

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address

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☐ Individual appearing without attorney
☒ Attorney for: **CKSB, LLC**

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION

In re:

CASE NO.: 6:18-bk-10893-SY

CHAPTER: 11

NOTICE OF SALE OF ESTATE PROPERTY

Debtor(s).

Sale Date: 07/23/2018

Time: 1:30 pm

Location: 3420 Twelfth Street, Courtroom 302, Riverside, CA 92501

Last date to file objections: 07/22/2018

Real property located at 295 N. Waterman Avenue, San Bernadino, CA 92408, APN 0135-321-21-0-000

Proposed sale price: \$ 2,800,000.00

Overbid procedure (if any): (1) The overbid must be all cash and must be at least \$2,850,000.00, with no contingencies to closing whatsoever (2) Any party who would like to bid must contact Debtor's counsel at least 24 hours prior to the hearing and provide evidence of financial resources and submit a deposit of at least \$35,000.00.

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

07/23/2018

1:30 pm

3420 Twelfth Street, Courtroom 302, Riverside, CA 92501

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

ELIZA GHANOONI, ESQ.

1901 Avenue of the Stars, Ste. 450

Los Angeles, CA 90067

Telephone: (213) 444-3328 | Facsimile: (800) 584-1977

Email: eliza@ghanoonilaw.com

Date: 06/26/2018

1 PLEASE TAKE NOTICE that on July 23, 2018, at 1:30 pm., or as soon as the
2 matter can be heard, before the Honorable Scott Yun, United States Bankruptcy Judge,
3 CKSB, LLC (“Debtor”) the Debtor in the above Chapter 11 Bankruptcy case hereby
4 moves this Court for the entry of an order authorizing and approving the sale of the
5 Debtor’s real property located at 295 N. Waterman Avenue, San Bernardino, CA 92408,
6 Assessor’s Parcel Number 0135-321-21-0-000 (“Property”) free and clear of all liens, claims
7 and interests pursuant to 11 U.S.C. § 363, and granting certain additional relief requested
8 herein and in the attached Memorandum of Points and Authorities.

9 Dhillion Investment Inc. (“Buyer”), whose address is 19193 Monterey Street, Apple
10 Valley, CA 92308 has made an offer to purchase the Property for the sum of
11 \$2,800,000.00. Debtor seeks the approval of the sale of the Property to Buyer, subject to
12 overbid, and for the additional relief set forth below.

13 PLEASE TAKE FURTHER NOTICE that the Motion is based upon this Notice of
14 Motion and § 363 and 105 of the Bankruptcy Code, Federal Rules of Bankruptcy
15 Procedure 2002 and 6004; Local Bankruptcy Rule 6004-1; Section 363(b)(1) provides that
16 the Debtor, “after notice and a hearing, may use, sell or lease, other than in the ordinary
17 course of business, property of the estate.” Section 102(1) defines “after notice and a
18 hearing” as “after such notice as is appropriate in the particular circumstances.”

19 Rule 2002(a)(2) of the Federal Rules of Bankruptcy Procedure requires at least 21-
20 day notice of a proposed sale of property of the estate other than in the ordinary course of
21 business, unless the Court for cause shown shortened the time or directs another method of
22 giving notice. Fed. R. Bankr. Proc. 2002 (a)(2) Rule 2002(c)(1) requires that the notice of
23 a proposed sale include the date, time and place of any public sales, the terms and
24 conditions of any private sale, and the time fixed for filing objections. Fed R. Bankr. Proc.
25 2002(c)(1) It also provides that the notice of sale or property is sufficient if it generally
26 describes the property. *Id*

27 Rule 6003(c) provides that a motion for authority to sell property free and clear of
28 liens or other interests must be made in accordance with Rule 9014 and must be served on

1 the parties who have liens or other interests in the property to be sold. Fed R. Bankr. Proc.
2 6004(c) Local Bankruptcy Rule 9013-1(d)(2) requires that a notice of motion and motion
3 be served at least 21 days before the hearing on the date specified in the notice. Loc.
4 Bankr. R. 9013-1(d)(2)

5 The Debtor will serve all creditors in its case. The Debtor has complied with all of
6 the above provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure
7 and the Local Bankruptcy Rules.

8
9 PLEASE TAKE FURTHER NOTICE that any party wishing to oppose the
10 proposed bidding procedures must file and serve a written response with the Bankruptcy
11 Court on or before 1 day prior to the hearing, unless otherwise ordered by the Court.
12 Documents filed in opposition to the Motion must be served by personal delivery,
13 messenger, fax, or email. A Judge's copy of the opposition must be served on the Judge in
14 chambers in accordance with LBR 5005-2(d). The failure to timely file and serve a
15 response in accordance with the Local Bankruptcy Rules may be deemed by the
16 Bankruptcy Court as a waiver of your right to oppose the proposed bidding procedure
17 without further hearing and notice.

18 PLEASE TAKE FURTHER NOTICE that any party wishing to oppose the sale of
19 the Property, pursuant to LBR 9013-1(d), each interested party opposing or responding to
20 the Motion must file and serve the response on the Debtor and the United States Trustee
21 not later than 14 days before the date designated for hearing. If you fail to comply with this
22 deadline, the Court may treat your failure as a waiver of your right to oppose the sale of
23 the Property and may grant the Motion as to the sale of the Property without further
24 hearing and notice.

25 The purpose of the notice is to provide an opportunity for objections and hearing
26 before the Court if there are objections. *In re Karpe*, 84 B.R. 926, 930 (Bankr. MD.Pa.
27 1988). A notice is sufficient if it includes the terms and conditions of the sale and if it
28 states the time for filing objections. *Id.*

1 As set forth above, the Debtor served this Notice of Sale of Estate Property on the
2 United States Trustee, all of the Debtor's known creditors and all parties requesting special
3 notice. The Notice includes the date, time and place of the sale and the time fixed for filing
4 objections thereto. This Notice was served upon the parties who have liens and/or claims
5 against, or interests in, the Property, and the Debtor filed the Notice and Form 6004-2 with
6 the Clerk of the Bankruptcy Court, as required by Local Bankruptcy Rule 6007-1(f), so
7 that the Clerk of the Bankruptcy Court could publish information regarding the proposed
8 sale. Thus, the Debtor submits that the notice of the sale should be deemed adequate,
9 accurate and reasonable by the Court.

10 PLEASE TAKE FURTHER NOTICE that a complete copy of the Motion may be
11 obtained from Monica Bedia upon request at (213)444-3328 or
12 monicabedia@ghanoonilaw.com.

13
14 **1. A Brief Summary of the Terms of the Sale**

15 On October 23, 2017, the Debtor accepted an offer to purchase the Debtor's real
16 property located at 295 N. Waterman Avenue, San Bernadino, CA 92408, Assessor's
17 Parcel Number 0315-321-21-0-000 ("Property") to Buyer. A true and correct copy of the
18 Purchase Agreement between the Debtor and Buyer is attached hereto as **Exhibit "A."**

19 By way of summary, the principal terms of agreement are as follows:

- 20 (1) The purchase price is \$2,800,000.00.
- 21 (2) The Property will be sold "as is, where is" with no warranties or
22 representations of any kind whatsoever.
- 23 (3) Undisputed liens, if any, will be paid through escrow.
- 24 (4) Broker fees will be paid through escrow.
- 25 (5) Debtor will hold remaining sale proceeds in a trust account pending
26 resolution of all disputed liens, or liens and claims that still require
27 investigation or further proof to establish their validity.
- 28

2. Liens, Encumbrances and Other Interests

Although The Motion is for the sale of the Property free and clear of all liens, claims and interests pursuant to 11 U.S.C. § 363, the following liens and/or interests have been recorded against the Property and are described herein:

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

Code Area: 007-005

Tax Identification No: 0135-321-21-0-000

Fiscal Year: 2017-2018

Personal Property: \$0.00

Current balance: \$0.00 per San Bernardino County Auditor-Controller/Treasurer/Tax Collector.

