 1986), and the Second Circuit in *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983), set forth the
19 following standard to be applied under Bankruptcy Code Section 363(b):

20 Whether the proffered business justification is sufficient depends on the case. As
21 the Second Circuit held in *Lionel*, the bankruptcy judge should consider all salient
22 factors pertaining to the proceeding and, accordingly, act to further the diverse
23 interests of the debtor, creditors and equity holders, alike. He might, for example,
24 look to such relevant factors as the proportionate value of the assets to the estate
25 as a whole, the amount of lapsed time since the filing, the likelihood that a plan of
26 reorganization will be proposed and confirmed in the near future, the effect of the
27 proposed disposition on future plans of reorganization, the proceeds to be
28 obtained from the disposition vis-a-vis any appraisals of the property, which of
the alternatives of use, sale or lease the proposal envisions and, most importantly
perhaps, whether the asset is increasingly or decreasing in value. This list is not
intended to be exclusive, but merely to provide guidance to the bankruptcy judge.

Walter, 83 B.R. at 19-20 (quoting *Continental*, 780 F.2d at 1226).

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1 Here, the facts surrounding the sale of the Property support the Trustee's business
2 decision that the proposed sale is in the best interests of the Estate and its creditors. Through the
3 sale, the Trustee expects to generate net proceeds of approximately \$83,121.46 as follows
4 (amounts are estimated):

5 Sale Price	\$345,000.00
6 <i>Less</i> real estate commission and costs of sale (8.0%)	(\$27,600.00)
7 <i>Less</i> payment to Ditech Financial f/k/a Green Tree Servicing, LLC	(\$230,113.69)
8 <i>Less</i> outstanding real property taxes (estimated)	(\$3,883.84)
9 <i>Less</i> outstanding homeowner association dues (estimated)	(\$281.01)
Estimated Net Sale Proceeds for the benefit of the Estate	\$83,121.46

10
11 The estimated net proceeds will substantially benefit the Estate by providing funds for
12 distribution to unsecured creditors. If the Sale Motion is not approved, there will be a substantial
13 loss to the Estate. In such event, the Estate will not receive any benefit from Property.

14 Furthermore, the Trustee believes that the proposed sale, subject to overbids, will be at
15 fair market value because it is the best offer the Estate has received thus far for the Property, and
16 is the result of negotiations between the Trustee and the Buyer for the best and highest offer.
17 Given that the sale is subject to overbids, it is anticipated the Trustee will receive the best and
18 highest value for the Property and therefore the proposed sale price of the Property is fair and
19 reasonable. Therefore, the Trustee respectfully submits that, if this Court applies the good
20 business reason standard suggested by the Second Circuit in *Lionel*, the sale should be approved.

21 2. The Sale Serves the Best Interests of the Estate and Creditors

22 The Trustee believes that it would be in the best interest of the Estate and its creditors to
23 sell the Property. The benefits to the Estate, as set forth above, are significant as the proposed
24 sale will yield an estimated \$83,121.46 to the Estate. If the Sale Motion is not approved, the
25 Estate will not receive the sale proceeds and will likely lose the Buyer. The Trustee does not
26 want to lose this beneficial business opportunity. Thus, the Trustee has made a business decision
27 that it is in the best interest of the creditors of the Estate that this Sale Motion be approved.

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1 3. Accurate and Reasonable Notice

2 It is expected that notice of this Sale Motion will satisfy the requirements for accurate
3 and reasonable notice.

4 The notice requirements for sales are set forth in Federal Rules of Bankruptcy Procedure
5 (“FRBP”) 6004 and 2002. The notice must include the time and place of any public sale and/or
6 the terms and conditions of any private sale, the time fixed for filing on objections and a general
7 description of the property. Fed. R. Bankr. P. 2002(c)(1).

8 In compliance with FRBP 2002 and Bankruptcy Code Section 102(1), the Trustee shall
9 provide notice of the proposed sale of the Property to creditors and parties in interest. The
10 Notice of the Sale Motion will include a summary of the terms and conditions of the proposed
11 private sale, the time fixed for filing objections, and a general description of the Property. The
12 Trustee submits that the notice requirements will have been satisfied, thereby allowing creditors
13 and parties in interest an opportunity to object to the sale. Hence, no further notice should be
14 necessary.

15 4. The Sale is Made in Good Faith

16 The proposed sale has been brought in good faith and has been negotiated on an “arms
17 length” basis. The court, in *Wilde Horse Enterprises*, set forth the factors in considering whether
18 a transaction is in good faith. The court stated:

19 “Good faith” encompasses fair value, and further speaks to the integrity of the
20 transaction. Typical ‘bad faith’ or misconduct, would include collusion between
21 the seller and buyer, or any attempt to take unfair advantage of other potential
22 purchasers. . . . And, with respect to making such determinations, the court and
creditors must be provided with sufficient information to allow them to take a
position on the proposed sale.

23 *Id.* at 842 (citations omitted).

24 In the present case, the negotiation of the proposed sale was an arms-length transaction.
25 The negotiations with the Buyer resulted in a sale price for the Property that will have substantial
26 benefit to the Estate. As set forth in the Notice of the Sale Motion, the creditors will have been
27 provided with sufficient information regarding the proposed sale. Accordingly, the sale is in
28 good faith and should be approved. The Trustee shall request such a finding pursuant to
Bankruptcy Code Section 363(m) at the hearing on this Sale Motion.

1 **B. The Proposed Sale Should be Allowed Free and Clear of Liens**

2 Bankruptcy Code Section 363(f) allows a trustee to sell property of the bankruptcy estate
3 “free and clear of any interest in such property of an entity,” if any one of the following five
4 conditions is met:

- 5 (1) applicable non-bankruptcy law permits a sale of such property free
6 and clear of such interest;
- 7 (2) such entity consents;
- 8 (3) such interest is a lien and the price at which such property is to be
9 sold is greater than the aggregate value of all liens on such property;
- 10 (4) such interest is in bona fide dispute; or
- 11 (5) such entity could be compelled, in a legal or equitable proceeding,
12 to accept money satisfaction of such interest.

11 U.S.C. § 363(f).

12 Here, the sales price is greater than the aggregate amount of all liens against the Property
13 as shown above. As such, the Property can be sold free and clear of all liens pursuant to Section
14 363(f)(3).

15 **C. The Court has the Authority to Approve the Bidding Procedures**

16 Implementation of the Bidding Procedures is an action outside of the ordinary course of
17 the business. Bankruptcy Code Section 363(b)(1) provides that a trustee “after notice and
18 hearing, may use, sell or lease, other than in the ordinary course of business, property of the
19 estate.” 11 U.S.C. § 363(b)(1). Furthermore, under Bankruptcy Code Section 105(a), “[t]he
20 court may issue any order, process, or judgment that is necessary or appropriate to carry out the
21 provisions of this title.” 11 U.S.C. § 105(a). Thus, pursuant to Bankruptcy Code Sections
22 363(b)(1) and 105(a), this Court may authorize the implementation of overbidding procedures.

23 The Ninth Circuit, in a case under the Bankruptcy Act, recognized the power of a
24 bankruptcy court to issue orders determining the terms and conditions for overbids with respect
25 to a sale of estate assets. *In re Crown Corporation*, 679 F.2d 774 (9th Cir. 1982). The *Crown*
26 *Corporation* court entered an order specifying the minimum consideration required for an
27 overbid as well as the particular contractual terms required to be offered by overbidders. *Id.* at
28 777. The *Crown Corporation* decision also approves an order requiring and setting the amount

1 of potential overbidder's deposits and authorized courts to determine the disposition of such
2 deposits. *Id.* While the discussion is not extensive, the *Crown Corporation* decision recognizes
3 the authority of bankruptcy courts to order the implementation of bidding procedures such as
4 those proposed in the present case.

5 **1. The Overbid Procedures are Untainted by Self-Dealing**

6 The Bidding Procedures have been proposed in good faith and have been negotiated on
7 an "arms-length" basis. Therefore, there is no prospective taint in dealings between Trustee and
8 any potential bidders.

9 **2. The Overbid Procedures Encourage Bidding and Are Fair in Amount**

10 The Bidding Procedures are designed to encourage, not hamper bidding and are
11 reasonable under the circumstances. The Bidding Procedures are intended to provide potential
12 overbidders with adequate information to make an informed decision as to the amount of their
13 bid and the validity of their bid.

14 **3. The Overbid Procedures are Fair, Reasonable and Serve the Best Interests of**
15 **the Estate**

16 The proposed Bidding Procedures serve the Estate in several ways. First, the Bidding
17 Procedures themselves are fair, reasonable and productive; they will permit the Trustee to
18 conduct an orderly sale and obtain the best possible price on the best possible terms for the
19 Property.

20 The Bidding Procedures will ensure that all bids will be comparable. The Trustee will
21 determine which bid is the highest and best for the Estate. The comparability requirement of the
22 Bidding Procedures will make it possible to accomplish this task.

23 The Bidding Procedures will help the Trustee to obtain the highest and best possible price
24 for the Property. The Bidding Procedures institute minimum overbid increments which the
25 Trustee believes are reasonable. Thus, the Trustee will be able to obtain substantial benefit for
26 this Estate from the sale of the Property from competing bids.

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1 The Bidding Procedures require that potential bidders demonstrate their capacity to
2 complete the transaction. It would be a serious loss to the Estate if it surrendered its opportunity
3 to sell the Property to one buyer in favor of a competing bidder only to discover the successful
4 bidder incapable of consummating the transaction. Thus, requiring bidders to qualify as
5 qualified bidders will protect the Estate from such a loss.

6 Finally, the most important benefit of the Bidding Procedures to the Estate is that their
7 implementation will enable the consummation of the proposed sale. The proposed sale will be
8 the best way to obtain the maximum and most expedient recovery for creditors of this Estate.
9 Implementation of the Bidding Procedures is an essential component of consummating the sale
10 of the Property and maximizing the value of the Property for the Estate and creditors.

11 The Bidding Procedures proposed by the Trustee are fair and provide for a “level playing
12 field” for all prospective bidders with respect to the Property. The proposed Bidding Procedures
13 establish a reasonable but expeditious timeline for allowing the Trustee to give notice of the
14 proposed sale and qualified bidders to conduct reasonable due diligence and submit competing
15 offers for the Property, thereby potentially generating additional value for the Property.
16 Furthermore, the notice that the Trustee proposes to provide to creditors and parties in interest in
17 connection with the Bidding Procedures and the Sale Motion is designed to attract the most
18 interest in the acquisition of the Property and is sufficient under the circumstances of this case.
19 Thus, approval of the Bidding Procedures will serve the best interests of the Estate and its
20 creditors.

21 **D. Request for Payment of Real Estate Commission**

22 Bankruptcy Code Section 327 allows, with court approval, for the trustee to employ
23 professional persons, “that do not hold or represent an interest adverse to the estate, and that are
24 disinterested persons.” 11 U.S.C. § 327(a). By the Employment Order entered on October 21,
25 2015, the Trustee was authorized to employ the Broker to assist the Trustee in the marketing and
26 sale of the Property.

