

**PURCHASE AND SALE AGREEMENT**

By  
and  
between

DOLLINGER-LAFAYETTE ASSOCIATES

“Seller”

AND

CITY OF SANTA CLARA  
a municipal corporation  
“Buyer”



## **AGREEMENT OF PURCHASE AND SALE**

THIS AGREEMENT OF PURCHASE AND SALE (“Agreement”) is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2024 (the “Effective Date”), by and between Dollinger Lafayette Associates, A California General Partnership (“Seller”), and the CITY OF SANTA CLARA, a California municipal corporation (“Buyer”). The Seller and Buyer may be referred to in this Agreement individually as a “Party” or collectively as the “Parties.”

THE PARTIES ENTER INTO THIS AGREEMENT on the basis of the following facts, understanding, and intentions:

- A. Seller is the owner of certain improved property located in the City of Santa Clara, State of California, commonly known as **2900-2930 Lafayette Street, Santa Clara, California; APN No. 224-08-109 (the “Property”)**.
- B. Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, on all of the terms, covenants, and conditions hereinafter set forth. Buyer further agrees to take title to the Property subject to the Leases. The performance of this Agreement constitutes the entire consideration for the sale of the Property.
- C. Seller and Buyer recognize that the sale of the Property is subject to approval of the City Council of Buyer and that this Agreement shall have no force or effect unless and until said City Council approval has been obtained, which approval shall be obtained before execution of the Agreement by Buyer.

NOW THEREFORE in consideration of the mutual covenants and promises of the parties, the parties hereto agree as follows:

### 1.0 ARTICLE 1 – PURCHASE AND DEFINITIONS

1.1. The Property. Seller owns certain real property (the “Property”) located in the City of Santa Clara, California as more particularly described in Exhibit A. As used herein, the term “Property” means collectively the Property, all improvements and buildings located thereon, and all easements, agreements, benefits, privileges, permits, tenements, hereditaments, licenses and rights appurtenant to the Property.

1.2. Sale and Conveyance. Seller shall sell to Buyer and Buyer shall purchase from Seller, on all of the terms and conditions set forth in Articles 2 and 3 hereof, the Property.

1.3. Definitions.

(a) **“Escrow Agent”**: First American Title Company, Theresa Woest-San Jose Office (Twoest@firstam.com)

(b) **“Hazardous Substances”**: Any toxic, radioactive, caustic or otherwise hazardous substance, including petroleum, its derivatives, by-products and other hydrocarbons, or any substance having any constituent elements displaying any of

the foregoing characteristics. The term “Hazardous Substance” includes, without limitation, any substance regulated under any and all federal, state and local statutes, laws (including case law), regulations, ordinances, rules, judgments, orders, decrees, codes, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions, whether now or hereafter in effect, relating to human health, the environment or to emissions, discharges or releases of pollutants, contaminants, toxic substances, hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, hazardous materials or wastes or the clean-up or other remediation thereof.

(c) “**Hazardous Substance Laws**”: all federal, state and local laws, ordinances, rules and regulations now or hereafter in force, as amended from time to time, and all federal and state court decisions, consent decrees and orders interpreting or enforcing any of the foregoing, in any way relating to or regulating human health or safety, or industrial hygiene or environmental conditions, or protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 United States Code section 9601, et seq.), the Resource Conservation and Recovery Act, (42 United States Code section 6901, et seq.), and the Clean Water Act, (33 United States Code section 1251, et seq.), the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), the California Hazardous Waste Control Act, (California Health & Safety Code §§25100 et seq.), California Hazardous Substance Account Act California Health & Safety Code §§25300 et seq.), the California Safe Drinking Water and Toxic Enforcement Act ( California Health & Safety Code §§25249 et seq.); the California Hazardous Waste Management Act (California Health & Safety Code ; the Porter-Cologne Water Quality Control Act (California Health and Safety Code §§ 13000 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code §§ 25249.5 et seq.,. and Title 22 of the California Code of Regulations, all as amended to the date hereof.

(d) “**Leases**”: Any and all other leases, tenancies, licenses and other rights of occupancy or use of or for any portion of the Property (including all amendments and renewals thereof).

(e) “**Property Information**”: All documents and other information set forth in Exhibit C, incorporated into this Agreement by this reference.

(f) “**Title Company**”: First American Title Company at the office selected by the Escrow Agent.

(g) “**Title Report**”: A preliminary title report for the Property prepared by the Title Company.

2.0 ARTICLE 2 - PURCHASE PRICE

- 2.1 **Purchase Price.** The purchase price (“Purchase Price”) shall be **FIVE MILLION FIVE HUNDRED THOUSAND and NO/100 DOLLARS (\$5,500,000.00)**.
- 2.2 Payment of Purchase Price. The purchase price shall be payable all in cash upon close of Escrow (as defined below) in accordance with Section 4.2.

3.0 ARTICLE 3 - CONDITIONS TO PURCHASE AND SALE

- 3.1 Conditions Precedent to Purchase and Sale. The obligation of Buyer to purchase and Seller to sell the Property is expressly conditioned upon the satisfaction, prior to the Closing Date, of each of the conditions set forth in this Section 3.1 (the “Conditions Precedent”).

- 3.1.1 Title. Within fifteen (15) days of the Effective Date or such additional time as reasonable required by Seller, Seller shall cause Title Company to deliver to Buyer the Title Report. During the same fifteen day period, Seller shall provide all Property Information to Buyer period within Seller’s possession. If Seller fails to provide the Title Report or Property Information within the foregoing fifteen day periods, Diligence Period will be extended for each day of applicable delay.

Buyer shall review the Title Report, and Buyer shall have the Due Diligence Period to give written notice regarding Buyer’s approval or disapproval of the Title Report, including without limitation any exceptions. If Buyer timely and properly delivers written objection(s) to any items in the Title Report, then Seller shall notify Buyer in writing within three (3) Business Days after receipt of Buyer’s notice of Buyer’s title objections (but, in any event, prior to the Closing Date) whether Seller elects to remove, discharge or correct the same (and Seller’s failure to respond in writing within such period shall be deemed an election by Seller not to remove, discharge or correct Buyer’s title objections), and Seller shall have the right but not the obligation to use reasonable diligence to remove, discharge or correct such liens, encumbrances or objections and shall have a period of thirty (30) days after receipt of notice thereof in which to do so (and if necessary the Closing Date shall be extended on a day for day basis). Seller shall not in any event be obligated to pay any sums of money or to litigate any matter in order to remove, discharge or correct any lien, encumbrance or objection. Any attempt by Seller to remove other title exceptions (i.e., exceptions that Seller is not obligated to remove pursuant to the preceding sentence or otherwise in this Section 3.1.2) shall not impose an obligation upon Seller to remove such exceptions. If Seller shall be unwilling or unable to remove or discharge such other liens, encumbrances or objections within such period, then Buyer may, at its option, no later than five (5) Business Days after Seller notifies Buyer of Seller’s unwillingness or inability, either terminate this Agreement or accept title in its then existing condition without reduction of the Purchase Price. If Buyer shall elect to terminate this