Undisputed

(2) The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation Code of the State of California.

(3) Water rights, claims or title to water, whether or not disclosed by the public records.

Undisputed

(4) Matters contained in that certain document

Entitled: GRANT OF EASEMENTS

Dated: NOT SHOWN

Executed by: H.M.S. LIMITED AND THE CITY OF RIVERSIDE

Recording Date: April 27, 1987

Recording No.: 138016, Official Records

Reference is hereby made to said document for full particulars.

Undisputed

(5) Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION

Purpose: PUBLIC UTILITIES

Recording Date: December 10, 1987

Recording No.: 87-433860, Official Records

Affects: AS DESCRIBED THEREIN

Undisputed

1 (6) Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in
a document:

2 Granted to: GENERAL TELEPHONE COMPANY OF CALIFORNIA, A
CORPORATION

3 Purpose: PUBLIC UTILITIES

4 Recording Date: November 15, 1988

5 Recording No.: 013958, Official Records

6 Affects: AS DESCRIBED THEREIN

No representation is made as to the present ownership of said easement

Undisputed

7
8 (6) Covenants, conditions and restrictions but omitting any covenants or restrictions, if
any, including but not

9 limited to those based upon race, color, religion, sex, sexual orientation, familial
status, marital status, disability, handicap, national origin, ancestry, or source of
10 income, as set forth in applicable state or federal laws, except to the extent that said
covenant or restriction is permitted by applicable law, as set forth in the document

11 Recording Date: July 10, 1989

12 Recording No: 89-248082, Official Records

13 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.

14 Undisputed

15 (7) Matters contained in that certain document

16 Entitled: DECLARATION OF RECIPROCAL EASEMENTS

17 Dated: April 2, 1987

18 Executed by: HMS, LIMITED, A CALIFORNIA LIMITED PARTNERSHIP

19 Recording Date: April 3, 1987

20 Recording No.: 87-110081, Official Records

Reference is hereby made to said document for full particulars.

21 Undisputed

22 (8) A deed of trust to secure an indebtedness in the amount shown below,

23 Amount: \$1,655,000.00

24 Current Payoff: \$1,657,875.14 per payoff demand by Habib American Bank.

25 Dated: December 5, 2016

26 Trustor/Grantor: CKSB LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

27 Trustee: OLD REPUBLIC TITLE COMPANY

28 Beneficiary: HABIB AMERICAN BANK

Loan No.: N/A

Recording Date: December 7, 2016

Recording No.: 2016-0534027, Official Records

Undisputed

(9) An assignment of all moneys due, or to become due as rental or otherwise from said Land, to secure payment of an indebtedness, shown below and upon the terms and conditions therein

Amount: \$1,655,000.00

Assigned to: HABIB AMERICAN BANK

Assigned By: CKSB LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

Recording Date: December 7, 2016

Recording No.: 2016-0534028, Official Records

Undisputed

(10) A document entitled, "Hazardous Substances Certificate and Indemnity", Dated: December 5, 2016

By and Between: CKSB LLC, A CALIFORNIA LIMITED LIABILITY COMPANY AND HABIB AMERICAN BANK upon the terms, conditions and provisions as therein provided,

Recording Date: December 7, 2016

Recording No: 2016-0534029, Official Records

Undisputed

(11) An unrecorded lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document

Entitled: SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Lessor: MUHAMMAD N. ATTA lessee: ENVISIONING FUTURE INC., A CALIFORNIA CORPORATION

Recording Date: December 7, 2016

Recording No.: 2016-0534030, Official Records

The present ownership of the leasehold created by said lease and other matters affecting the interest of the lessee are not shown herein.

An agreement which states that this instrument was subordinated to the document or interest shown as an Item No. 9.

By Agreement Recorded: December 7, 2016, (instrument) 2016-0534030, Official Records
Undisputed

(13) A financing statement as follows:

Debtor: ENVISIONING FUTURE INC., A CALIFORNIA CORPORATION

Secured Party: HABIB AMERICAN BANK

Recording Date: December 7, 2016

Recording No.: 2016-0534031, Official Records

Undisputed

(14) A financing statement as follows:

Debtor: CKSB LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

Secured Party: HABIB AMERICAN BANK

Recording Date: January 26, 2017

Recording No.: 2017-0035753, Official Records

Undisputed

(15) An abstract of judgment for the amount shown below and any other amounts due:
Amount: \$2,291,072.00
Debtor: MUHAMMAD N. ATTA
Creditor: BILQUEES BANO
Date entered: September 26, 2016
County: LOS ANGELES
Court: SUPERIOR
Case No.: KS020279
Recording Date: December 14, 2016
Recording No.: 2016-0546655, Official Records
Disputed

(16) An abstract of judgment for the amount shown below and any other amounts due:
Amount: \$412,058.68
Debtor: MUHAMMAD N. ATTA, AN INDIVIDUAL, CAMEL AND CAMEL INC., A
CALIFORNIA CORPORATION
Creditor: CELIA C. BARRERA, AS TRUSTEE OF THE CELIA C. BARRERA LIVING
TRUST, ESTABLISHED
JUNE 13, 2003
Date entered: January 3, 2017
County: LOS ANGELES
Court: SUPERIOR
Case No.: KC 067298
Recording Date: February 9, 2017
Recording No.: 2017-0059717, Official Records
Disputed

(17) An abstract of judgment for the amount shown below and any other amounts due:
Amount: \$549,660.67
Debtor: MUHAMMAD N. ATTA, AN INDIVIDUAL, CAMEL AND CAMEL, INC., A
CALIFORNIA CORPORATION
Creditor: CELIA C. BARRERA, AS TRUSTEE OF THE CELIA C. BARRERA LIVING
TRUST ESTABLISHED JUNE 13, 2003
Date entered: April 20, 2017
County: LOS ANGELES
Court: SUPERIOR
Case No.: KC067298
Recording Date: August 9, 2017
Recording No.: 2017-0324794, Official Records
Disputed

**3. Status of Disputed Liens and Encumbrances to Be Determined while Proceeds
Remain in Trust**

1 The proposed sale is free and clear of all liens, except as described herein. The
2 Debtor intends to pay the liens of Habib American Bank in full. The Debtor proposes that
3 the remaining sale proceeds be held in trust, pending resolution of the Disputed Liens.

4 **4. Payment of Other Expenses**

5 Debtor proposes that they be authorized to pay the following additional amounts to
6 the following entities through escrow:

- 7 (1) Broker's commissions which total \$300,000. Satish Khosla will receive
8 \$130,000 and buyer's agent, Niraj Agnihotri will receive the remaining
9 \$170,000. The order approving of the application employing Satish Koshla
10 was entered by the Court on May 15, 2018 (docket no. 56).
11 (2) Escrow, closing and recording costs, transfer taxes arising out of the sale of
12 the Property, as well as costs of any title insurance endorsements, estimated
13 to be not more than \$13,829.00.

14 The proposed sale will result in a net to the estate in the approximate amount of
15 \$975,676.00 after the payment of all amounts required to be paid to brokers, undisputed
16 lienholders and closing costs in connection with the sale of the Property. All proceeds of
17 the sale will go to support the Debtor's estate.

18 **5. Proposed Bidding Procedures:**

19 The Debtor proposes the following overbidding procedures:

- 20 (1) The overbid must be all cash and must be at least \$2,850,000.00 (\$50,000
21 greater than the current offer), with no contingencies to closing whatsoever.
22 (2) Any party who would like to bid on the Property during the hearing on the
23 Motion must contact Debtor's counsel at least 24 hours prior to the hearing
24 and provide evidence of financial resources to the Debtor's reasonable
25 satisfaction. Debtor's counsel will provide an information packet to any
26 party who would like to bid on the Property. Any overbidder must also
27 submit, before the time of the hearing, a deposit for the purchase of the
28

Property, by cashier's check or other cash equivalent in the amount of at least \$35,000.