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1 Bankruptcy Code Section 328 allows employment of a professional person under section
2 327 “on any reasonable terms and conditions of employment, including on a retainer, on an
3 hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis.” 11 U.S.C. § 328(a)
4 (emphasis added). Through this Sale Motion, as provided in the Agreement, the Trustee seeks
5 authorization to pay a real estate broker commission in the amount of six percent (6%) of the
6 purchase price (or \$20,700.00). Through escrow on the sale of the Property, and subject to
7 Bankruptcy Court approval, the Trustee shall pay a real estate broker’s commission (as they have
8 agreed amongst themselves) as follows³:

<u>Agent</u>	<u>Commission</u>
Trustee’s Broker KW Commercial, CABRE #01854035	\$6,037.50
Trustee’s Broker Keller Williams Realty, CABRE #01854035	\$6,037.50
Buyer’s Broker CFL Realty, CABRE #01870869	\$8,625.00
Total Commission	\$20,700.00

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14 **E. The Court has the Authority to Waive the Fourteen-Day Stay of Sale**

15 Federal Rule of Bankruptcy Procedure 6004(h) provides that “[a]n order authorizing the
16 use, sale or lease of property other than cash collateral is stayed until the expiration of 14 days
17 after entry of the order, unless the Court orders otherwise.” Fed. Rule Bankr. P. 6004(h).

18 The Trustee desires to close the sale of the Property as soon as practicable after entry of
19 an order approving the sale. Accordingly, the Trustee requests that the Court, in the discretion
20 provided it under Federal Rule of Bankruptcy Procedure 6004(h), waive the fourteen (14) day
21 stay requirement.

22 **III. CONCLUSION**

23 **WHEREFORE**, based upon the foregoing, the Trustee respectfully submits that good
24 cause exists for granting the Sale Motion and requests that the Court enter an order as follows:

- 25 1. Approving the Bidding Procedures set forth above for the sale of the Property.

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28 ³ The total amount of real estate broker’s commission will increase if the purchase price for the Property is increased through by a successful overbid; but in no event will exceed six percent (6%) of the purchase price.

DECLARATION

DECLARATION OF LYNDA T. BUI

I, Lynda T. Bui, declare:

1. I am the duly appointed, qualified and acting Chapter 7 trustee for the bankruptcy estate of James Andrew Gonzales and Estela Ortega Gonzales (“Debtors”). I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would competently testify thereto, except where matters are stated on information and belief, in which case I am informed and believe that the facts so stated are true and correct.

2. I make this Declaration in support of my Motion for Order: (1) Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code §§ 363(b)(1), Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving Payment of Real Estate Commission; and (3) Granting Related Relief (“Sale Motion”). All capitalized terms not otherwise defined herein shall have the meaning set forth in the Sale Motion.

3. I have read and I am aware of the contents of the Sale Motion and the accompanying Memorandum of Points and Authorities. The facts stated in the Sale Motion and the Memorandum of Points and Authorities are true to the best of my knowledge.

4. The initial Chapter 7 341(a) Meeting of Creditors (“Meeting of Creditors”) was scheduled for September 15, 2015. The Meeting of Creditors has been continued several times and is currently scheduled for March 31, 2016.

5. The last day to timely file a proof of claim in the Debtors’ bankruptcy case was November 23, 2015. Currently, there are twenty-one (21) claims filed in this case for a total amount of \$8,437,217.33, including secured claims for \$702,468.64, priority claims for \$6,432,167.71 (including a claim filed on November 20, 2015 by the County of Riverside Department of Code Enforcement in the amount of \$6,660,958.00) and an administrative claim in the amount of \$975.00.

6. On their Schedule A, the Debtors list the real property located at 1501 Front Street, San Diego, CA 92101-2977 (“Property”). The Debtors valued their interest in the Property at \$280,000.00. On their Schedule D, the Debtors list a secured claim against the

1 Property in favor of Jason Gonzales in the amount of \$230,860.00. The Debtors do not claim
2 any exemptions in the Property.

3 7. I am informed and believe that the Property is 749 square foot condominium with
4 1 bedroom and 1 full bathroom located in downtown San Diego. The Property was previously
5 occupied by a tenant pursuant to a rental agreement entered Post-Petition by the Debtors (without
6 my knowledge or consent). As of March 1, 2016, however, the Property is currently vacant.

7 8. Attached hereto as **Exhibit "1"** is a true and correct copy of the Amended
8 Preliminary Title Report dated February 29, 2016 for the Property.

9 9. On October 21, 2015, the Court entered an Order authorizing the employment of
10 W. Darrow Fiedler of Keller Williams Realty/KW Commercial ("Broker") as my real estate
11 broker to assist me with listing and marketing the Property for sale, as well as negotiating a sale
12 price to prospective buyers to provide a benefit to the Estate ("Employment Order"), Docket No.
13 126.

14 10. The Broker has almost forty (40) years of experience as a real estate broker. The
15 Broker is familiar with the sale of real property in the context of a bankruptcy case and has
16 worked closely with several bankruptcy trustees in the sale of real property. As of the hearing on
17 this Motion, I will have marketed the Property for approximately two (2) months with the
18 assistance of the Broker. The marketing by the Broker has included listing the Property on the
19 Multiple Listing Service ("MLS") and the reciprocal Syndication List for the MLS, as well as on
20 the Court's website pursuant to the Notice of Sale of Estate Property on Local Bankruptcy Form
21 6004-2.

22 11. After conducting an on-site inspection, I was informed by the Broker that the
23 Property was worth approximately \$345,000.00 and that the Broker recommended listing the
24 Property for sale at \$345,000.00.

25 12. Through my Broker, on or about February 16, 2016, I received an offer to
26 purchase the Property in the amount of \$345,000.00 from the Buyer. I also received at least four
27 (4) other offers, all below asking price or with Veteran's Affair loans or Federal Housing
28 Administration loans. I countered the Buyer's offer and the next highest offer for

1 \$345,000.00, specifically including bankruptcy terms of sale. The Buyer accepted my counter-
2 offer. Attached hereto as **Exhibit "2"** is a true and correct copy of the Commercial Property
3 Purchase Agreement and Joint Escrow Instructions and Counteroffer re Purchase and Sale of
4 1501 Front Street #421, San Diego, CA 92101-2977 (collectively the "Agreement").

5 13. I have consulted with my proposed accountants who informed me that there will
6 not be any tax consequences for the sale of the Property.

7 14. The Buyer's offer presented in the Sale Motion is the highest and best offer the
8 Estate has received. I believe that it would benefit the Estate to permit all interested parties to
9 receive information and bid for the Property instead of selling the Property to the Buyer on an
10 exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of the
11 creditors of this Estate, I also seek Court approval of the Bidding Procedures described in the
12 Sale Motion.

13 15. With respect to overbidding, my office will be posting the sale of the Property on
14 my counsel's website and on the National Association of Bankruptcy Trustees as is my standard
15 practice for sales of properties. As required by the Local Bankruptcy Rules, the sale will also be
16 posted on the Court's website.

17 16. Through the sale, I expect to generate proceeds of approximately \$83,121.46,
18 which will benefit the Estate by providing funds for a distribution to the holders of unsecured
19 claims.

20 17. For the reasons set forth in the Sale Motion and this Declaration, I respectfully
21 request that the Court grant the Sale Motion so that I do not lose this favorable business
22 opportunity to net a substantial amount of money for the Estate.

23 I declare under penalty of perjury under the laws of the United States of America that the
24 foregoing is true and correct.

25 Executed on March 21, 2016, at Irvine, California.

26
27 
Lynda T. Bui

EXHIBIT “1”
PRELIMINARY TITLE REPORT



Fidelity National Title Company

5000 Van Nuys Blvd., Suite 500, Sherman Oaks, CA 91403

Phone: (818) 881-7800 • Fax: (818) 776-8528

Issuing Policies of Fidelity National Title Insurance Company

ORDER NO.: 00101791-994-VNO-SI

LOAN NO.:

Escrow Officer: Van Nuys Title Only EO

Title Officer: Sheila Isham

Phone: (818) 758-5718

Fax: (818) 475-5013

Email: sisham@fnf.com

A & A Escrow Services Inc

415 N Crescent Dr, Ste 320

Beverly Hills, CA 90210

ATTN: Antonia Delgado

YOUR REF: 103813-AA

PROPERTY: 1501 Front Street #421, San Diego, CA

AMENDED PRELIMINARY REPORT

In response to the application for a policy of title insurance referenced herein, Fidelity National Title Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company, a California Corporation.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

Countersigned by:

Cindy Fried

Authorized Signature



Fidelity National Title Company

5000 Van Nuys Blvd., Suite 500, Sherman Oaks, CA 91403

Phone: (818) 881-7800 • Fax: (818) 776-8528

AMENDED PRELIMINARY REPORT

EFFECTIVE DATE: February 23, 2016 at 7:30 a.m., Amended: February 29, 2016, Amendment No. 2

ORDER NO.: 00101791-994-VNO-SI

The form of policy or policies of title insurance contemplated by this report is:

ALTA Homeowner's Policy of Title Insurance (12-2-13)
ALTA Extended Loan Policy (6-17-06)

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A CONDOMINIUM, AS DEFINED IN SECTIONS 783 AND 1351(F) OF THE CALIFORNIA CIVIL CODE, IN FEE

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

James Gonzales, a married man as his sole and separate property, subject to proceedings pending in the bankruptcy court where a petition for relief was filed.

Name of Debtor: James Andrew Gonzales and Estela Ortega Gonzales
Date of Filing: April 3, 2015
U.S. District Court: Central District of California
Case No: 6:15-bk-133599-SY

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

See Exhibit A attached hereto and made a part hereof.

EXHIBIT A
LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIEGO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

AN UNDIVIDED 1/230TH FEE SIMPLE INTEREST AS A TENANT IN COMMON IN AND TO THE COMMON AREA (AS DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PALERMO RECORDED IN THE OFFICE RECORDS OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, CALIFORNIA ON AUGUST 31, 2004, AS INSTRUMENT NO. 2004-0828994) AS SHOWN ON THE PALERMO CONDOMINIUM PLAN RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON AUGUST 31, 2004, AS INSTRUMENT NO. 2004-0828993 AND FIRST AMENDMENT TO PALERMO CONDOMINIUM PLAN RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON SEPTEMBER 7, 2004, AS INSTRUMENT NO. 2004-0847428 ("CONDOMINIUM PLAN"), LOCATED WITHIN PARCEL 1 OF PARCEL MAP NO. 19527, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, IN THE OFFICE OF THE COUNTY RECORDER ON JULY 13, 2004.

PARCEL 2:

RESIDENTIAL UNIT NO. 4-21, AS SHOWN AND DEFINED ON THE CONDOMINIUM PLAN.

PARCEL 3:

NON-EXCLUSIVE APPURTENANT EASEMENTS IN AND TO THE ASSOCIATION PROPERTY AND THE COMMON AREA FOR USE OF THE ASSOCIATION PROPERTY AND THE COMMON AREA PURSUANT TO THE TERMS OF THE DECLARATION, SUBJECT TO ANY EXCLUSIVE USE EASEMENT AREAS AND ANY OTHER RESERVATIONS SET FORTH IN THE DECLARATION.

AS USED IN THIS DEED, REFERENCES TO "ASSOCIATION PROPERTY", "RESIDENTIAL UNIT", "EXCLUSIVE USE EASEMENT AREAS" AND ANY OTHER DEFINED TERMS SHALL HAVE THE MEANINGS AS SET FORTH IN THE DECLARATION AND THE CONDOMINIUM PLAN.

PARCEL 4:

AN EXCLUSIVE USE EASEMENT OVER THE PORTION OF THE COMMON AREA AND/OR ASSOCIATION PROPERTY DESIGNATED AS BEING APPURTENANT TO THE RESIDENTIAL UNIT IN THE CONDOMINIUM PLAN, WHICH AREAS MAY INCLUDE AN EXCLUSIVE USE BALCONY AREA, AN EXCLUSIVE USE ROOF DECK AREA OR AN EXCLUSIVE USE PATIO AREA (ALL AS DEFINED IN THE DECLARATION AND AS SHOWN IN THE CONDOMINIUM PLAN).