Agreement, the Monetary Deposit, shall be returned to Buyer, this Agreement shall terminate, and thereafter neither Seller nor Buyer shall have any further rights or obligations hereunder except such obligations of this Agreement which specifically survive termination. Notwithstanding anything to the contrary contained elsewhere in this Agreement, Seller shall be obligated to cure or satisfy all deeds of trust, judgment/liens, mechanics liens and any other monetary encumbrances prior to the Closing and, if not otherwise cured or satisfied, the proceeds of the Purchase Price shall be used at Closing for such purpose.

3.1.2 Due Diligence. Buyer's obligation to purchase the Property is conditioned upon Buyer's review and approval, prior to the expiration of the Due Diligence Period and in Buyer's sole discretion, of all matters pertaining to the physical, structural, electrical, mechanical, soil, drainage, environmental, economic, tenancy, zoning, land use and other governmental compliance matters and conditions respecting the Property, including without limitation the items include in the Title Report and Property Information. The Due Diligence Period is defined as the period commencing the Effective Date and ending sixty (60) days after the Effective Date or as extended by Buyer and Seller through mutual agreement in writing. In connection with its site investigations, Buyer has had the right, at its sole cost and expense, to conduct a physical assessment and make such investigations as Buyer deems necessary, including a Phase I Site environmental site assessment. Seller shall reasonably cooperate with Buyer's investigation of the Property, including the provision of all Property information in Seller's possession and reasonable access to the Property for Buyer or Buyer's agents to perform any tests or other inspections Buyer deems reasonably necessary. If, prior to the expiration of the Diligence Period (as it may be extended in whole or in part), based upon Buyer's review, examination and/or inspection of the Property, Buyer determines in its sole and absolute discretion that it no longer intends to acquire the Property, then Buyer shall promptly notify Seller of such determination in writing, whereupon this Agreement, and the obligations of the Parties to purchase and sell the Property hereunder, shall terminate. If, however, on or before the expiration of the Diligence Period, Buyer determines that the foregoing matters are acceptable to Buyer and that it intends to proceed with the acquisition of the Property, then Buyer shall promptly notify Seller of such determination in writing ("Approval Notice"). If Buyer fails to deliver the Approval Notice to Seller on or before the expiration of the Diligence Period, Buyer shall be deemed to have disapproved of all of the foregoing matters, this Agreement and the obligations of the parties hereunder shall terminate, and Escrow Agent shall promptly release the Monetary Deposit and interest accrued thereon to Buyer.

3.1.3 Execution of Grant Deed. Seller shall be ready, willing and able to convey title to the Property by grant deed to Buyer in the form of Exhibit B attached hereto (the "Grant Deed").

- 3.1.4 Deposit of Grant Deed. Seller shall have deposited into Escrow (as defined below) the Grant Deed as provided for in Article 4.1.1, conveying fee simple title to the Property (to the Buyer).
- 3.1.5 Title Insurance. The Title Company shall be prepared to issue a ALTA Standard Title Insurance (or ALTA extended policy, if desired by Buyer) in the amount of the Purchase Price insuring fee simple title to the Property vested in Buyer (the “Title Policy”).
- 3.1.6 No Breach. There shall be no material breach of any of Seller’s representations, warranties, or covenant set forth in Article 5.
- 3.1.7 Documentary Deposit. Seller and Buyer shall have each deposited into Escrow all materials required to be deposited under Article 4.
- 3.1.8 Monetary Deposit. Buyer has deposited in Escrow the sum of **One Hundred and Eighty Thousand Dollars (\$180,000.00)** in accordance with Section 4.1 below (the “Monetary Deposit”). Until the expiration of the Due Diligence Period or as otherwise expressly set forth in this Agreement, the Monetary Deposit is refundable and applicable to the Purchase Price.

Application of Deposit. The Deposit shall be deposited by Escrow Holder in an interest-bearing account at a federally insured institution as Escrow Holder and the Parties deem appropriate and consistent with the timing requirements of this Agreement. The interest thereon shall accrue to the benefit of the Party receiving the Deposit pursuant to the terms of this Agreement, and Buyer and Seller hereby acknowledge that there may be penalties or interest forfeitures if the applicable instrument is redeemed prior to its specified maturity. Buyer agrees to provide its Federal Tax Identification Number to Escrow Holder upon the opening of Escrow. If Buyer delivers to Seller and Escrow Holder an Approval Notice prior to the expiration of the period commencing on the Effective Date and ending at 5:00 p.m. (Pacific time) on the expiration of the Due Diligence Period, the Deposit shall become non-refundable except as otherwise provided in this Agreement. If prior to the expiration of the Due Diligence Period Buyer fails to deliver a Buyer’s Approval Notice, then this Agreement shall be automatically terminated and the Deposit, together with all interest accrued thereon, shall be returned to Buyer within one (1) business day after the expiration of the Due Diligence Period. If Buyer delivers an Approval Notice prior to the expiration of the Due Diligence Period then, after the expiration of the Due Diligence Period, the entirety of the Deposit together with interest accrued thereon shall continue to be held in escrow with Escrow Holder until the Closing Date or the termination of this Agreement, (ii) if the Closing occurs, be credited toward payment of the Purchase Price on the Closing Date; (ii) if the Closing does not occur by reason of a default by Buyer, be delivered to Seller as liquidated damages, below to the extent Seller is entitled thereto or, in all other cases

resulting in a termination of this Agreement, returned to Buyer by Escrow Holder.

Cash Balance. On or before 11:00 a.m. (Pacific time) on the Closing Date, Buyer shall deposit with Escrow Holder cash by means of a confirmed wire transfer through the Federal Reserve System or cashier's check in the amount of the balance of the Purchase Price, plus or minus Buyer's share of expenses and prorations as described in this Agreement.