(3) Overbid increments will be \$25,000 after the initial overbid.

6. Marketing Efforts

Property has been actively marketed since February 2017, by Satish Khosla (hereinafter, "Broker"). Broker announced the listing to the more than two hundred realtors and brokers that are with his company, All California Brokerage, Inc. As a member of the Pacific West Association of Realtors, Broker also shared it with other realtors and brokers whom he knew who were actively selling gas stations. Broker has handled many transactions in which Circle K has been involved. He has brought many offers to Debtor but the offers were not competitive given the fact that a 7-11 (a Major Competitor) has immediately opened up within two blocks of the current Circle K. We had several prospective buyers/ franchisees submit verbal offers, one of which was for \$3,150,000 which was rejected by Debtor.

Debtor was demanding \$3,500,000 which Broker believed was too high considering that there was new competition closeby. In this case, Debtor had refinanced the Property in 2016 and Habib Bank had conducted an appraisal, valuing the Property at around \$3,300,00. Selling a Circle K is a challenging task. Apart from qualifying the buyer from a financial perspective, they also need to be approved by:

1. Franchise (Circle K)
2. ABC License Sign-off and Posting
3. Franchisee Training (2 weeks in Tempe, AZ) plus One week Back Office Training (SSCS, Salinas CA)

Buyer, represented by Niraj Agnihotri. made the offer to purchase the Property and the Circle K Business simultaneously for a total of \$3,300,000. Buyer is a very well qualified experienced purchaser who is already operating two gas stations; He has already:

1. Secured financing to close the deal; a new appraisal was conducted to get the best appraised value
2. ABC License posting is done
3. He has been approved by Circle K as a franchisee; and has completed all his training

1 In light of the above, both Debtor and Buyer have performed all their obligations to close this sale.
2 Once the Court enters the order to approve this sale motion; both the Debtor and Buyer can close
3 this deal in a week's time as all other covenants have been met.

4 Given current market conditions and based upon the Debtor's marketing efforts, the Debtor
5 believes that the Property cannot realistically be sold at a price in excess of that proposed to be
6 paid by Buyer in the current market. As a result, the proposed sale of the Property should result in
7 the Debtor obtaining the highest and best price for the Property. The Debtor's projected sale of the
8 Property will generate substantial funds to support the estate. Thus, the Debtor believes that the
9 proposed sale of the Property is in the best interest of the Debtor's estate and its creditors.

10 Dated: June 26, 2018

GHANOONI LAW FIRM

11 By: /s/ Eliza Ghanooni

12 **Eliza Ghanooni**

13 *Attorneys for Debtor*
14 *CKSB, LLC*
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CALIFORNIA
ASSOCIATION
OF REALTORS®

**COMMERCIAL PROPERTY PURCHASE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**
(NON-RESIDENTIAL)
(C.A.R. Form CPA, Revised 12/15)

Date Prepared: 10/23/2017

1. OFFER:

- A. THIS IS AN OFFER FROM DHILLION INVESTMENT INC ("Buyer").
☐ Individual(s), ☒ A Corporation, ☐ A Partnership, ☐ An LLC, ☐ An LLP, or ☐ Other
 B. THE REAL PROPERTY to be acquired is 295 N Waterman Ave, situated in
San Bernardino (City), San Bernardino (County), California, 92408-1278 (Zip Code), Assessor's Parcel No. _____ ("Property").
 C. THE PURCHASE PRICE offered is Two Million, Eight Hundred Thousand
 Dollars \$ 2,800,000.00
 D. CLOSE OF ESCROW shall occur on ☒ BANK FUNDING (date) (or ☐ _____ 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 all california brokerage/ (Print Firm Name) is the agent of (check one):
☐ the Seller exclusively; or ☐ both the Buyer and Seller.
 Selling Agent all california brokerage/niraj (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 _____ \$ 35,000.00
 (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 unencashed 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 deposit 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 _____ \$ 2,100,000.00
 This loan will be conventional financing or ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing, ☐ 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), ☐ subject to financing, ☐ 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.

E. ADDITIONAL FINANCING TERMS: _____

- F. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of _____ \$ 665,000.00
 to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

- G. PURCHASE PRICE (TOTAL): _____ \$ 2,800,000.00

- 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.)

Buyer's Initials () ()
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 CPA REVISED 12/15 (PAGE 1 OF 11)

Seller's Initials () ()



COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 1 OF 11)

AB CA Brokerage, 18937 Alondra Blvd Norwalk, CA 90650
 Niraj Aggarwal

Produced with zipForm® by zipLogix. 18070 Filmm Mile Road, Fraser, Michigan 48066 www.ziplogix.com

Phone: (562) 708-7288 Fax: (562) 283-8033

10/11/17

Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

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 18B(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 18, 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 Buyer 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 # <u> </u> (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 <u> </u>

B. BUYER AND SELLER ADVISORIES:

<input type="checkbox"/> Probate Advisory (C.A.R. Form PA)	<input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA)
<input type="checkbox"/> Trust Advisory (C.A.R. Form TA)	<input type="checkbox"/> Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
<input type="checkbox"/> Short Sale Information and Advisory (C.A.R. Form SSIA)	<input type="checkbox"/> REO Advisory (C.A.R. Form REO)
	<input type="checkbox"/> Other <u> </u>

6. OTHER TERMS: LOAN CONTINGENCY WILL BE FOR 45 DAYS. REAL ESTATE AND BUSINESS ESCROW WILL CLOSE CONCURRENTLY.

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 .

(2) ☐ Buyer ☐ Seller shall pay for the following Report prepared by .

(3) ☐ Buyer ☐ Seller shall pay for the following Report prepared by .

B. GOVERNMENT REQUIREMENTS AND RETROFIT:

(1) ☐ Buyer ☐ 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.

Buyer's Initials () ()

Seller's Initials () ()

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COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 2 OF 11)

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DIRECTIONS



Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

- (2) (i) ☐ Buyer ☐ 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 18A, 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) ☒ Buyer ☒ Seller shall pay escrow fee 50/50
(b) Escrow Holder shall be _____
(c) The Parties shall, within 5 (or _____) Days After receipt, sign and return Escrow Holder's general provisions.
(2) (a) ☐ Buyer ☐ Seller shall pay for owner's title insurance policy specified in paragraph 17E _____
(b) Owner's title policy to be issued by _____
(Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

D. OTHER COSTS:

- (1) ☐ Buyer ☒ Seller shall pay County transfer tax or fee _____
(2) ☐ Buyer ☒ Seller shall pay City transfer tax or fee _____
(3) ☐ Buyer ☐ Seller shall pay Owners' Association ("OA") transfer fee _____
(4) Seller shall pay OA fees for preparing all documents required to be delivered by Civil Code §4525.
(5) ☐ Buyer ☐ Seller shall pay OA 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 shall pay for any private transfer fee _____
(8) ☐ Buyer ☐ Seller shall pay for _____
(9) ☐ Buyer ☐ Seller shall pay for _____

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, C or D.

B. ITEMS INCLUDED IN SALE:

- (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.
(3) A complete inventory of all personal property of Seller currently used in the operation of the Property and included in the purchase price shall be delivered to Buyer within the time specified in paragraph 18A.
(4) Seller represents that all items included in the purchase price are, unless otherwise specified or identified pursuant to 8B(7), owned by Seller. Within the time specified in paragraph 18A, Seller shall give Buyer a list of fixtures not owned by Seller.
(5) Seller shall deliver title to the personal property by Bill of Sale, free and clear of all liens and encumbrances, and without seller warranty of condition regardless of value.
(6) As additional security for any note in favor of Seller for any part of the purchase price, Buyer shall execute a UCC-1 Financing Statement to be filed with the Secretary of State, covering the personal property included in the purchase, replacement thereof, and insurance proceeds.
(7) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller shall, within the time specified in paragraph 18A, (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 18B and C.