APN: 533-364-15-21

[APN MAP](#)

EXCEPTIONS**AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:**

1. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area:	08242
Tax Identification No.:	533-364-15-21
Fiscal Year:	2015-2016
1st Installment:	\$1,941.92 Not Paid-Delinquent, Penalty \$194.19
2nd Installment:	\$1,941.92 Open
Exemption:	\$0.00
Land:	\$87,432.00
Improvements:	\$233,880.00
Personal Property:	\$0.00

2. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 (commencing with Section 75) or Part 2, Chapter 3, Articles 3 and 4, respectively, of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A or as a result of changes in ownership or new construction occurring prior to Date of Policy.

Note: If said supplementals (if any) are not posted prior to the date of closing, this company assumes no liability for payment thereof.

3. Water rights, claims or title to water, whether or not disclosed by the public records.
4. A notice that said Land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document

Recording Date:	May 12, 1992
Recording No.:	1992-0287642 , Official Records
Redevelopment Agency:	City of San Diego

5. A notice that said Land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document

Recording Date:	January 27, 1995
Recording No.:	1995-0038806 , Official Records
Redevelopment Agency:	City of San Diego

6. A notice that said Land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document

Recording Date:	December 6, 1999
Recording No.:	1999-0794656 , Official Records
Redevelopment Agency:	City of San Diego

7. An instrument entitled Encroachment Maintenance and Removal Agreement

Executed by:	Owners of said land
In favor of:	City of San Diego
Recording Date:	January 17, 2002
Recording No.:	2002-0044638 , Official Records

**EXCEPTIONS
(Continued)**

Which among other things provides: As provided therein

Reference is hereby made to said document for full particulars.

This covenant and agreement provides that it shall be binding upon any future owners, encumbrancers, their successors or assigns, and shall continue in effect until the advisory agency approves termination.

- 8. Matters contained in that certain document

Entitled: Memorandum of Agreement
Recording Date: December 22, 2003
Recording No.: [2003-1496271](#), Official Records

Reference is hereby made to said document for full particulars

- 9. An instrument entitled Encroachment Maintenance Agreement

Executed by: Owners of said land
In favor of: City of San Diego
Recording Date: July 13, 2004
Recording No.: [2004-0646375](#), Official Records

Which among other things provides: As provided therein

Reference is hereby made to said document for full particulars.

This covenant and agreement provides that it shall be binding upon any future owners, encumbrancers, their successors or assigns, and shall continue in effect until the advisory agency approves termination.

- 10. An instrument entitled Encroachment Maintenance and Removal Agreement

Executed by: Owners of said land
In favor of: City of San Diego
Recording Date: August 24, 2004
Recording No.: [2004-0803351](#), Official Records

Which among other things provides: As provided therein

Reference is hereby made to said document for full particulars.

This covenant and agreement provides that it shall be binding upon any future owners, encumbrancers, their successors or assigns, and shall continue in effect until the advisory agency approves termination.

- 11. The matters set forth in the document shown below which, among other things, contains or provides for: certain easements; liens and the subordination thereof; provisions relating to partition; restrictions on severability of component parts; and covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

EXCEPTIONS
(Continued)

Entitled: Declaration of Covenants, Conditions and Restrictions
Recording Date: August 31, 2004
Recording No.: [2004-0828994](#), Official Records

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of any mortgage or deed of trust made in good faith and for value.

*Note: To avoid delays at the time of closing, it will be necessary that a written statement from the Homeowner's Association that all liens, charges and/or assessments levied on said land have been paid. Said statement should include all amounts due up to and including the date of closing.

12. Non-exclusive easements over and through the common area for ingress, egress, public utility, enjoyment, support and repair of the common area and each unit, as provided in the above mentioned declaration and as disclosed by various deeds of record.

Affects: Common Area

13. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$237,990.00
Dated: May 15, 2013
Trustor/Grantor: James Gonzales, a married man as his sole and separate property
Trustee: Executive Trustee Services, Inc.
Beneficiary: Mortgage Electronic Registration Systems, Inc. (MERS), solely as nominee for Green Tree Servicing LLC
Loan No.: As provided therein
Recording Date: June 3, 2013
Recording No.: [2013-0346417](#), Official Records

Assignment of the beneficial interest under said deed of trust which names:

Assignee: Green Tree Servicing LLC, a Delaware limited liability company
Recording Date: May 1, 2015
Recording No.: [2015-0216251](#), Official Records

14. An abstract of judgment for the amount shown below and any other amounts due:

Amount: \$4,809.12
Debtor: James A. Gonzales; Estela O. Gonzales
Creditor: Canyon Lake Property Owners Association
Date Entered: August 25, 2009
County: Riverside
Court: Superior
Case No. RIC 508665
Recording Date: October 5, 2009
Recording No.: [2009-0553337](#), Official Records

**EXCEPTIONS
(Continued)**

15. An abstract of judgment for the amount shown below and any other amounts due:

Amount: \$42,675.93
Debtor: James A. Gonzales; Estella O. Gonzales aka Estela O. Gonzales
Creditor: Sierra Dawn Estates Homeowners Association
Date Entered: October 26, 2012
County: Riverside
Court: Superior
Case No. RIC 516217
Recording Date: May 24, 2013
Recording No: [2013-0328996](#), Official Records

16. An abstract of judgment for the amount shown below and any other amounts due:

Amount: \$127,694.00
Debtor: James Gonzales, an individual
Creditor: Pacific Western Bank
Date Entered: February 26, 2014
County: Riverside
Court: Superior
Case No. RIC 1117694
Recording Date: June 25, 2014
Recording No: [2014-0264791](#), Official Records

PLEASE REFER TO THE “INFORMATIONAL NOTES” AND “REQUIREMENTS” SECTIONS WHICH FOLLOW FOR INFORMATION NECESSARY TO COMPLETE THIS TRANSACTION.

END OF EXCEPTIONS

REQUIREMENTS SECTION

1. Any defect or invalidity of the title to said Land arising out of or occasioned by a violation of the Bankruptcy Code.
2. In order to complete this report, the Company requires a Statement of Information to be completed by the following party(s),

Party(s): All Parties

The Company reserves the right to add additional items or make further requirements after review of the requested Statement of Information.

NOTE: The Statement of Information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed Statement of Information assists the Company in the elimination of certain matters which appear to involve the parties but in fact affect another party with the same or similar name. Be assured that the Statement of Information is essential and will be kept strictly confidential to this file.

3. Your application for title insurance was placed by reference to only a street address or tax identification number. Based on our records, we believe that the legal description in this report covers the parcel(s) of Land that you requested. If the legal description is incorrect, the seller/borrower must notify the Company and/or the settlement company in order to prevent errors and to be certain that the correct parcel(s) of Land will appear on any documents to be recorded in connection with this transaction and on the policy of title insurance

END OF REQUIREMENTS

INFORMATIONAL NOTES SECTION

1. None of the items shown in this report will cause the Company to decline to attach CLTA Endorsement Form 100 to an Extended Coverage Loan Policy, when issued.
2. Note: The Company is not aware of any matters which would cause it to decline to attach CLTA Endorsement Form 116.2 indicating that the Land includes a condominium designated as Unit 4-21 and known as 1501 Front Street #421, San Diego, California to an Extended Coverage Loan Policy.
3. Note: The policy of title insurance will include an arbitration provision. The Company or the insured may demand arbitration provision. Arbitrable matters may include, but are not limited to any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your Title Insurance Coverage.
4. Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.
5. Unless this company is in receipt of WRITTEN instructions authorizing a particular policy, Fidelity Title will AUTOMATICALLY issue the American Land Title Association Homeowner's Policy (02/03/10) for all qualifying residential 1-4 properties/transactions to insure the buyer at the close of escrow.
6. If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.
7. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third party service. If the above requirements cannot be met, please call the Company at the number provided in this report
8. Amended Civil Code Section 2941, which becomes effective on January 1, 2002, sets the fee for the processing and recordation of the reconveyance of each Deed of Trust being paid off through this transaction at \$45.00. The reconveyance fee must be clearly set forth in the Beneficiary's Payoff Demand Statement ("Demand"). In addition, an assignment or authorized release of that fee, from the Beneficiary to the Trustee of record, must be included. An example of the required language is as follows:

The Beneficiary identified above hereby assigns, releases or transfers to the Trustee of record, the sum of \$45.00, included herein as 'Reconveyance Fees', for the processing and recordation of the Reconveyance of the Deed of Trust securing the indebtedness covered hereby, and the escrow company or title company processing this pay-off is authorized to deduct the Reconveyance Fee from this Demand and forward said fee to the Trustee of record or the successor Trustee under the Trust Deed to be paid off in full.

In the event that the reconveyance fee and the assignment, release or transfer are not included within the demand statement, then Fidelity National Title Insurance Company and its Underwritten Agent may decline to process the reconveyance and will be forced to return all documentation directly to the Beneficiary for compliance with the requirements of the revised statute.
9. Note: Part of the RESPA Rule to simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs requires the settlement agent to disclose the agent and underwriter split of title premiums, including endorsements as follows:

Line 1107 is used to record the amount of the total title insurance premium, including endorsements, that is retained by the title agent. Fidelity National Title Company retains 88% of the total premium and endorsements.

INFORMATIONAL NOTES
(Continued)

Line 1108 used to record the amount of the total title insurance premium, including endorsements, that is retained by the title underwriter. Fidelity National Title Insurance Company retains 12% of the total premium and endorsements.

END OF INFORMATIONAL NOTES

Sheila Isham/fj

PRIVACY NOTICE

Fidelity National Financial, Inc. and its majority-owned subsidiary companies providing real estate- and loan-related services (collectively, “FNF”, “our” or “we”) respect and are committed to protecting your privacy. This Privacy Notice lets you know how and for what purposes your Personal Information (as defined herein) is being collected, processed and used by FNF. We pledge that we will take reasonable steps to ensure that your Personal Information will only be used in ways that are in compliance with this Privacy Notice. The provision of this Privacy Notice to you does not create any express or implied relationship, or create any express or implied duty or other obligation, between Fidelity National Financial, Inc. and you. See also **No Representations or Warranties** below.

This Privacy Notice is only in effect for any generic information and Personal Information collected and/or owned by FNF, including collection through any FNF website and any online features, services and/or programs offered by FNF (collectively, the “Website”). This Privacy Notice is not applicable to any other web pages, mobile applications, social media sites, email lists, generic information or Personal Information collected and/or owned by any entity other than FNF.

How Information is Collected

The types of personal information FNF collects may include, among other things (collectively, “Personal Information”): (1) contact information (e.g., name, address, phone number, email address); (2) demographic information (e.g., date of birth, gender marital status); (3) Internet protocol (or IP) address or device ID/UDID; (4) social security number (SSN), student ID (SIN), driver’s license, passport, and other government ID numbers; (5) financial account information; and (6) information related to offenses or criminal convictions.

In the course of our business, we may collect Personal Information about you from the following sources:

- Applications or other forms we receive from you or your authorized representative;
- Information we receive from you through the Website;
- Information about your transactions with or services performed by us, our affiliates, or others; and
- From consumer or other reporting agencies and public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others.

Additional Ways Information is Collected Through the Website

Browser Log Files. Our servers automatically log each visitor to the Website and collect and record certain information about each visitor. This information may include IP address, browser language, browser type, operating system, domain names, browsing history (including time spent at a domain, time and date of your visit), referring/exit web pages and URLs, and number of clicks. The domain name and IP address reveal nothing personal about the user other than the IP address from which the user has accessed the Website.