Independent Consideration. Buyer and Seller have bargained for and agree that One Hundred Dollars (\$100.00) of the Deposit (the “**Independent Consideration**”) is independent consideration for Buyer’s rights under this Agreement and for Seller providing the Due Diligence Period to Buyer. Upon receipt, the Escrow Holder shall immediately release the Independent Consideration to Seller, and notwithstanding any provision in this Agreement to the contrary, the Independent Consideration shall be nonrefundable to Buyer in all circumstances. Any time that this Agreement provides that the Deposit is to be returned to Buyer, the amount returned to Buyer shall be net of the Independent Consideration.

### 3.2 Buyer’s Remedies.

3.2.1 Conditions Precedent. If any of the foregoing Conditions Precedent which inure to the benefit of Buyer are not satisfied, Buyer shall have the right either to waive the condition in question and proceed with the purchase of the Property pursuant to all of the other terms of this Agreement, or, in the alternative, to terminate this Agreement and the Monetary Deposit shall be returned to Buyer, and thereafter neither Party shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

3.2.2 Default. If Seller fails to perform any of its obligations or is otherwise in default under this Agreement, Buyer shall have the right to give notice to Seller specifically setting forth the nature of said failure and stating that Seller shall have a period of five (5) calendar days to cure such failure. If Seller has not cured such failure within such period (or, if such failure is not capable of being cured within five (5) calendar days, Seller either has not commenced in good faith the curing of such failure within such period or does not diligently thereafter complete such cure prior to the Closing Date, as may be extended under the terms of this Agreement), Buyer’s sole and exclusive remedy shall be one of the following:

- (a) Waiver. Waive such failure and proceed to the Closing pursuant to all of the other terms of this Agreement;
- (b) File Action. File an action for specific performance to cause Seller to convey the Property to the Buyer pursuant to the terms and conditions of this Agreement; or



- (c) Terminate. If specific performance is not available for any reason, Buyer may terminate this Agreement by notice to Seller and Escrow Agent to that effect, and pursue an action for actual damages for out-of-pocket the third-party costs, including architect, consultant and attorney's fees incurred by Buyer in connection with the Property and this Agreement in a maximum amount not to exceed Fifty Thousand Dollars (\$50,000.00).

3.3. Seller's Remedies.

- 3.3.1 Conditions Precedent. If any of the foregoing Conditions Precedent which inure to the benefit of Seller are not satisfied, Seller shall have the right to either waive the condition in question and proceed with the sale of the Property pursuant to all of the other terms of this Agreement, or, in the alternative, to terminate this Agreement and the Monetary Deposit shall be returned to Buyer, and thereafter neither Party shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.
- 3.3.2 Default. If Buyer fails to perform any of its obligations or is otherwise in default under this Agreement, Seller's sole and exclusive remedy shall be to terminate this Agreement by giving written notice thereof to Buyer and Escrow Agent, whereupon the Monetary Deposit shall be paid to and retained by Seller as liquidated damages. Upon such termination, neither Party shall have any further rights, obligations or liabilities hereunder except to the extent that any such rights, obligation or liability set forth herein expressly survives termination of this Agreement.

BUYER AND SELLER AGREE THAT BASED UPON THE CIRCUMSTANCES NOW EXISTING, KNOWN AND UNKNOWN, IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO ESTABLISH SELLER'S DAMAGES BY REASON OF BUYER'S DEFAULT. ACCORDINGLY, BUYER AND SELLER AGREE THAT IN THE EVENT OF A DEFAULT BY BUYER UNDER THIS AGREEMENT, IT WOULD BE REASONABLE AT SUCH TIME TO AWARD SELLER "LIQUIDATED DAMAGES" EQUAL TO THE AMOUNT OF THE MONETARY DEPOSIT. SELLER'S RETENTION OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED TO BE A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. SELLER AGREES TO, AND DOES HEREBY, WAIVE ALL OTHER REMEDIES AGAINST BUYER WHICH SELLER MIGHT OTHERWISE HAS AT LAW OR IN EQUITY BY REASON OF SUCH DEFAULT BY BUYER (EXCEPT WITH RESPECT TO THE INDEMNITIES CONTAINED HEREIN, AND THE RIGHT TO RECOVER ATTORNEYS' FEES UNDER THIS AGREEMENT).

Buyer's Initials

Seller's Initials

4.0 ARTICLE 4 - CLOSING AND ESCROW

4.1 Deposits into Escrow. Buyer has established an escrow (the "Escrow") with the Escrow Agent. A copy of this Agreement, duly executed by both parties, shall be deposited therein within five (5) business days after the Effective Date, together with the amount of the Monetary Deposit. Subject to Section 4.2.2 below, this Agreement shall serve as escrow instructions to Escrow Agent, as escrow holder, for consummation of the purchase and sale contemplated hereby. Prior to or on the Closing Date, the Parties shall deposit the following into the Escrow:

4.1.1 Seller. Seller shall deposit the following into Escrow:

- (a) two (2) duplicate originals of the Grant Deed duly executed and acknowledged by Seller in recordable form with respect to the Property, in the form of Exhibit B hereto, together with any State, County and local transfer tax declarations and forms;
- (b) A FIRPTA Affidavit stating Seller's U.S. taxpayer identification number and that the Seller is a "United States person" as defined by Internal Revenue Code sections 1445(f)(3) and 7701(b);
- (c) To the extent in Seller's possession, or reasonably available to Seller, any contract(s) to be assumed by Buyer, any certificate of occupancy for the Property and all assignable licenses and permits relating to the use, occupancy or operation of the Property, copies of all originals of the books and records of account, contracts, unpaid bills and other papers or documents that pertain to the Property and keys and other items, if any, used in the operation of the Property;
- (d) A copy of a Natural Hazardous Disclosure Statement for the Property, prepared by a qualified engineer (the "Expert"), in the form required by California Civil Code Section 1103.2(a), setting forth the Expert's determination of whether the Property is subject to Sections 8589.3, 8589.4 or 51183.5 of the California Government Code or Section 2621.9, 2694 or 4136 of the California Public Resource Code; and
- (e) Such other documents and instruments as may be required by other provisions of this Agreement or may be reasonably required by Escrow Agent or otherwise to carry out of the terms and intent of this Agreement.

4.1.2 Buyer. Buyer shall deposit the following into Escrow:

- (a) Cash or immediately available funds in the amount of the Purchase Price, less a credit for the Monetary Deposit, together with such additional cash in the amount necessary to pay Buyer's share of closing costs and prorations, as hereinafter set forth;
- (b) An original executed letter to the Santa Clara County Tax Assessor, pursuant to Revenue and Taxation Code section 5082.1 providing notification of the apportionment date and requesting cancellation of taxes pursuant to Revenue and Taxation Code section 5086.1 (the "Apportionment Letter");
- (c) An executed Certificate of Acceptance; and
- (d) Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required by Escrow Agent or otherwise to carry out the term and intent of this Agreement.