C. ITEMS EXCLUDED FROM SALE: Unless otherwise specified, the following items are excluded from sale: _____

D. OTHER ITEMS:

- (1) Existing integrated phone and 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.

9. CLOSING AND POSSESSION:

- A. 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 _____.
B. 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 CL; 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.
C. Tenant Occupied Units: Possession and occupancy, subject to the rights of tenants under existing leases, shall be delivered to Buyer on Close Of Escrow.
D. At Close Of Escrow: (i) Seller assigns to Buyer any assignable warranty rights for items included in the sale; and (ii) Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.

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Seller's Initials () ()

COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 3 OF 11)

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DISCLAIMER



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- E. 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 Owners' Association ("OA") to obtain keys to accessible OA facilities.
10. **SECURITY DEPOSITS:** Security deposits, if any, to the extent they have not been applied by Seller in accordance with any rental agreement and current Law, shall be transferred to Buyer on Close Of Escrow. Seller shall notify each tenant, in compliance with the Civil Code.

11. **SELLER DISCLOSURES:**

A. **NATURAL AND ENVIRONMENTAL DISCLOSURES:** Seller shall, within the time specified in paragraph 18, if required by Law:

- (i) Deliver to Buyer earthquake guides (and questionnaires) and environmental hazards booklet; (ii) even if exempt from the obligation to provide an NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.

B. **ADDITIONAL DISCLOSURES:** Within the time specified in paragraph 18, Seller shall Deliver to Buyer, in writing, the following disclosures, documentation and information:

- (1) **RENTAL SERVICE AGREEMENTS:** (i) All current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; and (ii) a rental statement including names of tenants, rental rates, period of rental, date of last rent increase, security deposits, rental concessions, rebates, or other benefits, if any, and a list of delinquent rents and their duration. Seller represents that no tenant is entitled to any concession, rebate, or other benefit, except as set forth in these documents.
- (2) **INCOME AND EXPENSE STATEMENTS:** The books and records, including a statement of income and expense for the 12 months preceding Acceptance. Seller represents that the books and records are those maintained in the ordinary and normal course of business, and used by Seller in the computation of federal and state income tax returns.
- (3) ☐ **TENANT ESTOPPEL CERTIFICATES:** (If checked) Tenant estoppel certificates (C.A.R. Form TEC) completed by Seller or Seller's agent, and signed by tenants, acknowledging: (i) that tenants' rental or lease agreements are unmodified and in full force and effect (or if modified, stating all such modifications); (ii) that no lessor defaults exist; and (iii) stating the amount of any prepaid rent or security deposit.
- (4) **SURVEYS, PLANS AND ENGINEERING DOCUMENTS:** Copies of surveys, plans, specifications and engineering documents, if any, in Seller's possession or control.

- (5) **PERMITS:** If in Seller's possession, Copies of all permits and approvals concerning the Property, obtained from any governmental entity, including, but not limited to, certificates of occupancy, conditional use permits, development plans, and licenses and permits pertaining to the operation of the Property.

- (6) **STRUCTURAL MODIFICATIONS:** Any known structural additions or alterations to, or the installation, alteration, repair or replacement of, significant components of the structure(s) upon the Property.

- (7) **GOVERNMENTAL COMPLIANCE:** Any improvements, additions, alterations or repairs made by Seller, or known to Seller to have been made, without required governmental permits, final inspections, and approvals.

- (8) **VIOLATION NOTICES:** Any notice of violations of any Law filed or issued against the Property and actually known to Seller.

- (9) **MISCELLANEOUS ITEMS:** Any of the following, if actually known to Seller: (i) any current pending lawsuit(s), investigation(s), inquiry(ies), action(s), or other proceeding(s) affecting the Property, or the right to use and occupy it; (ii) any unsatisfied mechanic's or materialman's lien(s) affecting the Property; and (iii) that any tenant of the Property is the subject of a bankruptcy.

C. **WITHHOLDING TAXES:** Within the time specified in paragraph 18A, 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. **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.

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

- (1) **SELLER HAS:** 7 (or ____) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned development or other common interest subdivision.

- (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 OA (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 OA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of OA minutes for regular and special meetings; and (v) the names and contact information of all OAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the OA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 18B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to OA or management company to pay for any of the above.

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

COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 4 OF 11)

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Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

12. ☐ ENVIRONMENTAL SURVEY (If checked): Within _____ Days After Acceptance, Buyer shall be provided a phase one environmental survey report paid for and obtained by ☐ Buyer ☐ Seller. Buyer shall then, as specified in paragraph 18, remove this contingency or cancel this Agreement.
13. **SUBSEQUENT DISCLOSURES:** In the event Seller, 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 of which Buyer is otherwise unaware, Seller shall promptly Deliver 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 disclosed in reports ordered and paid for by Buyer.
14. **CHANGES DURING ESCROW:**
- A. Prior to Close Of Escrow, Seller may only engage in the following acts, ("Proposed Changes"), subject to Buyer's rights in paragraph 14B: (i) rent or lease any vacant unit or other part of the premises; (ii) alter, modify, or extend any existing rental or lease agreement; (iii) enter into, alter, modify or extend any service contract(s); or (iv) change the status of the condition of the Property.
- B. (1) 7 (or ☐) Days prior to any Proposed Changes, Seller shall Deliver written notice to Buyer of any Proposed Changes.
(2) Within 5 (or ☐) Days After receipt of such notice, Buyer, in writing, may give Seller notice of Buyer's objection to the Proposed Changes in which case Seller shall not make the Proposed Changes.
15. **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 18A, 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 18B, 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.
16. **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 18B. Within the time specified in paragraph 18B(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, the right to: (i) inspect for lead-based paint and other lead-based paint hazards; (ii) inspect 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) review the registered sex offender database; (iv) confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; (v) review and seek approval of leases that may need to be assumed by Buyer; and (vi) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: (i) invasive or destructive Buyer Investigations except for minimally invasive testing required to prepare a Pest Control Report; or (ii) 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 18B, 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.
17. **TITLE AND VESTING:**
- A. Within the time specified in paragraph 18, 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 18B. 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 18A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.
- Buyer's Initials (AB) () Seller's Initials (JS) ()

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Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

- 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.
- E. Buyer shall receive a standard coverage owners CLTA policy of title insurance. An ALTA policy or the addition of endorsements may provide greater coverage for Buyer. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and shall pay any increase in cost.
18. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).
- A. SELLER HAS: 7 (or) Days After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5A, 6, 7, 8B(7), 11A, B, C, D and E, 12, 15A and 17A. Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement if Seller has not Delivered the items within the time specified.
- 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(7) and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property.
 - (2) Within the time specified in paragraph 18B(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 18B(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 18A, then Buyer has 5 (or) Days After Delivery of any such items, or the time specified in paragraph 18B(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 18B(1) and before Seller cancels, if at all, pursuant to paragraph 18C, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 18C(1).
- C. SELLER RIGHT TO CANCEL:
- (1) Seller right to Cancel; Buyer Contingencies: If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
 - (2) Seller right to Cancel; Buyer Contract Obligations: Seller, after first delivering to Buyer a 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 letter as required by paragraph 3J(1); (iii) Deliver verification as required by paragraph 3C or 3H or if Seller reasonably disapproves of the verification provided by paragraph 3C or 3H; or (iv) In writing assume or accept leases or liens specified in 8B(7); (v) Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 25B; or (vi) Provide evidence of authority to sign in a representative capacity as specified in paragraph 23. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
- D. 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 18.
- E. 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.
- F. 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.
- G. 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 () ()
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Seller's Initials () ()

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Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

19. **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.
20. **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 16; (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).
21. **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, OA 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.
22. **BROKERS:**
- A. **COMPENSATION:** Seller or Buyer, or both, as applicable, agrees 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. **BROKERAGE:** Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as specified in this Agreement, in connection with any act relating to the Property, including, but not limited to, inquiries, introductions, consultations and negotiations leading to this Agreement. Buyer and Seller each agree to indemnify, defend, and hold the other, the Brokers specified herein and their agents, harmless from and against any costs, expenses or liability for compensation claimed inconsistent with the warranty and representations in this paragraph.
- C. **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.
23. **REPRESENTATIVE CAPACITY:** If one or more Parties is signing the Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 40 or 41 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 the 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 18100.6), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).
24. **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, 10, 11D, 17, 18G, 21, 22A, 23, 24, 30, 38, 39, 41, 42 and paragraph D of the section titled Real Estate Brokers on page 11. If a Copy of the separate compensation agreement(s) provided for in paragraph 22A, or paragraph D of the section titled Real Estate Brokers on page 11 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, 11 or elsewhere in this Agreement.