Cookies. From time to time, FNF or other third parties may send a “cookie” to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer’s hard drive and that can be re-sent to the serving website on subsequent visits. A cookie, by itself, cannot read other data from your hard disk or read other cookie files already on your computer. A cookie, by itself, does not damage your system. We, our advertisers and other third parties may use cookies to identify and keep track of, among other things, those areas of the Website and third party websites that you have visited in the past in order to enhance your next visit to the Website. You can choose whether or not to accept cookies by changing the settings of your Internet browser, but some functionality of the Website may be impaired or not function as intended. See the **Third Party Opt Out** section below.

Web Beacons. Some of our web pages and electronic communications may contain images, which may or may not be visible to you, known as Web Beacons (sometimes referred to as “clear gifs”). Web Beacons collect only limited information that includes a cookie number; time and date of a page view; and a description of the page on which the Web Beacon resides. We may also carry Web Beacons placed by third party advertisers. These Web Beacons do not carry any Personal Information and are only used to track usage of the Website and activities associated with the Website. See the **Third Party Opt Out** section below.

Unique Identifier. We may assign you a unique internal identifier to help keep track of your future visits. We may use this information to gather aggregate demographic information about our visitors, and we may use it to personalize the information you see on the Website and some of the electronic communications you receive from us. We keep this information for our internal use, and this information is not shared with others.

Third Party Opt Out. Although we do not presently, in the future we may allow third-party companies to serve advertisements and/or collect certain anonymous information when you visit the Website. These companies may use non-personally identifiable information (e.g., click stream information, browser type, time and date, subject of advertisements clicked or scrolled over) during your visits to the Website in order to provide advertisements about products and services likely to be of greater interest to you. These companies typically use a cookie or third party Web Beacon to collect this information, as further described above. Through these technologies, the third party may have access to and use non-personalized information about your online usage activity.

You can opt-out of certain online behavioral services through any one of the ways described below. After you opt-out, you may continue to receive advertisements, but those advertisements will no longer be as relevant to you.

- You can opt-out via the Network Advertising Initiative industry opt-out at <http://www.networkadvertising.org/>.
- You can opt-out via the Consumer Choice Page at <http://www.aboutads.info>.
- For those in the U.K., you can opt-out via the IAB UK’s industry opt-out at <http://www.youronlinechoices.com>.
- You can configure your web browser (Chrome, Firefox, Internet Explorer, Safari, etc.) to delete and/or control the use of cookies.

More information can be found in the Help system of your browser. Note: If you opt-out as described above, you should not delete your cookies. If you delete your cookies, you will need to opt-out again.

Use of Personal Information

Information collected by FNF is used for three main purposes:

- To provide products and services to you or one or more third party service providers (collectively, “Third Parties”) who are obtaining services on your behalf or in connection with a transaction involving you.
- To improve our products and services that we perform for you or for Third Parties.
- To communicate with you and to inform you about FNF’s, FNF’s affiliates and third parties’ products and services.

When Information Is Disclosed By FNF

We may provide your Personal Information (excluding information we receive from consumer or other credit reporting agencies) to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Disclosures may include, without limitation, the following:

- To agents, brokers, representatives, or others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connection with an insurance transaction;
- To third-party contractors or service providers who provide services or perform marketing services or other functions on our behalf;
- To law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoenas or court orders; and/or
- To lenders, lien holders, judgment creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing.

In addition to the other times when we might disclose information about you, we might also disclose information when required by law or in the good-faith belief that such disclosure is necessary to: (1) comply with a legal process or applicable laws; (2) enforce this Privacy Notice; (3) respond to claims that any materials, documents, images, graphics, logos, designs, audio, video and any other information provided by you violates the rights of third parties; or (4) protect the rights, property or personal safety of FNF, its users or the public.

We maintain reasonable safeguards to keep the Personal Information that is disclosed to us secure. We provide Personal Information and non-Personal Information to our subsidiaries, affiliated companies, and other businesses or persons for the purposes of processing such information on our behalf and promoting the services of our trusted business partners, some or all of which may store your information on servers outside of the United States. We require that these parties agree to process such information in compliance with our Privacy Notice or in a similar, industry-standard manner, and we use reasonable efforts to limit their use of such information and to use other appropriate confidentiality and security measures. The use of your information by one of our trusted business partners may be subject to that party's own Privacy Notice. We do not, however, disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent, in conformity with applicable law, unless such disclosure is otherwise permitted by law.

We also reserve the right to disclose Personal Information and/or non-Personal Information to take precautions against liability, investigate and defend against any third-party claims or allegations, assist government enforcement agencies, protect the security or integrity of the Website, and protect the rights, property, or personal safety of FNF, our users or others.

We reserve the right to transfer your Personal Information, as well as any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets. We also cannot make any representations regarding the use or transfer of your Personal Information or other information that we may have in the event of our bankruptcy, reorganization, insolvency, receivership or an assignment for the benefit of creditors, and you expressly agree and consent to the use and/or transfer of your Personal Information or other information in connection with a sale or transfer of some or all of our assets in any of the above described proceedings. Furthermore, we cannot and will not be responsible for any breach of security by any third parties or for any actions of any third parties that receive any of the information that is disclosed to us.

Information From Children

We do not collect Personal Information from any person that we know to be under the age of thirteen (13). Specifically, the Website is not intended or designed to attract children under the age of thirteen (13). You affirm that you are either more than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this

Privacy Notice, and to abide by and comply with this Privacy Notice. In any case, you affirm that you are over the age of 13, as **THE WEBSITE IS NOT INTENDED FOR CHILDREN UNDER 13 THAT ARE UNACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN.**

Parents should be aware that FNF's Privacy Notice will govern our use of Personal Information, but also that information that is voluntarily given by children – or others – in email exchanges, bulletin boards or the like may be used by other parties to generate unsolicited communications. FNF encourages all parents to instruct their children in the safe and responsible use of their Personal Information while using the Internet.

Privacy Outside the Website

The Website may contain various links to other websites, including links to various third party service providers. FNF is not and cannot be responsible for the privacy practices or the content of any of those other websites. Other than under agreements with certain reputable organizations and companies, and except for third party service providers whose services either we use or you voluntarily elect to utilize, we do not share any of the Personal Information that you provide to us with any of the websites to which the Website links, although we may share aggregate, non-Personal Information with those other third parties. Please check with those websites in order to determine their privacy policies and your rights under them.

European Union Users

If you are a citizen of the European Union, please note that we may transfer your Personal Information outside the European Union for use for any of the purposes described in this Privacy Notice. By providing FNF with your Personal Information, you consent to both our collection and such transfer of your Personal Information in accordance with this Privacy Notice.

Choices With Your Personal Information

Whether you submit Personal Information to FNF is entirely up to you. You may decide not to submit Personal Information, in which case FNF may not be able to provide certain services or products to you.

You may choose to prevent FNF from disclosing or using your Personal Information under certain circumstances (“opt out”). You may opt out of any disclosure or use of your Personal Information for purposes that are incompatible with the purpose(s) for which it was originally collected or for which you subsequently gave authorization by notifying us by one of the methods at the end of this Privacy Notice. Furthermore, even where your Personal Information is to be disclosed and used in accordance with the stated purposes in this Privacy Notice, you may elect to opt out of such disclosure to and use by a third party that is not acting as an agent of FNF. As described above, there are some uses from which you cannot opt-out.

Please note that opting out of the disclosure and use of your Personal Information as a prospective employee may prevent you from being hired as an employee by FNF to the extent that provision of your Personal Information is required to apply for an open position.

If FNF collects Personal Information from you, such information will not be disclosed or used by FNF for purposes that are incompatible with the purpose(s) for which it was originally collected or for which you subsequently gave authorization unless you affirmatively consent to such disclosure and use.

You may opt out of online behavioral advertising by following the instructions set forth above under the above section “Additional Ways That Information Is Collected Through the Website,” subsection “Third Party Opt Out.”

Access and Correction

To access your Personal Information in the possession of FNF and correct inaccuracies of that information in our records, please contact us in the manner specified at the end of this Privacy Notice. We ask

individuals to identify themselves and the information requested to be accessed and amended before processing such requests, and we may decline to process requests in limited circumstances as permitted by applicable privacy legislation.

Your California Privacy Rights

Under California's "Shine the Light" law, California residents who provide certain personally identifiable information in connection with obtaining products or services for personal, family or household use are entitled to request and obtain from us once a calendar year information about the customer information we shared, if any, with other businesses for their own direct marketing uses. If applicable, this information would include the categories of customer information and the names and addresses of those businesses with which we shared customer information for the immediately prior calendar year (e.g., requests made in 2015 will receive information regarding 2014 sharing activities).

To obtain this information on behalf of FNF, please send an email message to privacy@fnf.com with "Request for California Privacy Information" in the subject line and in the body of your message. We will provide the requested information to you at your email address in response.

Please be aware that not all information sharing is covered by the "Shine the Light" requirements and only information on covered sharing will be included in our response.

Additionally, because we may collect your Personal Information from time to time, California's Online Privacy Protection Act requires us to disclose how we respond to "do not track" requests and other similar mechanisms. Currently, our policy is that we do not recognize "do not track" requests from Internet browsers and similar devices.

FNF Compliance with California Online Privacy Protection Act

For some websites which FNF or one of its companies owns, such as the Customer CareNet ("CCN"), FNF is acting as a third party service provider to a mortgage loan servicer. In those instances, we may collect certain information on behalf of that mortgage loan servicer for fulfilling a service to that mortgage loan servicer. For example, you may access CCN to complete a transaction with your mortgage loan servicer. During this transaction, the information which we may collect on behalf of the mortgage loan servicer is as follows:

- First and Last Name
- Property Address
- User Name
- Password
- Loan Number
- Social Security Number - masked upon entry
- Email Address
- Three Security Questions and Answers
- IP Address

The information you submit is then transferred to your mortgage loan servicer by way of CCN.

The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through this website. For example, if you believe that your payment or user information is incorrect, you must contact your mortgage loan servicer.

CCN does not share consumer information with third parties, other than those with which the mortgage loan servicer has contracted to interface with the CCN application.

All sections of the FNF Privacy Notice apply to your interaction with CCN, except for the sections titled Choices with Your Personal Information and Access and Correction. If you have questions regarding the choices you have with regard to your personal information or how to access or correct your personal information, you should contact your mortgage loan servicer.

No Representations or Warranties

By providing this Privacy Notice, Fidelity National Financial, Inc. does not make any representations or warranties whatsoever concerning any products or services provided to you by its majority-owned subsidiaries. In addition, you also expressly agree that your use of the Website is at your own risk. Any services provided to you by Fidelity National Financial, Inc. and/or the Website are provided "as is" and "as available" for your use, without representations or warranties of any kind, either express or implied, unless such warranties are legally incapable of exclusion. Fidelity National Financial, Inc. makes no representations or warranties that any services provided to you by it or the Website, or any services offered in connection with the Website are or will remain uninterrupted or error-free, that defects will be corrected, or that the web pages on or accessed through the Website, or the servers used in connection with the Website, are or will remain free from any viruses, worms, time bombs, drop dead devices, Trojan horses or other harmful components. Any liability of Fidelity National Financial, Inc. and your exclusive remedy with respect to the use of any product or service provided by Fidelity National Financial, Inc. including on or accessed through the Website, will be the re-performance of such service found to be inadequate.

Your Consent To This Privacy Notice

By submitting Personal Information to FNF, you consent to the collection and use of information by us as specified above or as we otherwise see fit, in compliance with this Privacy Notice, unless you inform us otherwise by means of the procedure identified below. If we decide to change this Privacy Notice, we will make an effort to post those changes on the Website. Each time we collect information from you following any amendment of this Privacy Notice will signify your assent to and acceptance of its revised terms for all previously collected information and information collected from you in the future. We may use comments, information or feedback that you may submit in any manner that we may choose without notice or compensation to you.