#### 4.2 Close of Escrow.

4.2.1 Closing Date. Escrow shall close on or before 30 days following the satisfaction or Buyer's waiver of all Buyer's conditions to Closing (the "Closing Date").

4.2.2 Closing of Escrow. When the Conditions Precedent listed in Section 3.1 have been satisfied or waived by Buyer and Seller and Escrow Agent has received all necessary cash and documents and is in a position to issue the Title Policy, as provided in Section 3.1.4, Escrow Agent shall immediately close Escrow as provided below (the "Closing"). The parties to this Agreement shall cooperate with each other and the Escrow Agent in preparing and executing such further documents (including further escrow instructions) as may be reasonably necessary to close Escrow as contemplated by this Agreement; provided however, that in the event of any conflict between the provisions of this Agreement and any such further documents or escrow instructions, the terms of this Agreement shall control.

4.2.3 Procedure. Escrow Agent shall close Escrow as follows:

4.2.3.1 Record Deed. Date and record the Grant Deed in the Official Records of Santa Clara County.

4.2.3.2 Apportionment Letter. Delivery, by first class mail, postage prepaid, the Apportionment Letter to the Santa Clara County Tax Assessor, with a copy to Seller.

4.2.3.3 Deliver Copies of Grant Deed. Deliver one (1) certified copy of the recorded Grant Deed to Seller and Buyer.

4.2.3.4 Pay to Seller. Pay to Seller the funds in Escrow equal to the Purchase Price, reduced only by the Seller's share of closing costs and prorations, as hereinafter set forth in Section 4.2.4 below.

4.2.3.5 Deliver Title Policy. Deliver the Title Policy to Buyer.

4.2.3.6 Closing Statement. Prepare and deliver to Buyer and Seller one signed copy of the Escrow Agent's closing statement showing all receipts and disbursements of the Escrow.

4.2.3.7 Deliver Other Documents Deposited by Seller. Delivery to Buyer the Tenant Estoppel Certificate, the Assignment of Lease, and all other documents deposited into Escrow by Seller pursuant to Section 4.1.1 above.

#### 4.2.4 Closing Costs and Prorations.

4.2.4.1 Closing Costs. Buyer and Seller shall each pay its own attorney's fees in connection with negotiating this Agreement and closing the Escrow. Seller shall bear the City transfer taxes if any and ½ any county transfer tax, cost of an ALTA Standard Title Insurance premium, and one-half (½) of the escrow and recording fees. Buyer shall pay the additional cost of an ALTA extended policy, if so desired, and one-half (½) of the escrow and recording fees and ½ of any county transfer tax.

4.2.4.2 Proration and Cancellation of Taxes. Taxes for the year in which this Escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation code, if unpaid as of the close of Escrow.

4.2.4.3 Prorations. All taxes, assessments and other charges attributable to the Property shall be pro-rated as of the Closing Date based on a three hundred sixty-five-day year (365).

## 5.0 ARTICLE 5 - REPRESENTATIONS AND WARRANTIES

5.1 Seller's Representations and Warranties. Seller represents and warrants to Buyer that the following matters are true and correct in all material respects as of the execution of this Agreement and will also be true and correct in all material respects as of the Closing:

5.1.1 Organization Authority. Dollinger-Lafayette is a General Partnership duly organized, validly existing and in good standing under the laws of the State of California and has the full power and authority to execute and deliver this Agreement and all documents now or hereinafter to be executed and delivered by it pursuant to this Agreement and to perform all obligations arising under this Agreement and such performance does not conflict with any obligations of the Seller. The individuals executing this Agreement and the instruments referred to herein on behalf of Seller, have

the legal power, rights and actual authority to bind Seller to the terms and conditions hereof and thereof.

- 5.1.2 No Violation of Agreement; Litigation. Neither the execution, delivery or performance of this Agreement by Seller will result in the breach of any terms, conditions or provisions of, or conflict with or constitute a default under the terms of any indenture, deed to secure debt, mortgage, deed of trust, note, evidence of indebtedness or any other agreement or instrument by which Seller or the Property is bound. Seller has no knowledge of any pending or threatened litigation, actions, applications, orders, protests, proceedings, or complaints against or affecting title to the Property or Seller's interest therein.
- 5.1.3 Compliance with Laws. Seller has received no written notice alleging violations of any federal, state or municipal laws or ordinances with regard to any portion of the Property.
- 5.1.4 Existing Lease. The Leases currently in effect relating to the Property are listed in Exhibit C. The Leases are in full force and effect on the terms set forth therein and Seller has delivered to Buyer true, correct and complete copies of the Leases. These Leases have not been amended or modified except pursuant to written modifications or amendments, true, correct and complete copies of which have been delivered by Seller to Buyer.
- 5.1.5 Operation and Maintenance. Seller shall, subject to the terms and conditions of the Leases, operate, maintain, and repair the Property in substantially the same manner as prior to the date of this Agreement pursuant to its normal course of business. Except to the extent required to comply with applicable law or as the tenants under the Leases are permitted to do without Seller's consent, the Seller shall not materially alter the Property (or permit the material alteration of the Property) after execution of this Agreement without Buyer's consent.
- 5.1.5 No Modification of Lease. Seller shall not enter into, terminate, modify or amend any Leases. Seller shall not grant any consent or approval under any Leases. Seller shall not waive any conditions or obligations under any Leases or guarantees of Lease. Seller shall not enter into any non-disturbance or analogous agreements with any subtenants. Seller will, promptly, and, in any event, not later than three (3) days following receipt, give Buyer a true and complete copy of any notices, reports, statements, demand or material correspondence received from Tenants. Seller will not give a notice of default to any Property tenant without Buyer's consent.
- 5.1.6 Service Contract. There are no service contracts or property management agreements related to the Property which will be binding upon Buyer after Closing.