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

COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 7 OF 11)

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Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

- 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.
- C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 22A and paragraph D of the section titled Real Estate Brokers on page 11. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 22A, 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 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.

25. 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. Buyer and Seller agree that this amount is a reasonable sum given that it is impractical or extremely difficult to establish the amount of damages that would actually be suffered by Seller in the event Buyer were to breach this Agreement. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT 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

Seller's Initials

26. 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. Consumer Mediation Center (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 26C.
- 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 transactional 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 26C.

"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

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Seller's Initials () ()

COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 8 OF 11)

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Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

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.
- (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 the Agreement.
27. **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.
28. **MULTIPLE LISTING SERVICE/PROPERTY DATA SYSTEM:** If Broker is a participant of a Multiple Listing Service ("MLS") or Property Data System ("PDS"), Broker is authorized to report to the MLS or PDS a pending sale and, upon Close Of Escrow, the terms of this transaction to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS or PDS.
29. **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 attorneys fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 26A.
30. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the written consent of Seller. Such consent shall not be unreasonably withheld unless otherwise agreed in writing. 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 AQAA).
31. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon, and inure to the benefit of, Buyer and Seller and their respective successors and assigns, except as otherwise provided herein.
32. **ENVIRONMENTAL HAZARD CONSULTATION:** Buyer and Seller acknowledge: (i) Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; (ii) Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; (iii) Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property; and (iv) Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property.
33. **AMERICANS WITH DISABILITIES ACT:** The Americans With Disabilities Act ("ADA") prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Property is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer's or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.
34. **COPIES:** Seller and Buyer each represent that Copies of all reports, documents, certificates, approvals and other documents that are furnished to the other are true, correct and unaltered Copies of the original documents, if the originals are in the possession of the furnishing party.
35. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
36. **GOVERNING LAW:** This Agreement shall be governed by the Laws of the state of California.
37. **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 initiated 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. Buyer has read and acknowledges receipt of a Copy of the offer and agrees 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.
38. **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.
39. **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.

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

COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 9 OF 11)

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Date: October 23, 2017

- 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" or "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 11, 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.
40. **AUTHORITY:** Any person or persons signing this Agreement represent(s) that such person has full power and authority to bind that person's principal, and that the designated Buyer and Seller has full authority to enter into and perform this Agreement. Entering into this Agreement, and the completion of the obligations pursuant to this contract, does not violate any Articles of Incorporation, Articles of Organization, By Laws, Operating Agreement, Partnership Agreement or other document governing the activity of either Buyer or Seller.
41. **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 the 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 10/23/2017

BUYER

(Print name) DHILLION INVESTMENT INC

Date _____

BUYER

(Print name) _____

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

42. **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, and agrees to the above confirmation of agency relationships. 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 the 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 10/23/2017

SELLER

(Print name)

MUHAMMAD N. ATTA, Pres. CKSBLIC/ENVIS

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 _____
(Initials) ☐ 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.

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COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 10 OF 11)

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Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

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) <u>all california brokerage/nlral</u>		CalBRE Lic. # <u>0152125</u>
By _____	CalBRE Lic. # <u>0152125</u>	Date _____
By _____	CalBRE Lic. # _____	Date _____
Address _____	City _____	State _____ Zip _____
Telephone _____	Fax _____	E-mail _____
Real Estate Broker (Listing Firm) <u>SATISH KHOSLA</u>		CalBRE Lic. # _____
By _____	CalBRE Lic. # <u>01012053</u>	Date <u>10/25/17</u>
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 24 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

Buyer's Initials (_____) (_____)

Seller's Initials (HS) (_____)

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Reviewed by
Broker or Designee _____



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COMMERCIAL PROPERTY PURCHASE AGREEMENT (CPA PAGE 11 OF 11)

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DISCLOSURE



CALIFORNIA
ASSOCIATION
OF REALTORS®

BUYER'S INSPECTION ADVISORY

(C.A.R. Form BIA, Revised 11/14)

Property Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

("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/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

DRILLION INVESTMENT INC

Buyer

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BIA REVISED 11/14 (PAGE 1 OF 1)

Reviewed by _____ Date _____



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

All CA Brokerage, 10937 Alondra Blvd Norwalk, CA 90650
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DRILLION



CALIFORNIA
ASSOCIATION
OF REALTORS®

**POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER
OR SELLER - DISCLOSURE AND CONSENT**

(C.A.R. Form PRBS, 11/14)

A real estate broker (Broker), whether a corporation, partnership or sole proprietorship, may represent more than one buyer or seller. This multiple representation can occur through an individual licensed as a broker or salesperson or through different individual broker's or salespersons (associate licensees) acting under the Broker's license. The associate licensees may be working out of the same or different office locations.

Multiple Buyers: Broker (individually or through its associate licensees) may be working with many prospective buyers at the same time. These prospective buyers may have an interest in, and make offers on, the same properties. Some of these properties may be listed with Broker and some may not. Broker will not limit or restrict any particular buyer from making an offer on any particular property whether or not Broker represents other buyers interested in the same property.

Multiple Sellers: Broker (individually or through its associate licensees) may have listings on many properties at the same time. As a result, Broker will attempt to find buyers for each of those listed properties. Some listed properties may appeal to the same prospective buyers. Some properties may attract more prospective buyers than others. Some of these prospective buyers may be represented by Broker and some may not. Broker will market all listed properties to all prospective buyers whether or not Broker has another or other listed properties that may appeal to the same prospective buyers.

Dual Agency: If Seller is represented by Broker, Seller acknowledges that broker may represent prospective buyers of Seller's property and consents to Broker acting as a dual agent for both seller and buyer in that transaction. If Buyer is represented by Broker, buyer acknowledges that Broker may represent sellers of property that Buyer is interested in acquiring and consents to Broker acting as a dual agent for both buyer and seller with regard to that property.

In the event of dual agency, seller and buyer agree that: (a) Broker, without the prior written consent of the Buyer, will not disclose to seller that the Buyer is willing to pay a price greater than the offered price; (b) Broker, without the prior written consent of the seller, will not disclose to the buyer that seller is willing to sell property at a price less than the listing price; and (c) other than as set forth in (a) and (b) above, a dual agent is obligated to disclose known facts materially affecting the value or desirability of the property to both parties.

Offers not necessarily confidential: Buyer is advised that seller or listing agent may disclose the existence, terms, or conditions of buyer's offer unless all parties and their agent have signed a written confidentiality agreement. Whether any such information is actually disclosed depends on many factors, such as current market conditions, the prevailing practice in the real estate community, the listing agent's marketing strategy and the instructions of the seller.

Buyer and seller understand that Broker may represent more than one buyer or more than one seller and even both buyer and seller on the same transaction and consents to such relationships.

Seller and/or Buyer acknowledges reading and understanding this Possible Representation of More Than One Buyer or Seller - Disclosure and Consent and agrees to the agency possibilities disclosed.