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601 Riverside Avenue
Jacksonville, Florida 32204
Attn: Chief Privacy Officer
(888) 934-3354
privacy@fnf.com

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EFFECTIVE AS OF: MAY 1, 2015

Notice of Available Discounts

Pursuant to Section 2355.3 in Title 10 of the California Code of Regulations Fidelity National Financial, Inc. and its subsidiaries ("FNF") must deliver a notice of each discount available under our current rate filing along with the delivery of escrow instructions, a preliminary report or commitment. Please be aware that the provision of this notice does not constitute a waiver of the consumer's right to be charged the field rate. As such, your transaction may not qualify for the below discounts.

You are encouraged to discuss the applicability of one or more of the below discounts with a Company representative. These discounts are generally described below; consult the rate manual for a full description of the terms, conditions and requirements for each discount. These discounts only apply to transaction involving services rendered by the FNF Family of Companies. This notice only applies to transactions involving property improved with a one-to-four family residential dwelling.

FNF Underwritten Title Company

FNTC - Fidelity National Title Company
FNTCCA – Fidelity National Title Company of California

FNF Underwriter

FNTIC - Fidelity National Title Insurance Company

Available Discounts

CREDIT FOR PRELIMINARY REPORTS AND/OR COMMITMENTS ON SUBSEQUENT POLICIES (FNTIC)

Where no major change in the title has occurred since the issuance of the original report or commitment, the order may be reopened within 12 months and all or a portion of the charge previously paid for the report or commitment may be credited on a subsequent policy charge within the following time period from the date of the report.

DISASTER LOANS (FNTIC)

The charge for a lender's Policy (Standard or Extended coverage) covering the financing or refinancing by an owner of record, within 24 months of the date of a declaration of a disaster area by the government of the United States or the State of California on any land located in said area, which was partially or totally destroyed in the disaster, will be 50% of the appropriate title insurance rate.

CHURCHES OR CHARITABLE NON-PROFIT ORGANIZATIONS (FNTIC)

On properties used as a church or for charitable purposes within the scope of the normal activities of such entities, provided said charge is normally the church's obligation the charge for an owner's policy shall be 50% to 70% of the appropriate title insurance rate, depending on the type of coverage selected. The charge for a lender's policy shall be 40% to 50% of the appropriate title insurance rate, depending on the type of coverage selected.

Attachment One (Revised 06-05-14)

**CALIFORNIA LAND TITLE ASSOCIATION
STANDARD COVERAGE POLICY – 1990 (04-08-14)**

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

EXCEPTIONS FROM COVERAGE—SCHEDULE B, PART I

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (12-02-13)

ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE

EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
 - a. building;
 - b. zoning;

- c. land use;
- d. improvements on the Land;
- e. land division; and
- f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.

- 2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
- 3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
- 4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
- 5. Failure to pay value for Your Title.
- 6. Lack of a right:
 - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 21.

- 7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.
- 8. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.
- 9. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$10,000.00
Covered Risk 18:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 19:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 21:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$5,000.00

**2006 ALTA LOAN POLICY (06-17-06)
 EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

- 1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- 2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- 3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;

- (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13 or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
 5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
 6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
 7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

Except as provided in Schedule B - Part II, this policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses, that arise by reason of:

PART I

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

PART II

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the Insured Mortgage:

2006 ALTA OWNER'S POLICY (06-17-06)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.

4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses, that arise by reason of:

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.
7. Variable exceptions such as taxes, easements, CC&R's, etc. shown here.

ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (12-02-13)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.

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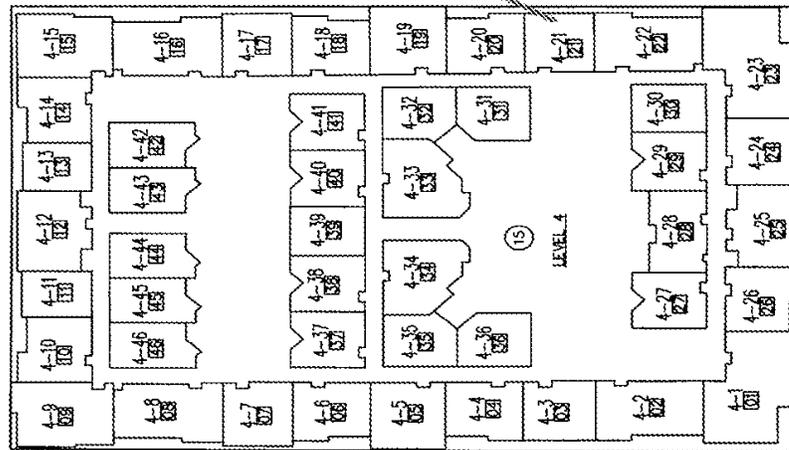
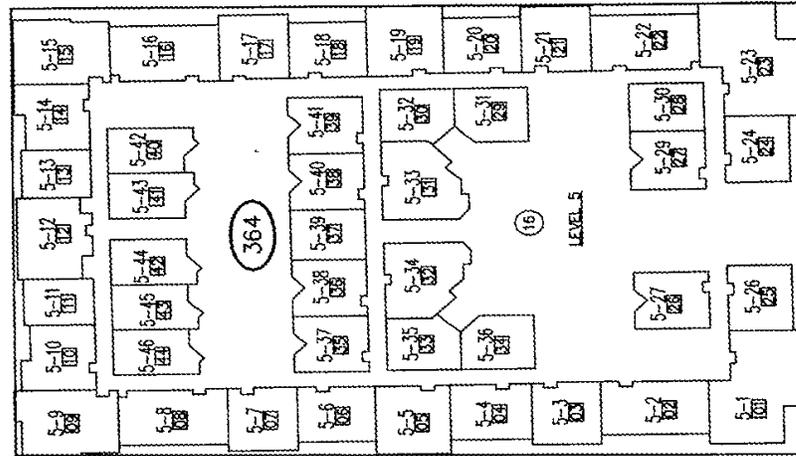
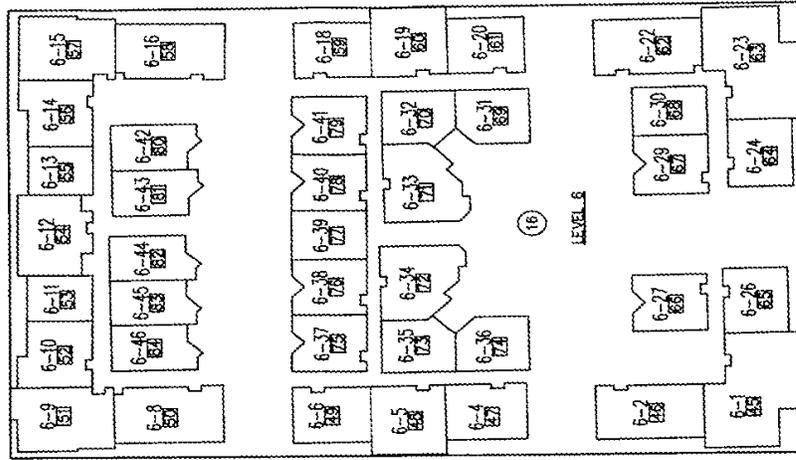
9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.
10. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.
11. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

SAN DIEGO COUNTY ASSESSOR'S MAP
 533-36
 SHT 3
 1" = 50'
 Date: 10/15/14 By: AS

PALERMO
 DOC 04 - 828993
 DOC 04 - 847428
 PAR 1, PM 19527

ASSESSMENT PAR NO
 533-364-16 SUB ID 01-04

ASSESSMENT PAR NO
 533-364-15 SUB ID 01-45



FID

Fidelity National Title Company
 This plat is for your aid in locating your land with reference to streets and other parcels. While this plat is believed to be correct, the Company assumes no liability for any loss occurring by reason of reliance thereon.

CONDOMINIUM

EXHIBIT “2”
SALE AGREEMENT



CALIFORNIA ASSOCIATION OF REALTORS®

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(C.A.R. Form RPA-CA, Revised 12/15)

Date Prepared: 02/16/2016

1. OFFER:

- A. THIS IS AN OFFER FROM Jack A. Gersten ("Buyer").
- B. THE REAL PROPERTY to be acquired is 1501 Front St. #421, San Diego, CA 92101-2977, situated in San Diego (City), San Diego (County), California, 92101-2977 (Zip Code), Assessor's Parcel No. 533-364-15-21 ("Property").
- C. THE PURCHASE PRICE offered is Three Hundred Forty-Five Thousand Dollars \$ 345,000.00.
- D. CLOSE OF ESCROW shall occur on (date) or 30 Days After Acceptance.
- E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.

2. AGENCY:

- A. DISCLOSURE: The Parties each acknowledge receipt of a "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD).
- B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction:
Listing Agent KW Realty South Bay/Bryce & Co (Print Firm Name) is the agent of (check one):
 the Seller exclusively; or both the Buyer and Seller.
Selling Agent CFL Realty (Print Firm Name) (if not the same as the Listing Agent) is the agent of (check one): the Buyer exclusively; or the Seller exclusively; or both the Buyer and Seller.
- C. 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).

3. FINANCE TERMS: Buyer represents that funds will be good when deposited with Escrow Holder.

- A. INITIAL DEPOSIT: Deposit shall be in the amount of \$ 34,500.00
(1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, cashier's check, personal check, other within 3 business days after Acceptance (or);
OR (2) Buyer Deposit with Agent: Buyer has given the deposit by personal check (or) to the agent submitting the offer (or to), made payable to The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within 3 business days after Acceptance (or). Deposit checks given to agent shall be an original signed check and not a copy.
(Note: Initial and increased deposits checks received by agent shall be recorded in Broker's trust fund log.)
- B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ within Days After Acceptance (or).
If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.
- C. ALL CASH OFFER: No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or Buyer shall, within 3 (or) Days After Acceptance, Deliver to Seller such verification.
- D. LOAN(S):
(1) FIRST LOAN: in the amount of \$ 327,750.00
This loan will be conventional financing or FHA, VA, Seller financing (C.A.R. Form SFA), assumed financing (C.A.R. Form AFA), Other This loan shall be at a fixed rate not to exceed % or, an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(2) SECOND LOAN in the amount of \$
This loan will be conventional financing or Seller financing (C.A.R. Form SFA), assumed financing (C.A.R. Form AFA), Other This loan shall be at a fixed rate not to exceed % or, an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(3) FHA/VA: For any FHA or VA loan specified in 3D(1), Buyer has 17 (or) Days After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or otherwise correct. Seller has no obligation to pay or satisfy lender requirements unless agreed in writing. A FHA/VA amendatory clause (C.A.R. Form FVAC) shall be a part of this Agreement.
- E. ADDITIONAL FINANCING TERMS:
- F. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of \$ (17,250.00) to be deposited with Escrow Holder pursuant to Escrow Holder instructions.
- G. PURCHASE PRICE (TOTAL): \$ 345,000.00

Buyer's Initials (JAG) (.....)

Seller's Initials ([Signature]) (.....)