- 5.1.7 Seller Not a Foreign Person. Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.
- 5.1.8 Environmental. Except as otherwise disclosed to Buyer in this Agreement, Seller to the best of their actual knowledge is not aware of: (i) the presence of any Hazardous Substances (as defined below) at, on, under and/or affecting the Property; (ii) any spills, releases, discharges, or disposal of Hazardous Substances that have occurred or are presently occurring on or onto the Property; (iii) any spills or disposal of Hazardous Substances that have occurred or are occurring off the Property as a result of any construction on, or operation in use of the Property; (iv) the presence of any PCB transformers serving or stored on the Property; (v) underground storage tanks currently located on the Property; or (vi) any failure to comply with all applicable local, state and federal environmental laws, regulations, ordinances and administrative and judicial orders relating to the generation, recycling, reuse, sale, storage, handling, transport and disposal of any Hazardous Substances in connection with the operation and use of the Property. Seller discloses and Buyer acknowledges that the Property used to be an old gas service station purchased from the Santa Clara County with underground storage tanks that were removed prior to Seller's purchase of the Property in 1972.
- 5.1.9 No Other Contract. Seller will not enter into any other agreement or option to sell the Property or any portion of, or interest in, the Property. Seller will not market the Property for sale.
- 5.1.10 No Additional Encumbrances. Seller shall not (a) further encumber the Property in any consensual manner without the prior written consent of Buyer; (b) cause or permit any mortgage, deed of trust, or other lien to be foreclosed upon due to Seller's actions or omissions, including failure to make a required payment or failure to obtain any required consent; or (c) apply for any variance, change or modification with respect to any zoning of the Property or use of the Property without Buyer's prior written consent.

5.1.11 Prohibited Persons and Transactions.

Prohibited Persons; Foreign Corrupt Practices Act and Anti-Money Laundering. Neither Seller nor any of its affiliates, nor any of their respective members, partners or other equity holders, and none of their respective officers, directors or managers is, nor prior to Closing or the earlier termination of this Agreement, will they become a person or entity with whom U.S. persons or entities are restricted from doing business under (a) the Patriot Act (as defined below), (b) any other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("**OFAC**") (including any "blocked" person or entity listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and any modifications thereto or thereof or any other

person or entity named on OFAC's Specially Designated Blocked Persons List) or (c) any other U.S. statute, Executive Order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action (collectively, "**Prohibited Persons**"). During Seller's period of ownership of the Property, Seller, and to Seller's knowledge, its employees and any person or entity ("**Person**") acting on its behalf have at all times fully complied with, and are currently in full compliance with, the Foreign Corrupt Practices Act of 1977 and any other applicable anti-bribery or anti-corruption laws. Seller is not entering into this Agreement, directly or indirectly, in violation of any laws relating to drug trafficking, money laundering or predicate crimes to money laundering. As used herein, "Patriot Act" shall mean the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the U.S. government and its various executive departments, agencies and offices interpreting and implementing the Patriot Act.

Prohibited Transactions. Seller shall not, directly or indirectly, use, lend or otherwise make available the proceeds paid to it under this Agreement to any subsidiary, joint venture partner or other person or entity to fund or facilitate any activities of or business with any person that, at the time of such funding or facilitation, is a Prohibited Person.

- 5.2 Buyer's Representations and Warranties. Buyer warrants and represents that: (a) Buyer has the full right, power, and authority to purchase the Property from Seller as provided in this Agreement and to carry out Buyer's obligations hereunder; and (B) the execution of this Agreement and the Closing to occur hereunder do not and will not violate any contract, covenant or other agreement to which Buyer may be a party or by which Buyer may be bound.

## 6.0 ARTICLE 6 - CONDITION OF THE PROPERTY

- 6.1 Buyer's Acknowledgment. As a material inducement to Seller to enter into this Agreement and to convey the Property to Buyer, Buyer hereby acknowledges and agrees that:

AS-IS. Except as otherwise expressly set forth in this Agreement and subject to Seller's representation and warranties set forth in this Agreement, Buyer is purchasing the Property in its existing condition, "AS-IS, WHERE-IS, WITH ALL FAULTS," and upon the Closing Date has made or has waived all inspections and investigations of the Property and its vicinity which Buyer believes are necessary to protect its own interest in, and its contemplated use of, the Property.

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Buyer's Initials

No Representations. Other than the express representations and warranties of Seller contained in this Agreement, and other than Seller's intentional fraud neither Seller nor its property manager, nor any of their respective affiliates, predecessors, successors, partners, members and assigns, and their respective past, present and future partners, members, officers, directors, trustees, employees, agents, lenders, representatives, attorneys and all persons acting by, through, under or in concert with the foregoing, or any of them (Seller and all of said entities and individuals are collectively referred to herein as the "**Seller Group**") has made any representation, warranty, inducement, promise, agreement, assurance or statement, directly or indirectly, oral or written, of any kind to Buyer upon which Buyer has or is relying, or in connection with which Buyer has made or will make any decisions concerning the Property or its vicinity including, without limitation, its use, condition, value, compliance with "Governmental Regulations," as that term is defined below, the existence or absence of Hazardous Substances on or under the Property, or the permissibility, feasibility, or convertibility of all or any portion of the Property for any particular use or purpose, including, without limitation, its present or future prospects for sale, lease, development, occupancy or suitability as security for financing. As used in this Agreement, the following definitions shall apply: (i) the term "**Governmental Regulations**" means any laws (including "Environmental Laws," as that term is defined below), ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, Hazardous Substances, occupational health and safety, handicapped access, water, earthquake hazard reduction, and building and fire codes) of any governmental or quasi-governmental body or agency claiming jurisdiction over the Property, (ii) the term and "**Environmental Laws**" shall mean all federal, state and local laws, ordinances, rules and regulations now or hereafter in force, as amended from time to time, and all federal and state court decisions, consent decrees and orders interpreting or enforcing any of the foregoing, in any way relating to or regulating human health or safety, or industrial hygiene or environmental conditions, or protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 United States Code section 9601, et seq., the Resource Conservation and Recovery Act, 42 United States Code section 6901, et seq., and the Clean Water Act, 33 United States Code section 1251, et seq.,

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Buyer's Initials

No Implied Warranties. Excluding any representation or warranty set forth in this Agreement, and except for Seller's intentional fraud Seller hereby specifically disclaims: (a) all warranties implied by law arising out of or with respect to the execution of this Agreement, any aspect or element of the Property, or the performance of Seller's obligations



hereunder including, without limitation, all implied warranties of merchantability, habitability and/or fitness for a particular purpose; and (b) any warranty, guaranty or representation, oral or written, past, present or future, of, as to, or concerning (i) the nature and condition of the Property or other items conveyed hereunder, including, without limitation, the water, soil, and geology, the suitability thereof and of the Property or other items conveyed hereunder for any and all activities and uses which Buyer may elect to conduct thereon, the existence of any environmental hazards or conditions thereon (including but not limited to the presence of asbestos or other Hazardous Substances) or compliance with applicable Environmental Laws; (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; and (iii) the compliance of the Property or other items conveyed hereunder or its operation with any Governmental Regulations.