Seller _____ Date _____
Seller _____ Date _____
Buyer 10/25/17 DHILLION INVESTMENT INC Date 10/23/2017
Buyer _____ Date _____

Real Estate Broker (Firm) all california brokerage/ SATISH KHOSLA CalBRE Lic # _____ Date 10/25/17
By Satish Khosla CalBRE Lic # _____ Date _____

Real Estate Broker (Firm) all california brokerage/n/a CalBRE Lic # 0152125 Date 10/25/17
By [Signature] CalBRE Lic # 0152125 Date _____

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PRBS 11/14 (PAGE 1 OF 1)

POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER (PRBS PAGE 1 OF 1)

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DHILLION



CALIFORNIA
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BUSINESS PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

(C.A.R. Form BPA, Revised 11/14)

16339-08

Date Prepared: October 23, 2017

1. OFFER:

- A. THIS IS AN OFFER FROM DHILLION INVESTMENT INC ("Buyer"),
☐ Individual(s), ☐ a Partnership, ☐ a Corporation, ☐ an LLC, ☐ an LLP, ☐ Other _____
 B. THE BUSINESS to be acquired is VALERO / CIRCLE K, situated in
San Bernardino (City), San Bernardino (County), California, 92408-1278 (Zip Code)
 C. THE PURCHASE PRICE offered is Five Hundred Thousand Dollars \$ 500,000.00 + PLUS INV.
 D. INVENTORY valued at approximately \$ _____, including work in progress, is included in the purchase price.
 E. CLOSE OF ESCROW shall occur on ☒ BANK FUNDING (date) (or ☐ _____ Days After Acceptance).
 F. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.

2. AGENCY:

- A. 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).
 B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction:
 Listing Agent all california brokerage/ (Print Firm Name) is the agent of (check one):
☐ the Seller exclusively; or ☐ both the Buyer and Seller.
 Selling Agent all california brokerage/nira/ (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.

3. PAYMENT OF PURCHASE PRICE: Buyer represents that funds will be good when deposited with Escrow Holder.

- A. INITIAL DEPOSIT: Deposit shall be in the amount of \$ 35,000.00
 (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 Business. 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 \$ 400,000.00
 This loan will be conventional financing or ☐ Seller financing (C.A.R. Form SFA), ☐ Small Business Administration, secured by Buyer's own real property, or if real property is included in the sale, then by that real property, ☐ 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), ☐ Small Business Administration, secured by Buyer's own real property, or if real property is included in the sale, then by that real property, ☐ 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.

E. LOAN SECURED BY BUSINESS ASSETS IN THE AMOUNT OF \$ _____

Evidenced by a note in favor of Seller secured by the assets of the Business, together with a security agreement in the usual and customary form covering all assets of the Business, and a UCC-1 filing to be filed with the Secretary of State, which shall include proceeds of collateral, in ☐ first or ☐ second position. The loan shall be at a fixed rate not exceed _____ % or, ☐ an adjustable rate with an initial rate not to exceed _____ %. Buyer shall have the right, at Buyer's expense, to conduct a valuation of the assets within the time specified in paragraphs 8 and 25. If the assets' value is less than the amount of the loan provided for in this paragraph 3E, then the difference between the amount of the loan specified in this paragraph 3E, less the value of the assets, shall become an unsecured loan.

Buyer's Initials: (Signature)

Seller's Initials: (Signature)

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BUSINESS PURCHASE AGREEMENT (BPA PAGE 1 OF 9)

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DHILLION

Business Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

F. ADDITIONAL FINANCING TERMS:

G. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of \$ 65,000.00
to be deposited with Escrow Holder pursuant to Escrow Holder Instructions.

CAUTION: Obligations secured by mixed collateral (i.e., both personal and real property) are subject to complex rules and court decisions under the California Civil Code, Commercial Code and the Code of Civil Procedure. Buyer and Seller are strongly cautioned to consult legal counsel in connection with the securing and enforcement of any such obligations.

H. PURCHASE PRICE (TOTAL): \$ 500,000.00

I. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS: Buyer (or Buyer's lender or loan broker pursuant to paragraph 3K(1)) shall, within 3 (or _____) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (☐ Verification attached.)

J. APPRAISAL CONTINGENCY AND REMOVAL: This Agreement is (or ☐ is NOT) contingent upon a written appraisal of the Business by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 26B(3), in writing, remove the appraisal contingency or cancel this Agreement within 17 (or _____) Days After Acceptance.

K. 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 Business 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 25, 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 Business, 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.

L. 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 Business and close escrow as specified in this Agreement

4. ESCROW AND TITLE:

A. ESCROW HOLDER: ☐ Buyer ☐ Seller shall pay escrow fees _____. Escrow Holder shall be _____. The Parties shall, within 5 (or _____) Days After receipt, sign and return Escrow Holder's general provisions.

B. (1) FORM OF OWNERSHIP: The Business shall be owned in the form designated in Buyer's escrow instructions. THE MANNER OF TAKING TITLE AND THE FORM OF OWNERSHIP OF THE BUSINESS MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

(2) **TITLE:** Seller shall furnish to Buyer bills of sale and other instruments of transfer or assignment necessary to carry out this Agreement

5. CLOSING AND POSSESSION:

A. Possession shall be delivered to Buyer at 6PM or ☐ AM/ ☐ PM, on the date of Close Of Escrow; ☐ on _____; or ☐ no later than _____ calendar days after Close Of Escrow. If Seller also owns the real property upon which the Business operates and transfer of title to the real property and possession of the Business do not occur at the same time, Owner and Buyer are advised to: (i) enter into a written agreement regarding possession; and (ii) consult with their insurance and legal advisors or other appropriate professional(s).

Buyer's Initials () ()

Seller's Initials () ()

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BUSINESS PURCHASE AGREEMENT (BPA PAGE 2 OF 9)

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DIILL80N



Business Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

- B. At Close Of Escrow, Seller assigns to Buyer any assignable warranty rights for items included in the sale and shall provide any available Copies of such warranties. Brokers cannot and will not determine the assignability of any warranties.
- C. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys and/or means to operate all locks, mailboxes, security systems and alarms.

6. **ASSETS TRANSFERRED:** With the exception of cash or cash equivalents on deposit in any financial institution, and assets excluded below, Buyer is purchasing all assets of the Business, including but not limited to: inventory for sale, machinery, furniture, fixtures and other equipment, leasehold improvements, transferable government licenses and permits, customer lists, fictitious business names, trade names and trademarks, logos, copyrights and patents, signs and advertising materials, telephone and fax numbers, web sites, URL names, e-mail addresses, accounts receivable, vendor lists and catalogs, goodwill, agreements not to compete, franchise agreements, distribution rights, employee lists and information, computer and customer software, and customer deposits. All items transferred that are leased are subject to the terms of existing lease(s).

☐ Other

Excluded asset _____

7. **LIABILITIES TRANSFERRED:** Buyer is NOT purchasing any liabilities of the Business, EXCEPT those items checked below:

- A. ☐ Accounts payable, per attached list.
- B. ☐ Service, maintenance and advertising agreements, per attached list.
- C. ☐ Other _____

B. ☐ **INVENTORY:**

- A. Buyer's acceptance of inventory is a contingency of this Agreement. Buyer shall have the right, at Buyer's expense, within the time specified in paragraph 25, to conduct a physical inventory and, in writing, remove the contingency or cancel this Agreement.
- B. Buyer has the right to confirm the inventory within 5 (or ☐) Days Prior to Close Of Escrow. The purchase price shall be adjusted to reflect the remaining inventory. The adjustment is to be added to or subtracted from the ☐ cash down payment; or ☐ seller financing.

9. **SELLER DISCLOSURE; BUYER INVESTIGATION:**

Seller shall, within the time specified in paragraph 25, provide to Buyer, or to Buyer's counsel, accountant or other designated representative, the lists of items or documents, or Copies thereof, for the items checked below. For each item, as applicable, Seller shall include a statement of whether the item is owned or leased and whether Seller has any legal, proprietary interest, or intellectual property rights in, or restrictions on, the item. Buyer, within the time specified in paragraph 25, shall then investigate the items provided to Buyer and take the action specified in paragraph 25.