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RPA-CA REVISED 12/15 (PAGE 1 OF 10)

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 1 OF 10)



Property Address: 1501 Front St. #421, San Diego, CA 92101-2977

Date: February 16, 2016

- H. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within 3 (or ____) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (Verification attached.)
- I. APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (or is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 14B(3), in writing, remove the appraisal contingency or cancel this Agreement within 17 (or ____) Days After Acceptance.
- J. LOAN TERMS:**
- (1) **LOAN APPLICATIONS:** Within 3 (or ____) Days After Acceptance, Buyer shall Deliver to Seller 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 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. (Letter attached.)
- (2) **LOAN CONTINGENCY:** Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above is a contingency of this Agreement unless otherwise agreed in writing. 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. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are **not contingencies** of this Agreement.
- (3) **LOAN CONTINGENCY REMOVAL:**
Within 21 (or ____) Days After Acceptance, Buyer shall, as specified in paragraph 14, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.
- (4) **NO LOAN CONTINGENCY:** Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.
- (5) **LENDER LIMITS ON BUYER CREDITS:** 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 the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit 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.
- K. 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 covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.
- 4. SALE OF BUYER'S PROPERTY:**
- A.** This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.
- OR B.** This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).
- 5. ADDENDA AND ADVISORIES:**
- A. ADDENDA:**
- | | |
|---|--|
| <input type="checkbox"/> Back Up Offer Addendum (C.A.R. Form BUO) | <input type="checkbox"/> Addendum # _____ (C.A.R. Form ADM) |
| <input type="checkbox"/> Septic, Well and Property Monument Addendum (C.A.R. Form SWPI) | <input type="checkbox"/> Court Confirmation Addendum (C.A.R. Form CCA) |
| <input type="checkbox"/> Short Sale Addendum (C.A.R. Form SSA) | <input type="checkbox"/> Other _____ |
- B. BUYER AND SELLER ADVISORIES:**
- | |
|---|
| <input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA) |
| <input type="checkbox"/> Probate Advisory (C.A.R. Form PA) |
| <input type="checkbox"/> Trust Advisory (C.A.R. Form TA) |
| <input type="checkbox"/> Short Sale Information and Advisory (C.A.R. Form SSIA) |
| <input type="checkbox"/> Statewide Buyer and Seller Advisory (C.A.R. Form SBSA) |
| <input type="checkbox"/> REO Advisory (C.A.R. Form REO) |
| <input type="checkbox"/> Other _____ |
- 6. OTHER TERMS:** Buyer is a licensed real estate agent
-
- 7. ALLOCATION OF COSTS**
- A. INSPECTIONS, REPORTS AND CERTIFICATES:** Unless otherwise agreed in writing, this paragraph 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.**
- (1) Buyer Seller shall pay for a natural hazard zone disclosure report, including tax environmental Other: _____ prepared by Property ID
- (2) Buyer Seller shall pay for the following Report _____ prepared by _____
- (3) Buyer Seller shall pay for the following Report _____ prepared by _____

Buyer's Initials (JAG) (_____)

Seller's Initials ([Signature]) (_____)

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 2 OF 10)

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1501 Front St



EXHIBIT 2

Property Address: 1501 Front St. #421, San Diego, CA 92101-2977

Date: February 16, 2016

B. GOVERNMENT REQUIREMENTS AND RETROFIT:

- (1) Buyer [X] Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.
(2) (i) Buyer [X] Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.
(ii) Buyer [] Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.
(iii) Buyer shall be provided, within the time specified in paragraph 14A, a copy of any required government conducted or point-of-sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.

C. ESCROW AND TITLE:

- (1) (a) [X] Buyer [X] Seller shall pay escrow fee 50/50 SPLIT
(b) Escrow Holder shall be Sellers Choice
(c) The Parties shall, within 5 (or) Days After receipt, sign and return Escrow Holder's general provisions.
(2) (a) [] Buyer [X] Seller shall pay for owner's title insurance policy specified in paragraph 13E
(b) Owner's title policy to be issued by Sellers Choice
(Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

D. OTHER COSTS:

- (1) Buyer [] Seller [X] Seller shall pay County transfer tax or fee
(2) Buyer [] Seller [X] Seller shall pay City transfer tax or fee
(3) Buyer [] Seller [X] Seller shall pay Homeowners' Association ("HOA") transfer fee
(4) Seller shall pay HOA fees for preparing documents required to be delivered by Civil Code §4525.
(5) Buyer [] Seller [X] Seller shall pay HOA fees for preparing all documents other than those required by Civil Code §4525.
(6) Buyer to pay for any HOA certification fee.
(7) Buyer [] Seller [] Seller shall pay for any private transfer fee
(8) Buyer [] Seller [] Seller shall pay for
(9) Buyer [] Seller [] Seller shall pay for
(10) Buyer [] Seller [X] Seller shall pay for the cost, not to exceed \$ 350.00, of a standard (or [] upgraded) one-year home warranty plan, issued by First American HW, with the following optional coverages: [X] Air Conditioner [] Pool/Spa [] Other:
Buyer is informed that home warranty plans have many optional coverages in addition to those listed above. Buyer is advised to investigate these coverages to determine those that may be suitable for Buyer.

OR [] Buyer waives the purchase of a home warranty plan. Nothing in this paragraph precludes Buyer's purchasing a home warranty plan during the term of this Agreement.

8. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:

A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in paragraph 8 B or C.

B. ITEMS INCLUDED IN SALE: Except as otherwise specified or disclosed,

- (1) All EXISTING fixtures and fittings that are attached to the Property;
(2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers, security systems/alarms and the following if checked: [X] all stove(s), except ; [X] all refrigerator(s) except ; [X] all washer(s) and dryer(s), except ;
(3) The following additional items: Dishwasher, Microwave
(4) Existing integrated phone and home automation systems, including necessary components such as intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are ([] are NOT) included in the sale.
(5) LEASED OR LIENED ITEMS AND SYSTEMS: Seller shall, within the time specified in paragraph 14A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item. Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 14B and C.
(6) Seller represents that all items included in the purchase price, unless otherwise specified, (i) are owned by Seller and shall be transferred free and clear of liens and encumbrances, except the items and systems identified pursuant to 8B(5) and , and (ii) are transferred without Seller warranty regardless of value.

C. ITEMS EXCLUDED FROM SALE: Unless otherwise specified, the following items are excluded from sale: (i) audio and video components (such as flat screen TVs, speakers and other items) if any such item is not itself attached to the Property, even if a bracket or other mechanism attached to the component or item is attached to the Property; (ii) furniture and other items secured to the Property for earthquake purposes; and (iii)

Brackets attached to walls, floors or ceilings for any such component, furniture or item shall remain with the Property (or [] will be removed and holes or other damage shall be repaired, but not painted).

Buyer's Initials (TAG) ()

Seller's Initials () ()

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1501 Front St



Property Address: 1501 Front St. #421, San Diego, CA 92101-2977

Date: February 16, 2016

9. CLOSING AND POSSESSION:

- A. Buyer intends (or does not intend) to occupy the Property as Buyer's primary residence.
- B. **Seller-occupied or vacant property:** Possession shall be delivered to Buyer: (i) at 6 PM or (AM/ PM) on the date of Close Of Escrow; (ii) no later than ___ calendar days after Close Of Escrow; or (iii) at ___ AM/ PM on _____.
- C. **Seller remaining in possession After Close Of Escrow:** If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as C.A.R. Form SIP, for Seller continued occupancy of less than 30 days, C.A.R. Form RLAS for Seller continued occupancy of 30 days or more; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.
- D. **Tenant-occupied property: Property shall be vacant at least 5 (or ___) Days Prior to Close Of Escrow, unless otherwise agreed in writing. Note to Seller: If you are unable to deliver Property vacant in accordance with rent control and other applicable Law, you may be in breach of this Agreement.**
- OR **Tenant to remain in possession (C.A.R. Form TIP).**
- E. At Close Of Escrow: Seller assigns to Buyer any assignable warranty rights for items included in the sale; and Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.
- F. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.

10. STATUTORY AND OTHER DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:

- A. (1) Seller shall, within the time specified in paragraph 14A, Deliver to Buyer: (i) if required by Law, a fully completed: Federal Lead-Based Paint Disclosures (C.A.R. Form FLD) and pamphlet ("Lead Disclosures"); and (ii) unless exempt, fully completed disclosures or notices required by sections 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 ("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).
- (2) Any Statutory Disclosure required by this paragraph is considered fully completed if Seller has answered all questions and completed and signed the Seller section(s) and the Listing Agent, if any, has completed and signed the Listing Broker section(s), or, if applicable, an Agent Visual Inspection Disclosure (C.A.R. Form AVID). Nothing stated herein relieves a Buyer's Broker, 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 Broker.
- (3) **Note to Buyer and Seller:** Waiver of Statutory and Lead Disclosures is prohibited by Law.
- (4) Within the time specified in paragraph 14A, (i) Seller, unless exempt from the obligation to provide a TDS, shall, complete and provide Buyer with a Seller Property Questionnaire (C.A.R. Form SPQ); (ii) if Seller is not required to provide a TDS, Seller shall complete and provide Buyer with an Exempt Seller Disclosure (C.A.R. Form ESD).
- (5) Buyer shall, within the time specified in paragraph 14B(1), return Signed Copies of the Statutory, Lead and other disclosures to Seller.
- (6) In the event Seller or Listing Broker, 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, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.**
- (7) If any disclosure or notice specified in paragraph 10A(1), or subsequent or amended disclosure or notice is Delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within **3 Days After Delivery** in person, or **5 Days After Delivery** by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent.
- B. **NATURAL AND ENVIRONMENTAL HAZARD DISCLOSURES AND OTHER BOOKLETS:** Within the time specified in paragraph 14A, Seller shall, if required by Law: (i) Deliver to Buyer earthquake guide(s) (and questionnaire), environmental hazards booklet, and home energy rating pamphlet; (ii) 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; and Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.
- C. **WITHHOLDING TAXES:** Within the time specified in paragraph 14A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law (C.A.R. Form AS or QS).
- D. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 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 Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers 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 Web site.
- F. **CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**
- (1) **SELLER HAS: 7 (or ___) Days After Acceptance** to disclose to Buyer if the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form SPQ or ESD).

Buyer's Initials (JAG) (_____)
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Seller's Initials ([Signature]) (_____)



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(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has 3 (or) Days After Acceptance to request from the HOA (C.A.R. Form HOA1): (i) Copies of any documents required by Law; (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; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). (vi) private transfer fees; (vii) Pet fee restrictions; and (viii) smoking restrictions. Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 14B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to HOA or management company to pay for any of the above.

11. CONDITION OF PROPERTY: Unless otherwise agreed in writing: (i) the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's Investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.