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Buyer's Initials

Information Supplied by Seller. Buyer specifically acknowledges and agrees that, except as expressly contained in this Agreement, the Seller Group has made no representation or warranty of any nature concerning the accuracy or completeness of any documents delivered or made available for inspection by Seller to Buyer, including, without limitation, any due diligence items and the offering packages and memoranda distributed with respect to the Property, and that Buyer has undertaken such inspections of the Property as Buyer deems necessary and appropriate and that Buyer is relying solely upon such investigations and not on any of the due diligence items or any other information provided to Buyer by or on behalf of Seller. As to the due diligence items, Buyer specifically acknowledges that they have been prepared by third parties with whom Buyer has no privity and Buyer acknowledges and agrees that no warranty or representation, express or implied, has been made, nor shall any be deemed to have been made, to Buyer with respect thereto, either by the Seller Group or by any third parties that prepared the same.

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Buyer's Initials

Release. As of the Closing Date, subject to any breach by Seller of any Seller representations, warranties and covenants in this Agreement, Buyer and the Buyer Parties hereby fully and irrevocably release and forever discharge the Seller Group of and from any and all manner of action or actions, cause or causes of action, at law or in equity (including, without limitation, in tort), suits, debts, liens, contracts, agreements, promises, liabilities, claims, demands, damages, losses, costs or expenses, of any nature whatsoever, known or unknown, fixed or contingent (collectively, "**Claims**") that the Buyer Parties may have or hereafter acquire against each and any of the Seller Group arising from or related to in any way the Property or the condition of the Property, including, without limitation,

any latent or patent construction defects, errors or omissions, compliance with law matters, the presence, discovery or removal of Hazardous Substances and other environmental matters within, under or upon, or in the vicinity of the Property, including, without limitation, any Environmental Laws. The foregoing release by Buyer and the Buyer Parties shall include, without limitation, any Claims Buyer and/or the Buyer Parties may have pursuant to any statutory or common law right Buyer may have to receive disclosures from Seller, including, without limitation, any disclosures as to the Property's location within areas designated as subject to flooding, fire, seismic or earthquake risks by any federal, state or local entity, the presence of Hazardous Substances on or beneath the Property, the need to obtain flood insurance, the certification of water heater bracing and/or the advisability of obtaining title insurance, or any other condition or circumstance affecting the Property, its financial viability, use or operation, or any portion thereof.

This release includes Claims of which Buyer is presently unaware or which Buyer does not presently suspect to exist in its favor which, if known by Buyer, would materially affect Buyer's release of the Seller Group except for Claims relating to Seller's intentional fraud or intentional non-disclosure. In connection with the general release set forth in this Section 6.1, Buyer specifically waives the provisions of California Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

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Buyer's Initials

Notwithstanding anything to the contrary set forth in this Section, the foregoing release is not intended to and does not cover (i) any Claims arising from a breach of Seller's representations or warranties set forth in this Agreement, or (ii) any other breach by Seller of an express obligation of Seller under this Agreement which by its terms survives the Close of Escrow; or (iii) any intentional fraud by Seller.

6.2. Waiver of Natural Hazards. California Natural Hazard Disclosure. Buyer acknowledges that any seller owning property located in the State of California is required to disclose if such property lies within the following natural hazardous areas or zones: (a) a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency (Cal. Gov. Code section 8589.3); (b) an area of potential flooding shown on a dam failure inundation map designated pursuant to Cal. Gov. Code section 8589.5 (Cal. Gov. Code section

8589.4); (c) a very high fire hazard severity zone designated pursuant to Cal. Gov. Code section 51178 or 51179 (in which event the owner maintenance obligations of Cal. Gov. Code section 51182 would apply) (Cal. Gov. Code section 51183.5); (d) a wildland area that may contain substantial forest fire risks and hazards designated pursuant to Cal. Pub. Resources Code section 4125 (in which event (i) such Seller would be subject to maintenance requirements of Cal. Pub. Resources Code section 4291 and (ii) it would not be the State of California's responsibility to provide fire protection services to any building or structure located within the wildland area except, if applicable, pursuant to Cal. Pub. Resources Code section 4129 or pursuant to a cooperative agreement with a local agency for those purposes pursuant to Cal. Pub. Resources Code section 4142) (Cal. Pub. Resources Code section 4136); (e) an earthquake fault zone (Cal. Pub. Resources Code section 2621.9); or (f) a seismic hazard zone (and, if applicable, whether a landslide zone or liquefaction zone) (Cal. Pub. Resources Code section 2694). Seller shall employ the services of a disclosure source to examine the maps and other information specifically made available to the public by governmental agencies and to report the results of its examination in writing to Buyer with respect to the foregoing matters (the "**Natural Hazards Disclosure Statement**"). Buyer acknowledges that the Natural Hazards Disclosure Statement fully and completely discharges such Seller from its disclosure obligations under California Civil Code Section 1103, and, for the purpose of this Agreement, the provisions of Civil Code Section 1103.4 regarding the non-liability of Seller for errors or omission not within its personal knowledge shall be deemed to apply. Buyer acknowledges and agrees that Buyer will independently evaluate and investigate whether any or all of such natural hazards affect the Property, and Seller shall have no liabilities or obligations with respect thereto. Upon Seller's request, Buyer shall promptly execute and deliver to Seller an acknowledgement of receipt of the Natural Hazards Disclosure Statement. Buyer acknowledges and agrees that the matters set forth in the Natural Hazard Disclosure Statement may change on or following the Closing Date for the Property and that Seller has no obligation to update, modify, or supplement the Natural Hazard Disclosure Statement following the Closing Date. Buyer shall be solely responsible for preparing and delivering its own Natural Hazard Disclosure Statement to subsequent prospective buyers of the Property, to the extent required. BUYER ACKNOWLEDGES AND REPRESENTS THAT IT HAS OR ITS REPRESENTATIVES HAVE EXTENSIVE EXPERIENCE ACQUIRING AND CONDUCTING DUE DILIGENCE REGARDING COMMERCIAL PROPERTIES. THIS PROVISION IS AN ESSENTIAL ASPECT OF THE BARGAIN BETWEEN THE PARTIES. The provisions of this Section shall survive the Closing.

Section 25359.7. Buyer acknowledges and agrees that the sole inquiry and investigation Seller conducted in connection with the environmental condition of the Property is to obtain the environmental report(s) which are part of the Due Diligence items and that, for purposes of California

Health and Safety Code Section 25359.7, Seller has acted reasonably in relying upon said inquiry and investigation, and the delivery of this Agreement constitutes written notice to Buyer under such code section.