☒ Inventory, including work in progress

☒ Machinery

☐ Furniture, fixtures and other equipment

☐ Other personal property

☐ Leasehold improvements

☐ Government licenses and permits

☐ Customer lists

☐ Fictitious business name statements

☐ Trade names and trademarks

☐ Logo

☐ Copyrights and patents

☐ Schedule of accounts receivable

☐ Business appraisal

☐ Other assets: _____

☐ Schedule of accounts payable

☐ Other liabilities: _____

☐ Employee estoppel certificates

☒ Sales tax returns for the years. _____ to _____

☐ Federal and state income tax returns for the years. _____ to _____

☒ Financial statements for the years. 2015 to 2017

☐ Employment withholding returns for the years. _____ to _____

☒ Signs and advertising materials

☒ Telephone and fax numbers

☐ Websites, URL names and e-mail addresses

☒ Vendor lists and catalogs

☐ Goodwill

☒ Agreements not to compete

☒ Franchise agreements

☐ Distribution rights

☐ Employee lists and information

☐ Computer and customer software

☐ Customer deposits

☐ Lease

☐ Service, maintenance and advertising agreements

☐ Proposed allocation of purchase price among assets

SELLER REPRESENTS THAT: (i) THE BOOKS AND RECORDS THAT OWNER PROVIDES ARE THOSE MAINTAINED IN THE ORDINARY AND NORMAL COURSE OF BUSINESS; AND (ii) FEDERAL AND STATE TAX RETURNS THAT SELLER PROVIDES ARE COPIES OF THOSE FILED WITH THE APPLICABLE GOVERNMENTAL AGENCIES.

10. **CONSULTING AND TRAINING:** Seller shall consult with Buyer to show Buyer methods used in operating the Business. Seller shall provide consulting services for a period of _____ Days After Close Of Escrow at no cost to Buyer, which services shall not exceed a total of _____ hours. Seller shall not be responsible for training Buyer in the basics of operating a business of the type being sold pursuant to this Agreement, but only to alert Buyer to the nuances, as determined by Seller, of operating this type of business. **NOTE TO BUYER: IF YOU ARE NOT ALREADY TRAINED IN THIS TYPE OF BUSINESS, YOU ARE STRONGLY ADVISED TO SEEK TRAINING.**

11. ☒ **AGREEMENT NOT TO COMPETE:** As a material part of the consideration of the sale, Seller agrees not to operate or engage in, directly or indirectly, whether as a principal, agent, manager, employee, owner, member, partner, stockholder, director or officer of a corporation, trustee, consultant, or any other capacity whatsoever, any business the same as, or substantially similar to, or in competition with the Business within a radius of 5 miles from the current location of the Business (or ☐) for a period of _____ year(s) from the date of final transfer of the

Business, so long as Buyer, or Buyer's successor-in-interest, is operating the Business in said area.

Buyer's Initials (JD) (_____)

BPA REVISED 11/04 (PAGE 3 OF 9)

Seller's Initials (JD) (_____)



BUSINESS PURCHASE AGREEMENT (BPA PAGE 3 OF 9)

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DRILLION

Business Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

12. **LEASE (Check applicable items):** The sale is contingent upon Buyer obtaining, within 21 (or ☐) Days After Acceptance, the assignment, new lease, option to extend, sublease or other lease as indicated below. Buyer shall submit an application for such lease to Seller's landlord or Seller, as applicable, within 15 (or ☐) Days After Acceptance.

- A. ☐ An assignment of Seller's existing lease.
B. ☐ A new lease with Seller's landlord, on terms acceptable to Buyer, to become effective concurrently with the Close Of Escrow.
C. ☐ An option to extend Seller's present lease for an additional ____ year(s), on terms acceptable to Buyer and Seller's landlord.
D. ☐ A sublease with Seller, on terms acceptable to Buyer, to become effective concurrently with the Close Of Escrow.
Buyer and Seller are advised that such sublease may require notice to or approval of Seller's landlord.
E. ☐ OTHER: _____

13. ☐ **PURCHASE OF REAL PROPERTY:** The sale is contingent upon Buyer's ability to purchase, concurrently with the Close Of Escrow, the real property in which the Business operates. A separate Real Property Purchase Agreement is required (C.A.R. Form CPA).

14. **LICENSES:**

- A. **LIQUOR:** If transfer of a liquor license is included in this sale, Seller shall comply with the Alcoholic Beverage Control Act concerning such transfer. Escrow shall not close, and no funds shall be transferred to Seller, until Escrow Holder is advised by the State of California Department of Alcoholic Beverage Control that the license transfer has been approved. The costs of such transfer shall be paid.
B. **OTHER:** This sale is contingent upon Buyer's obtaining, prior to the Close Of Escrow, the license(s) indicated below. Buyer shall apply for such license(s) within 15 (or ☐) Days After Acceptance:
1. ☒ City license: _____
2. ☒ State license: _____
3. ☒ Other: **WILL BE OBTAINED BY THE BUYER**

15. **FRANCHISE:** If the Business is a franchise, in addition to being subject to Buyer's acceptance of the terms of franchise as provided in paragraph 9, the sale is also contingent upon Franchisor's acceptance of Buyer.

16. **SALES AND USE TAX:** Buyer shall pay any sales or use tax payable as a result of the sale under any Law and shall furnish Seller with Resale Certificates for any items bought for resale.

17. **PRORATIONS:** Personal property taxes, business taxes, rents, interest, insurance acceptable to Buyer, and prepaid deposits shall be prorated as of Close Of Escrow (or ☐).

18. **TAX CLEARANCES:** Seller shall deliver to Escrow Holder proof that city (if applicable), state and federal income tax withholdings are current. Amounts withheld but not yet payable will be transferred in escrow or credited to Buyer. Seller shall also deliver to Escrow Holder any clearance documents available from the State Board of Equalization or Employment Development Department regarding S.D.I., unemployment insurance and FICA withholdings. No funds shall be released from escrow before such delivery.

19. **NOTICES OF VIOLATIONS:** Seller represents that, to the best of Seller's knowledge, no notices of violations of federal, state or local statute(s), law(s) or regulation(s) exist, or are filed or issued, that affect the operation of the Business, including any such notices regarding the real property in which the Business is situated ("Notices"), EXCEPT: _____

if prior to Close Of Escrow, Seller receives or becomes aware of any Notices filed against or affecting the Business, Seller shall immediately notify Buyer.

20. **BULK TRANSFER:** Seller shall comply with the Bulk Sales provision of Division 8 of the Uniform Commercial Code, Bulk Transfer Section, as the law applies within the Seller's state.

21. **LIENS; ENCUMBRANCES; RESTRICTIONS:** Seller warrants that, to the best of Seller's knowledge, there are no undisclosed liens, encumbrances or restrictions upon the Business.

22. **OPERATION OF BUSINESS DURING ESCROW:** During the escrow period, Seller shall: (I) operate the Business diligently and in substantially the same manner as prior to this offer; (II) maintain the goodwill of the Business; (III) keep all equipment and personal property in normal working order; and _____

23. **SELLER REPRESENTATIONS:** Seller's representations and warranties set forth herein, or in any written statements delivered to Buyer, shall be true and correct at Close Of Escrow, and shall survive the transfer of ownership of the Business.