- A. Seller shall, within the time specified in paragraph 14A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
- B. Buyer has the right to conduct Buyer Investigations of the Property and, as specified in paragraph 14B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make Repairs or take other action.
- C. **Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.**

12. BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:

- A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 14B. Within the time specified in paragraph 14B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to: (i) a general physical inspection; (ii) an inspection specifically for wood destroying pests and organisms. Any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infections (Section 1) and for conditions likely to lead to infestation or infection (Section 2); (iii) inspect for lead-based paint and other lead-based paint hazards; (iv) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA); (v) review the registered sex offender database; (vi) confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; and (vii) review and seek approval of leases that may need to be assumed by Buyer. Without Seller's prior written consent, Buyer shall neither make nor cause to be made: invasive or destructive Buyer Investigations, except for minimally invasive testing required to prepare a Pest Control Report; or inspections by any governmental building or zoning inspector or government employee, unless required by Law.
- B. Seller shall make the Property available for all Buyer Investigations. Buyer shall (i) as specified in paragraph 14B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and (ii) give Seller, at no cost, complete Copies of all such Investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
- C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.
- D. **Buyer indemnity and seller protection for entry upon property:** Buyer shall: (i) keep the Property free and clear of liens; (ii) repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

13. TITLE AND VESTING:

- A. Within the time specified in paragraph 14, Buyer shall be provided a current preliminary title report ("Preliminary Report"). 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. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 14B. 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. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.
- 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 (which Seller is obligated to pay off) 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.
- C. Within the time specified in paragraph 14A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.
- D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

Buyer's Initials (JAG) ()
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Seller's Initials () ()



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Date: **February 16, 2016**

- E. Buyer shall receive a CLTA/ALTA "Homeowner's Policy of Title Insurance", if applicable to the type of property and buyer. If not, Escrow Holder shall notify Buyer. A title company can provide information about the availability, coverage, and cost of other title policies and endorsements. If the Homeowner's Policy is not available, Buyer shall choose another policy, instruct Escrow Holder in writing and shall pay any increase in cost.
- 14. 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 HAS: 7 (or ___) Days** After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5, 6, 7, 8B(4), 10A, B, C, and F, 11A and 13A. If, by the time specified, Seller has not Delivered any such item, Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement.
- B. (1) **BUYER HAS: 17 (or ___) Days** After Acceptance, unless otherwise agreed in writing, to: (i) complete all Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(5), 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 Lead Disclosures and other disclosures Delivered by Seller in accordance with paragraph 10A.
- (2) Within the time specified in paragraph 14B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.
- (3) By the end of the time specified in paragraph 14B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 14A, then Buyer has **5 (or ___) Days** After Delivery of any such items, or the time specified in paragraph 14B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.
- (4) **Continuation of Contingency:** Even after the end of the time specified in paragraph 14B(1) and before Seller cancels, if at all, pursuant to paragraph 14D, 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 14D(1).
- (5) **Access to Property:** Buyer shall have access to the Property to conduct inspections and investigations for **17 (or ___) Days** After Acceptance, whether or not any part of the Buyer's Investigation Contingency has been waived or removed.
- C. **REMOVAL OF CONTINGENCIES WITH OFFER: Buyer removes the contingencies specified in the attached Contingency Removal form (C.A.R. Form CR). If Buyer removes any contingency without an adequate understanding of the Property's condition or Buyer's ability to purchase, Buyer is acting against the advice of Broker.**
- D. **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 NBP, 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 3A, or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; (ii) Deliver a notice of FHA or VA costs or terms as required by paragraph 3D(3) (C.A.R. Form FVA); (iii) Deliver a letter as required by paragraph 3J(1); (iv) Deliver verification, or a satisfactory verification if Seller reasonably disapproves of the verification already provided, as required by paragraph 3C or 3H; (v) In writing assume or accept leases or liens specified in 8B5; (vi) Return Statutory and Lead Disclosures as required by paragraph 10A(5); or (vii) Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 21B; or (viii) Provide evidence of authority to sign in a representative capacity as specified in paragraph 19. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
- E. **NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: (i) be in writing; (ii) be signed by the applicable Buyer or Seller; and (iii) give the other Party at least **2 (or ___) Days** After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than **2 Days** Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 14.
- F. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, 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 Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.
- G. **CLOSE OF 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 (or ___) Days** After Delivery to close escrow. A DCE may not be Delivered any earlier than **3 Days** Prior to the scheduled close of escrow.
- 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 mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, **release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award.** If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit. (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within 10 Days After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursement of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. **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 who is entitled to the deposited funds (Civil Code §1057.3).**

Buyer's Initials (JAG) (_____)
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Seller's Initials ([Signature]) (_____)



CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 6 OF 10)

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1501 Front St

EXHIBIT 2

Property Address: 1501 Front St. #421, San Diego, CA 92101-2977

Date: February 16, 2016

- 15. FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property within 5 (or) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 11; (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).
- 16. REPAIRS:** Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: (i) obtain invoices and paid receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.
- 17. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed 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. 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 assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be 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). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
- 18. BROKERS:**
- 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 Broker: (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 Broker; (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.
- 19. REPRESENTATIVE CAPACITY:** If one or more Parties is signing this Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 31 or 32 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD 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 Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists 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).
- 20. 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, 3, 4B, 5A, 6, 7, 10C, 13, 14G, 17, 18A, 19, 20, 26, 29, 30, 31, 32 and paragraph D of the section titled Real Estate Brokers on page 10. If a Copy of the separate compensation agreement(s) provided for in paragraph 18A, or paragraph D of the section titled Real Estate Brokers on page 10 is deposited with Escrow Holder by Broker, 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. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). 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 will 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 (or ___) Days**, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 10 or elsewhere in this Agreement.**
- B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within **3 Days** After Acceptance (or _____). 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 Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 10C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.**

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



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1501 Front St

EXHIBIT 2

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Date: February 16, 2016

- C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 18A and paragraph D of the section titled Real Estate Brokers on page 10. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 18A, 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.
- D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: (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.
- E. 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.

21. REMEDIES FOR BUYER'S BREACH OF CONTRACT:

- A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.
- B. **LIQUIDATED DAMAGES:** If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Except as provided in paragraph 14G, release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. **AT THE TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R. FORM RID).**

Buyer's Initials JAG / _____

Seller's Initials [Signature] / _____

22. DISPUTE RESOLUTION:

- A. **MEDIATION:** 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 through the C.A.R. Real Estate Mediation Center for Consumers (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 Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. Mediation fees, if any, shall be divided equally among the Parties involved. 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. Exclusions from this mediation agreement are specified in paragraph 22C.**

B. ARBITRATION OF DISPUTES:

The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 22C.

"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 JAG / _____

Seller's Initials [Signature] / _____

C. ADDITIONAL MEDIATION AND ARBITRATION TERMS:

- (1) **EXCLUSIONS:** The following matters are excluded from mediation and arbitration: (i) 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; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.

Buyer's Initials (JAG) (_____)

Seller's Initials ([Signature]) (_____)

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 8 OF 10)

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1501 Front St

Property Address: 1501 Front St. #421, San Diego, CA 92101-2977

Date: February 16, 2016

- (2) **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.
- (3) **BROKERS:** Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to this Agreement.
- 23. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
- 24. **MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale 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.
- 25. **ATTORNEY FEES:** 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 22A.
- 26. **ASSIGNMENT:** 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. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller. (C.A.R. Form AOAA).
- 27. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
- 28. **TERMS AND CONDITIONS OF OFFER:**

This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is 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. 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.

- 29. **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 specified, 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.**
- 30. **DEFINITIONS:** As used in this Agreement:

- A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
- B. "Agreement" means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.
- C. "C.A.R. Form" means the most current version of the specific form referenced or another comparable form agreed to by the parties.
- D. "Close Of Escrow", including "COE", means the date the grant deed, or other evidence of transfer of title, is recorded.
- E. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
- F. "Days" means calendar days. However, after Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
- G. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
- H. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
- I. "Deliver", "Delivered" or "Delivery", unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 10, regardless of the method used (i.e., messenger, mail, email, fax, other).
- J. "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.
- K. "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.
- L. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
- M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.

- 31. **EXPIRATION OF OFFER:** This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by _____, who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by _____ AM/ PM, on _____ (date)).

One or more Buyers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-B) for additional terms.

Date 02/16/2016 BUYER Jack A. Gersten

 02/16/2016 23:39:00

(Print name) Jack A. Gersten

Date _____ BUYER _____

(Print name) _____

Additional Signature Addendum attached (C.A.R. Form ASA).

Seller's Initials AB (_____)

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 9 OF 10)

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1501 Front St



EXHIBIT 2

Property Address: 1501 Front St. #421, San Diego, CA 92101-2977 Date: February 16, 2016

32. 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 Broker to Deliver a Signed Copy to Buyer.

(If checked) SELLER'S ACCEPTANCE IS SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED: _____

One or more Sellers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-S) for additional terms.

Date 2/24/16 SELLER [Signature]
 (Print name) Seller of Record

Date _____ SELLER _____
 (Print name) _____

Additional Signature Addendum attached (C.A.R. Form ASA).

(_____/_____) (Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) _____ at _____
 AM/ PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS:

- A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.
- B. Agency relationships are confirmed as stated in paragraph 2.
- C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.
- D. COOPERATING BROKER COMPENSATION: Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow, the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Listing Broker and Cooperating 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.

Real Estate Broker (Selling Firm) CFL Realty CalBRE Lic. # 01870869
 By Sebastian David Noli CalBRE Lic. # 01416576 Date 02/16/2016 02/19/2016 11:27:59
 By _____ CalBRE Lic. # _____ Date _____
 Address 265 E St Suite B-1 City Chula Vista State CA Zip 91910
 Telephone (619)206-3162 Fax _____ E-mail davif@cflsd.com
 Real Estate Broker (Listing Firm) KW Realty South Bay/Bryce & Co CalBRE Lic. # _____
 By Bryce Kawata CalBRE Lic. # _____ Date _____
 By _____ CalBRE Lic. # _____ Date _____
 Address _____ City _____ State _____ Zip _____
 Telephone _____ Fax _____ E-mail _____

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, a deposit in the amount of \$ _____), counter offer numbers _____ Seller's Statement of Information and _____, and agrees to act as Escrow Holder subject to paragraph 20 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is _____

Escrow Holder _____ Escrow # _____
 By _____ Date _____
 Address _____
 Phone/Fax/E-mail _____

Escrow Holder has the following license number # _____
 Department of Business Oversight, Department of Insurance, Bureau of Real Estate.

PRESENTATION OF OFFER: (_____) Listing Broker presented this offer to Seller on _____ (date).
 Broker or Designee Initials _____

REJECTION OF OFFER: (_____) (_____) No counter offer is being made. This offer was rejected by Seller on _____ (date).
 Seller's Initials _____

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RPA-CA REVISED 12/15 (PAGE 10 of 10)
 Reviewed by _____
 Broker or Designee _____





BUYER'S INSPECTION ADVISORY
(C.A.R. Form BIA, Revised 11/14)

Property Address: 1501 Front St. #421, San Diego, CA 92101-2977 ("Property").

1. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations.

2. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as those listed below. If Broker gives you referrals to professionals, Broker does not guarantee their performance.

3. YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.

- A. GENERAL CONDITION OF THE PROPERTY, ITS SYSTEMS AND COMPONENTS:** Foundation, roof (condition, age, leaks, useful life), plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa (cracks, leaks, operation), other structural and nonstructural systems and components, fixtures, built-in appliances, any personal property included in the sale, and energy efficiency of the Property.
- B. SQUARE FOOTAGE, AGE, BOUNDARIES:** Square footage, room dimensions, lot size, age of improvements and boundaries. Any numerical statements regarding these items are APPROXIMATIONS ONLY and have not been verified by Seller and cannot be verified by Brokers. Fences, hedges, walls, retaining walls and other barriers or markers do not necessarily identify true Property boundaries.
- C. WOOD DESTROYING PESTS:** Presence of, or conditions likely to lead to the presence of wood destroying pests and organisms.
- D. SOIL STABILITY:** Existence of fill or compacted soil, expansive or contracting soil, susceptibility to slippage, settling or movement, and the adequacy of drainage.
- E. WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS; WASTE DISPOSAL:** Water and utility availability, use restrictions and costs. Water quality, adequacy, condition, and performance of well systems and components. The type, size, adequacy, capacity and condition of sewer and septic systems and components, connection to sewer, and applicable fees.
- F. ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, materials, products, or conditions (including mold (airborne, toxic or otherwise), fungus or similar contaminants).
- G. EARTHQUAKES AND FLOODING:** Susceptibility of the Property to earthquake/seismic hazards and propensity of the Property to flood.
- H. FIRE, HAZARD AND OTHER INSURANCE:** The availability and cost of necessary or desired insurance may vary. The location of the Property in a seismic, flood or fire hazard zone, and other conditions, such as the age of the Property and the claims history of the Property and Buyer, may affect the availability and need for certain types of insurance. Buyer should explore insurance options early as this information may affect other decisions, including the removal of loan and inspection contingencies.
- I. BUILDING PERMITS, ZONING AND GOVERNMENTAL REQUIREMENTS:** Permits, inspections, certificates, zoning, other governmental limitations, restrictions, and requirements affecting the current or future use of the Property, its development or size.
- J. RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants, and the right of a landlord to terminate a tenancy. Deadbolt or other locks and security systems for doors and windows, including window bars, should be examined to determine whether they satisfy legal requirements.
- K. SECURITY AND SAFETY:** State and local Law may require the installation of barriers, access alarms, self-latching mechanisms and/or other measures to decrease the risk to children and other persons of existing swimming pools and hot tubs, as well as various fire safety and other measures concerning other features of the Property.
- L. NEIGHBORHOOD, AREA, SUBDIVISION CONDITIONS; PERSONAL FACTORS:** Neighborhood or area conditions, including schools, law enforcement, crime statistics, registered felons or offenders, fire protection, other government services, availability, adequacy and cost of internet connections or other technology services and installations, commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and and/or religions, and personal needs, requirements and preferences of Buyer.