- 6.3 Relocation Waiver. Seller hereby fully releases and discharges Buyer from all and any manner of rights, demands, liabilities, obligations, claims or cause of actions, in law or equity, of whatever kind or nature, whether known or unknown, whether now existing or hereinafter arising, which arise from or relate in any manner to the relocation of Seller or Seller business operations, including the specific waiver and release of any right to any relocation benefits, assistance and/or payments under Government Code sections 7260 *et seq.* or other applicable State or Federal law (collectively, "Relocation Assistance Law"), notwithstanding that such relocation assistance, benefits and/or payments may be otherwise required under the Relocation Assistance Law. For avoidance of doubt, Buyer shall be solely responsible for any relocation or other benefits that may be owed to any occupant of the Property that may be payable as a result of Buyer's termination of an occupant's tenancy or other possessory interest in the Property.

## 7.0 ARTICLE 7 - GENERAL PROVISIONS

- 7.1 Risk of Loss. The cost of which to repair or restore does not exceed One Hundred Thousand Dollars (\$100,000), the parties agree in the event that, prior to the Closing Date, any improvements located on the Property, or any part thereof, are destroyed or materially damaged, the repair or restoration of which will cost less than One Hundred Thousand Dollars (\$100,000) the transaction shall go forward without any adjustment to the Purchase Price, but the Seller shall repair or restore the Property and the Closing Date shall be appropriately extended so that Seller may accomplish the same. If the destruction or material damage will cost more than \$100,000 to repair, Buyer may terminate this Agreement by notice to Seller and Escrow Agent to that effect, and the Monetary Deposit shall be returned to Buyer and Seller shall retain any and all insurance proceeds, and thereafter neither Party shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.
- 7.2 Approval of City Council. Buyer and Seller recognize that as of the execution of this Agreement by Seller, this Agreement is subject to approval of the City Council of the City of Santa Clara and that this Agreement shall have no force or effect unless and until said City Council's approval has been obtained, but such approval shall be obtained before execution of this Agreement by Buyer.
- 7.3 Binding on Successors. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.
- 7.4 Entire Agreement. This Agreement including all exhibits hereto contains all of the covenants, conditions, and agreements between the parties and shall supersede all prior correspondence, agreements, and understandings both verbal and written.

No addition or modification of any term or provision shall be effective unless set forth in writing and signed by both Seller and Buyer.

- 7.5 Seller Conversion. Prior to Closing, Seller may convert its form of business entity from a general partnership to a limited liability company (“Newco”) pursuant to California Corporations Code Section 16902. Should Seller elect to convert its form of entity as provided in this Section, Seller shall record against the Property proof of its conversion into Newco with the Records Office of the County of Santa Clara as required by California Corporations Code Section 16907, and provide a copy of this filing to Buyer. Newco shall have the same rights, duties and obligations as the original Seller.
- 7.6 Brokers’ Fees. Buyer represents and warrants to Seller that Buyer has not incurred, and shall not have incurred as of the Closing, any liability for the payment of any brokerage fee or commission in connection with the transaction contemplated in this Agreement, other than to CBRE, INC. (“CBRE”). Buyer shall pay a commission to CBRE at Closing pursuant to the terms of a separate written agreement.
- 7.7 Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of California.
- 7.8 Captions. All captions and headings in this Agreement are for the purposes of reference and convenience and shall not limit or expand the provisions of this Agreement.
- 7.9 Time. Time is of essence of every provision herein contained in this Agreement.
- 7.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all counterparts shall constitute one agreement.
- 7.11 Survival. The terms, covenants and conditions of Articles 5, 6, and 7 shall remain true and correct as of the Closing Date, shall be deemed to be material and shall survive the execution and delivery of this Agreement, the delivery of the Grant Deed, and transfer of title for a period of six (6) months.
- 7.12 Notices. All notices, requests or other communications required or permitted to be given in connection with this Agreement shall be in writing and shall be personally delivered (with prompt confirmation by registered or certified mail, postage prepaid), or by commercial courier service, or by registered or certified mail, postage pre-paid, addressed to the Party whom it is directed at the following addresses, or at such other addresses as may be designated by notice from such Party in the manner provided herein:

To Seller: Dollinger Properties  
Attention: Michael Dollinger  
555 Twin Dolphin Dr. #600  
Redwood City, Ca. 94065  
[mike@dollingerproperties.com](mailto:mike@dollingerproperties.com)

dave@dollingerproperties.com  
Telephone: 650-799-9110

with a copy to:

To Buyer: City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Attn: City Manager  
Telephone:

With a copy to: City of Santa Clara City Attorneys Office  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Attn: City Attorney  
Telephone: (408) 615-2230

Notices which are delivered by hand shall be deemed received upon delivery; notices which are deposited in the United States Mail in accordance with the terms of this Section shall be deemed received three (3) days after the date of mailing and notices delivered by commercial courier service shall be deemed received the date of actual delivery. The foregoing addresses may be changed by notice to the other Party as herein provided.

7.13 1031 Exchange. Buyer agrees to cooperate should Seller elect to sell the Property as part of a like-kind exchange under IRC section 1031 (including a so-called "reverse exchange"). Such cooperation may include the assignment of all or a portion of this Agreement to a qualified 1031 exchange intermediary, and the execution of any documents reasonably necessary to complete the assignment and exchange in accordance with applicable laws and regulations. Seller will provide notice to Buyer of the occurrence of any assignment of this Agreement made in connection with a Section 1031 exchange. Seller agrees that the consummation of this Agreement is not predicated or conditioned upon the completion of any such exchange, Buyer shall not incur any additional liability or financial obligation as a consequence of the Seller's contemplated exchange, nor shall Buyer be obligated to take title to any property other than the Property.

7.14 Michael Dollinger is licensed in the State of California as a licensed Real Estate Broker.

7.15 Limited Liability. Notwithstanding anything to the contrary herein, Buyer on its own behalf and on behalf of its agents, members, partners, employees, representatives, officers, directors, agents, related and affiliated entities, successors and assigns (collectively, the "**Buyer Parties**") hereby agrees that in no event or circumstance shall any of the members, partners, employees, representatives, officers, directors, agents, property management company, affiliated or related entities of any Seller or any property management company