24. **OTHER TERMS AND CONDITIONS,** including attached supplements:

- 1) **LOAN CONTINGENCY WILL BE FOR 45 DAYS. DUE DILIGENCE PERIOD WILL BE FOR 10 DAYS AFTER OPENING OF ESCROW.**
2) **REAL ESTATE AND BUSINESS WILL CLOSE CONCURRENTLY.**
3) **INVENTORY WILL BE CALCULATED BY THIRD PARTY AT THE CLOSE OF ESCROW.**
4) **THIS OFFER IS SUBJECT TO LOAN APPROVAL, APPRAISAL, ABC TRANSFER AS WELL AS CIRCLE K APPROVAL.**

Buyer's Initials (*JS*) ()
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Seller's Initials (*JD*) ()

BUSINESS PURCHASE AGREEMENT (BPA PAGE 4 OF 9)

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10/11/17



Business Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

25. 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 paragraph 8. Buyer may give Seller a Notice to Seller to Perform (C.A.R. Form NSP) if Seller has not Delivered the items within the time specified.

B. BUYER SHALL, within the times set forth below, take the specified action and, in writing, either remove the applicable contingency or cancel this Agreement:

(1) **BUYER HAS:** 17 (or ☐) Days After Acceptance to complete all buyer investigations, unless otherwise agreed in 25B(2), approve all disclosures, reports, and review of reports and other applicable information, for which Buyer is responsible or which Buyer receives from Seller; and approve all other matters affecting the Business.

(2) ☐ (If checked) **BUYER HAS:** 30 (or ☐) Days After Acceptance to complete geologic, soil and environmental inspections.

(3) Within the time specified in 25B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller either (i) a removal of the applicable contingency (C.A.R. Form CR), or (ii) a cancellation (C.A.R. Form CC) of this Agreement based upon a contingency or Seller's failure to Deliver the specified items. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in 25A, then Buyer has 5 (or ☐) Days After Delivery of any such items, or the time specified in 25B(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 25B(1) and before Seller cancels this Agreement, if at all, pursuant to 25C, Buyer retains the right to either (i) in writing remove remaining contingencies, or (ii) cancel this Agreement based upon a remaining contingency or Seller's failure to Deliver the specified items. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to 25C(1).

C. SELLER RIGHT TO CANCEL:

(1) **Seller right to Cancel:** Buyer Contingencies: If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP) may cancel this Agreement. In such event, Seller shall authorize return of Buyer's deposit.

(2) **Seller right to Cancel; Buyer Contract Obligations:** Seller, after first Delivering to Buyer a NBP may cancel this Agreement for any of the following reasons: (i) if Buyer fails to deposit funds as required by 3A or 3B; (ii) if the funds deposited pursuant to 3A or 3B are not good when deposited; (iii) if Buyer fails to Deliver a letter as required by 3K; (iv) if Buyer fails to Deliver verification as required by 3C or 3I; or (v) if Seller reasonably disapproves of the verification provided by 3C or 3I. In such event, Seller shall authorize return of Buyer's deposit.

(3) **Notice To Buyer To Perform:** The NBP shall: (i) be in writing; (ii) be signed by Seller; and (iii) give Buyer 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 may not be Delivered any earlier than 2 Days Prior to the expiration of the applicable time for Buyer to remove a contingency or cancel this Agreement or meet an obligation specified in 25C(2).

D. 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 25.

E. 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.

F. 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.

G. 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).

26. BROKERS:

A. COMPENSATION: Seller or Buyer, or both, as applicable, agrees 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 BROKER DUTY: Buyer and Seller acknowledge and agree that: (i) Brokers do not decide what price Buyer should pay or Seller should accept; (ii) Brokers do not guarantee the performance or repairs of others who have provided services or products to Buyer or Seller; and (iii) they will seek legal, tax, insurance, title and other assistance from appropriate professionals.

Buyer's Initials (AB) ()

Seller's Initials (AB) ()



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BUSINESS PURCHASE AGREEMENT (BPA PAGE 5 OF 9)

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0111111111

Business Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

C. **BROKERAGE:** Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as specified in this Agreement, in connection with any act relating to the Business, including, but not limited to, inquiries, introductions, consultations, and negotiations leading to this Agreement. Buyer and Seller each agree to indemnify and hold the other, the Brokers specified herein and their agents, harmless from and against any costs, expenses or liability for compensation claimed inconsistent with the warranty and representation in this paragraph.

27. **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 45 or 46 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 the 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).

28. **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, 4, 8B, 13, 14A, 17, 18, 20, 24, 25C, 27, 28, 36, 43, 44, 45, 48, and paragraph D of the section titled Real Estate Brokers on page 9. If a Copy of the separate compensation agreement(s) provided for in paragraph 26A, or paragraph D of the section titled Real Estate Brokers on page 9 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 4. 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.

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.

C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 26A and paragraph D of the section titled Real Estate Brokers on page 9. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 26A, 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.

29. **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. Buyer and Seller agree that this amount is a reasonable sum given that it is impractical or extremely difficult to establish the amount of damages that would actually be suffered by Seller in the event Buyer were to breach this Agreement.

Buyer's Initials

Seller's Initials

30. **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 30C.

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

BUSINESS PURCHASE AGREEMENT (BPA PAGE 6 OF 9)

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00011100



Business Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

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 30C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

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

Buyer's Initials

Seller's Initials

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.

(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.

31. ENVIRONMENTAL HAZARD CONSULTATION: Buyer and Seller acknowledge: (i) Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; (ii) Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; (iii) Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Business; and (iv) Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Business.

32. AMERICANS WITH DISABILITIES ACT: The Americans With Disabilities Act ("ADA") prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. Residential properties are not typically covered by the ADA, but may be governed by its provisions if used for certain purposes. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Business is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.

33. 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.

34. 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.

35. 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 attorneys fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 30A.

36. 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 unless otherwise agreed in writing. 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 A0AA).

Buyer's Initials () ()

Seller's Initials () ()

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BUSINESS PURCHASE AGREEMENT (BPA PAGE 7 OF 9)

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UNILLION



Business Address: 295 N Waterman Ave, San Bernardino, CA 92408-1278

Date: October 23, 2017

37. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon, and inure to the benefit of, Buyer and Seller and their respective successors and assigns, except as otherwise provided herein.
38. **COPIES:** Seller and Buyer each represent that Copies of all reports, documents, certificates, approvals, and other documents that are furnished to the other are true, correct and unaltered Copies of the original documents, if the originals are in the possession of the furnishing party.
39. **RISK OF LOSS:** Any risk of loss to the Business shall be borne by Seller until ownership has been transferred to Buyer.
40. **DAMAGE OR DESTRUCTION:** If the Business or real property in which the Business is situated is destroyed or materially damaged prior to Close Of Escrow, then, on demand of Buyer, any deposit made by Buyer shall be returned to Buyer and this Agreement shall terminate.
41. **EQUAL OPPORTUNITY:** The Business is sold in compliance with federal, state and local anti-discrimination Laws.
42. **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 initiated 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 Business 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.

43. **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.

44. **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.
- M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.

45. **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) for additional terms.

Date 10/23/2017

BUYER

(Print name) DHILLION INVESTMENT INC

Date

BUYER

(Print name)

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

Seller's initials (



) ()

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BUSINESS PURCHASE AGREEMENT (BPA PAGE 8 OF 9)

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DHILLION

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

1901 Avenue of the Stars, Suite 400, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 06/26/2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**:

On (date) 06/26/2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Angel Barrera, Celia C. Barrera, Rocio Barrera c/o Law Office of Lazaro E. Fernandez, Inc.,
3600 Lime St., #614, Riverside, CA 92501

Clerk of the Court, 255 East Temple Street, Los Angeles, CA 90012

☒ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) 06/26/2018, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

By Email: Brian.Vanderhoof@leclairryan.com; mlazo@whblp.com

By Personal Delivery: Honorable Scott H. Yun, 3420 Twelfth Street, Suite 345 / Courtroom 302, Riverside, CA 92501

☐ Service information continued on attached page

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

06/26/2018 Monica Bedia
Date Printed Name

/s/ Monica Bedia
Signature

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0973-6
Case 6:18-bk-10893-SY
Central District of California
Riverside
Thu Jun 21 12:18:02 PDT 2018

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Case No: CIVDS1722659
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