By signing below, Buyers acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyers are encouraged to read it carefully.

Buyer Jack A. Gersten  02/16/2016 23:39:00 Buyer _____
Jack A. Gersten

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Published and Distributed by:
REAL ESTATE BUSINESS SERVICES, INC.
a subsidiary of the California Association of REALTORS®
525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by _____ Date _____



BIA REVISED 11/14 (PAGE 1 OF 1)

BUYER'S INSPECTION ADVISORY (BIA PAGE 1 OF 1)

**Counteroffer re Purchase and Sale of
1501 Front St., #421, San Diego, CA 92101-2977**

This is a counteroffer ("Counteroffer") to the February 16, 2016, "CA Residential Purchase Agreement and Joint Escrow Instructions" received from Jack A. Gersten (the "Buyer's Offer") for the purchase of the real property commonly known as 1501 Front St., #421, San Diego, CA 92101-2977, APN: 533-364-15-21 ("Property"), by Jack A. Gersten ("Buyer") from Lynda T. Bui, solely in her capacity as the Chapter 7 Trustee ("Seller" and, together with Buyer, the "Parties"), for the Bankruptcy Estate of James Andrew Gonzales and Estela Ortega Gonzales (Bankruptcy Case No.: 6:15-bk-13359-SY (the "Debtor").

When fully-executed below, this Counteroffer will constitute conclusive evidence of the contract for the sale and purchase of the Property (the "Sale") and the Parties' agreement for the Sale, subject to approval by the Bankruptcy Court in the Debtor's Bankruptcy case and further or more complete documentation in Seller's discretion. **This Counteroffer Supersedes the Buyer's Proposal.** Seller may elect to deem this Counteroffer the definitive agreement between the Parties regarding the Sale.

1. **Purchase Price:** The purchase price for the Property shall be \$345,000; all cash (the "Purchase Price").
2. **Initial Deposit:** Within two (2) business days following Buyer's execution of this Counteroffer, Buyer shall deliver to escrow, together with an executed copy of this Counteroffer, the sum of \$34,500, to be applied toward the Purchase Price (the "Deposit"), as follows:

Antonia Delgado, Escrow Officer
A & A Escrow Services, Inc.
415 N. Crescent Drive, Suite 320
Beverly Hills, CA 90210
Telephone: (310) 550-6055; Facsimile: (310) 550-6130
Email: antonia@aaescrow.com

3. **Due Diligence Period:** Buyer acknowledges that he/she/it is familiar with the Property and that the Buyer has previously viewed the Property. Nevertheless, at Buyer's sole expense, Buyer shall have until 2:00 p.m. PDT, Friday, March 11, 2016, to obtain all investigations, appraisals and tests, and to complete any and all due diligence which the Buyer desires (the "Due Diligence Deadline"). By no later than the Due Diligence Deadline, Buyer may advise Seller, in writing, of his/her/its election to cancel the Sale, in which case Buyer shall receive a full refund of the Deposit (the "Notice to Cancel"). Absent Buyer's submission of a Notice to Cancel in accordance with this paragraph 3, the Sale shall be without any further contingencies or due diligence requirements of the Buyer.

Without limiting the generality of the foregoing, Buyer's silence shall be deemed an acceptance and affirmative election to proceed with the Sale without any further contingencies or due diligence requirements.

4. Bankruptcy Court Approval: The Sale is expressly subject to Bankruptcy Court approval in the Debtor's bankruptcy case. As soon as reasonably practical following expiration of the Due Diligence Deadline without Buyer's submission of a Notice to Cancel, the Seller will file a motion to approve the Sale with the Bankruptcy Court pursuant to section 363 of the United States Bankruptcy Code (11 U.S.C. § 363) (the "Approval Motion"). As part of such motion, the Seller will request a finding of the Buyer's "good faith" in accordance with section 363(m) of the Bankruptcy Code.
5. Tender of Balance of Purchase Price/Closing: The Sale shall close, with Buyer tendering the full Purchase Price, not more than fifteen (15) calendar days after the entry of an order of the Bankruptcy Court authorizing the Sale.
6. Property Sold "As is" "Where is": The Buyer acknowledges that the Seller is a Trustee appointed to administer a Bankruptcy Estate. The Seller and or Seller's agents have not, and will not, inspect the Property or determine its condition, fitness or use for any particular purpose, nor will any of them provide any written disclosures, guarantees or warranties of any kind. Seller and Seller's agents are exempt from complying with the requirements of Article 1.5 of the California Civil Code Sections 1102-1102.17 relating to disclosures upon transfer of real property. **The sale shall be "as-is" and "where is" with no warranty or recourse whatsoever.** If any state or local ordinance laws require that the Property be brought into compliance, the Buyer, at his/her/its sole expense, shall comply with and pay for any such requirements.
7. Transfer of Property: Transfer of the Property by Seller shall be by Trustee's Fiduciary Quitclaim Deed. The Seller shall convey and the Buyer shall accept the marketable title to the Property that will be insured by Fidelity National Title Company, without material exception, subject only to the terms of this Counteroffer and any further documentation of the Sale consistent with this Counteroffer.
8. Liens, Claims, Encumbrances and Interests: The Sale shall be free and clear of such Liens, with the extent, validity and priority of such liens to attach to the net proceeds of the Sale.
9. Assessments, Taxes and Escrow fees: The following assessments, taxes and other costs shall be allocated as follows: (a) all allowable

9. Assessments, Taxes and Escrow fees: The following assessments, taxes and other costs shall be allocated as follows: (a) all allowable assessments and real property taxes shall be prorated through the closing date of the Sale to the applicable accounts of the Seller and the Buyer, such that the amounts applicable to the account of the Buyer shall not be deducted from the Purchase Price; (b) escrow fees shall be split equally between the Buyer and the Seller (50/50), such that the amounts allocable to the Buyer shall not be deducted from the Purchase Price; (c) the Seller shall pay real property transfer tax (County and State only) and the costs of a standard issue title insurance policy, such that these taxes and costs shall not be deducted from the Purchase Price; and (d) City transfer tax shall be split equally between Buyer and Seller (50/50), such that the amount allocable to the Buyer shall not be deducted from the Purchase Price. **All other costs are at Buyer's sole expense and are not to be deducted from the Purchase Price.**
10. Overbid: The Sale is subject to notice to creditors and other parties and shall be subject to higher and better bid through and including the hearing on the Approval Motion, pursuant to sale and overbid procedures determined in the Seller's sole discretion and subject to Bankruptcy Court approval. Initial overbid will be \$350,000 and thereafter in minimum \$1,000 increments.
11. Brokers and Commissions: The Buyer is represented by CFL Realty, CABRE #01870869 ("CFL") and the Seller is represented by Keller Williams Realty and KW Commercial, CABRE #01854035 ("KWR & KWC"). Subject to Court approval, the Seller shall pay commission as follows, through escrow: Six percent (6%) total of the Purchase Price: 2.5% to CFL, 1.75% to KWR, 1.75% to KWC. No commission shall be due and payable except from the cash proceeds of an actual sale of the Property to the Buyer and upon closing of such sale.
12. Seller Right to Terminate: The Seller may decline, at her option and sole discretion, to consummate the Sale for any reason, including without limitation: (a) the dismissal or closure of the Debtor's bankruptcy case; (b) the conversion of the debtor's Chapter 7 bankruptcy case to any other chapter under the Bankruptcy Code; (c) the inability to subordinate any liens on the Property to the expenses of administration; (d) the inability to obtain approval of the Sale by the Bankruptcy Court; or (e) the inability to sell the Property on the terms and conditions set forth herein. The Seller reserves the right, in her sole discretion, to determine not to consummate, and to terminate, the sale of the Property by serving a notice of such termination on the Buyer. No liability or obligations shall accrue to the bankruptcy estate or the Seller, either personally or in her capacity as Trustee, as a result of any such termination. The Buyer's sole remedy, in the event that escrow fails to close as a result of Seller's inability to close

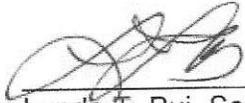
13. **Non-Refundability and Forfeiture of Deposit:** Except as set forth above in paragraph 12 to this Counteroffer, immediately upon expiration of the Due Diligence Deadline without Buyer's submission of a Notice to Cancel in accordance with paragraph 3 to this Counteroffer, the entirety of the Deposit shall be absolutely non-refundable and forfeited to the Seller. Notwithstanding the immediately preceding sentence, in the event: (a) the Bankruptcy Court enters an order that does not authorize Seller to sell the Property to the Buyer; or (b) the Bankruptcy Court enters an order that authorizes the sale to another bidder and the Buyer is not a backup bidder, Seller shall refund the entire Deposit to the Buyer within ten (10) calendar days following entry of such order of the Bankruptcy Court. In the event the Buyer is overbid and is a backup bidder, Seller shall refund the entire Deposit to the Buyer only if the Sale closes to the winning bidder and within ten (10) calendar days following such closing.

JG (Buyer's initials) _____ (Buyer's initials)

14. **Escrow Instructions:** Escrow instructions shall be signed by Buyer and Seller within thirty (30) calendar days after execution of this Counteroffer. In the event that Buyer is unable to close escrow within fifteen (15) calendar days after entry of the Bankruptcy Court's order authorizing the Sale (the "Closing Date"), the Buyer shall compensate the Seller one hundred dollars (\$100.00) per day for each day beyond the Closing date that the Sale does not close for a total extended period of no more than ten (10) calendar days. Thereafter, the Seller shall have absolute discretion to either: (a) provide further extensions of the Closing Date at the same rate of compensation; or (b) terminate the Sale to the Buyer and retain the entirety of the Deposit as liquidated damages.
15. **Bankruptcy Court Jurisdiction:** The Bankruptcy Court for the Central District of California, Riverside Division ("Court"), shall have jurisdiction to interpret and enforce the terms of this Counteroffer/agreement. This Counteroffer/agreement shall be construed pursuant to the laws of the State of California, except to the extent preempted by applicable Federal bankruptcy law.
16. **Expiration of Offer:** This Counteroffer shall expire, if not executed by Buyer and delivered to Seller's agent, W Darrow Fiedler, CABRE #00676445, of Keller Williams Realty / KW Commercial, on or before 2:00 p.m. PDT, Friday, February 26, 2016.

17. Multiple Offers: Buyer recognizes that multiple offers and/or counteroffers (in addition to the instant Counteroffer) may be pending and Seller reserves the right, per Paragraph 12, to choose which contract to submit to the Bankruptcy Court for approval.

Seller:



Lynda T. Bui, Solely in her Capacity as Chapter 7 Trustee
for the Bankruptcy Estate of James Andrew Gonzales and
Estela Ortega Gonzales

2/24/16
Date

Read, Understood, Agreed To and Accepted:

Buyer(s):



Jack A. Gersten - Buyer

2/26/16
Date

None - Buyer

Date



Sebastian David Noll (CABRE #01416576) - Buyer's Agent

February 26, 2016
Date