managing the Property, have any personal liability under this Agreement. Notwithstanding anything to the contrary contained herein, Seller on its own behalf and on behalf of its agents, members, partners, employees, representatives, related and affiliated entities, successors and assigns hereby agrees that in no event or circumstance shall any of the Buyer Parties have any personal liability under this Agreement. After the Closing the maximum aggregate liability of Seller, and the maximum aggregate amount which may be awarded to and collected by Buyer (including, without limitation, for any breach of any representation, warranty, indemnity and/or covenant of Seller) under this Agreement or any documents executed pursuant hereto or in connection herewith, including, without limitation, the Exhibits attached hereto (collectively, the "**Other Documents**") shall, under no circumstances whatsoever, exceed five percent (5%) of the Purchase Price (the "**CAP Amount**"); and (ii) no claim by Buyer alleging a breach by Seller of any representation, warranty and/or covenant of Seller contained herein or any of the Other Documents may be made, and Seller shall not be liable for any judgment in any action based upon any such claim, unless and until such claim, either alone or together with any other claims by Buyer alleging a breach by Seller of any such representation, warranty and/or covenant, is for an aggregate amount in excess of Fifty Thousand Dollars (\$50,000.00) (the "**Floor Amount**"), in which event Seller's liability respecting any final judgment concerning such claim or claims shall be for the entire amount thereof, subject to the CAP Amount set forth in clause (i) above; provided, however, that if any such final judgment is for an amount that is less than or equal to the Floor Amount, then Seller shall have no liability with respect thereto. For the avoidance of doubt, any attorneys' fees and costs awarded to Buyer pursuant to the Section above shall be disregarded for purposes of determining whether the CAP Amount has been achieved. Seller agrees that, until the expiration of the survival period (six months), it will not dissolve or wind up its business and it will be maintain unencumbered cash and marketable securities in an aggregate amount not less than the CAP Amount. Notwithstanding any provision of this Agreement to the contrary, after the Closing in no event shall Seller be liable for any consequential damages of Buyer or any punitive or special damages with respect to Seller's obligations under this Agreement, the Other Documents or otherwise with respect to the Property. This Section shall survive any termination of this Agreement and the Closing.

7.16 Professional Fees. In the event of the bringing of any action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other party arising out of this Agreement, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit and any appeals therefrom, and enforcement of any judgment in connection therewith, including reasonable attorneys' fees, accounting and engineering fees, and any other professional fees resulting therefrom. This Section shall survive any termination of this Agreement and the Closing.

7.17 Assignment. Except as provided below, Buyer shall not assign this Agreement or its rights hereunder to any individual or entity without the prior written consent of Seller. Notwithstanding the foregoing, Buyer may assign this

Agreement or its rights hereunder to any entity without the prior written consent of Seller, provided that (i) such assignee is an entity, controlled by or under common control with Buyer, (ii) the assignee shall expressly assume all of Buyer's obligations under this Agreement pursuant to a written agreement, and (iii) Buyer remains primarily responsible for assignee's performance of its obligations under the Agreement notwithstanding the assignment.

**[SIGNATURES ON FOLLOWING PAGE]**



The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**SELLER**

Dollinger-Lafayette Associates,  
a California General Partnership

**BUYER**

City of Santa Clara,  
a municipal corporation

Dollinger Living Trust, a General Partner of  
Dollinger-Lafayette Associates

By: \_\_\_\_\_  
JŌVAN D. GROGAN  
CITY MANAGER

By: \_\_\_\_\_  
Michael Dollinger,  
Title: Trustee of Dollinger Living Trust  
Date: \_\_\_\_\_

Greenberg Family Trust, a General Partner of  
Dollinger-Lafayette Associates

By: \_\_\_\_\_  
Alice G. Stern,  
Title: Trustee of Greenberg Living Trust  
Date: \_\_\_\_\_

APPROVED AS TO FORM

\_\_\_\_\_  
R. GOOGINS  
City Attorney

\_\_\_\_\_ GLEN

## EXHIBIT A – LEGAL DESCRIPTION

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

Beginning at the Northwest corner of the certain parcel of land shown and designated as Parcel "J" upon the Map entitled "Amended Record of Survey of the Lands of Owens Corning Fiberglass Corp., et al, etc.," which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on December 13, 1965 in Book 203 of Maps, at page 24; thence along the Northerly line of said Parcel "J" South 87 deg. 39' 13" East, 120.03 feet to the Northeast corner of said Parcel "J"; thence along the Northerly line of that certain parcel of land described in the Deed to the City of Santa Clara, which Deed was filed for record in the office of the above said Recorder on March 28, 1960 in Book 4742 of Official Records, at page 200, South 89 deg. 07' 32" East, 113.23 feet; thence along a curve to the left with a radius of 50.00 feet, through a central angle of 89 deg 44' 00", an arc distance of 78.31 feet; thence North 1 deg. 07' 59" East, 116.89 feet to a point in the Easterly line of that certain parcel of land described In the Deed to Beneficial Standard Life Insurance Company which Deed was filed for record on September 2, 1960 in Book 4905 of Official Records, at page 650, said point being along the Easterly line of last said parcel of land South 1 deg. 07' 59" West, 89.00 feet from the Northeast corner thereof; thence along a curve to the left, with a radius of 25.00 feet, through a central angle of 90 deg. 00', an arc distance of 39.27 feet to a point in a line which is parallel with the Northerly line of said lands of Beneficial Standard Life Insurance Company and distant Southerly 64.00 feet when measured at right angles therefrom; thence along said parallel line North 88 deg. 52' 01" West, 138.00 feet to a point in the Westerly line of said land of Beneficial Standard Life Insurance Company; thence North 88 deg. 52' 01" West, 20.00 feet; thence along the arc of a curve to the left with a radius of 36.00 feet, through a central angle of 90 deg., an arc distance of 56.55 feet to a point in a line which is parallel with the Westerly line of that certain parcel of land described as Parcel One in the Deed to Jacobsen Enterprises which Deed was filed for record in the office of the above said Recorder on April 30, 1963 in Book 6003 of Official Records at page 473, and distant Easterly 64.00 feet when measured at right angles therefrom; thence along said parallel line South 1 deg. 07' 59" West, 40.89 feet; thence along the arc of a curve to the right with a radius of 87.00 feet, through a central angle of 74 deg. 40' 15", an arc distance of 113.38 feet to a point in said Westerly line of lands of Jacobsen Enterprises, distant thereon North 1 deg. 07' 59" East, 29.08 feet from the Northwest corner of that certain parcel of land shown and designated as Parcel "J" upon the map hereinabove first mentioned; thence along said Westerly line South 1 deg. 07' 59" West, 29.08 feet to the point of beginning.

APN:224-08-109

**EXHIBIT B – FORM OF DEED**

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE  
Exempt from recording fee per Govt. Code §27383

**GRANT DEED**

APN:

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

\_\_\_\_\_, a \_\_\_\_\_

Hereby GRANT(S) TO

**The City of Santa Clara, a California municipal corporation**

That certain property in County of Santa Clara, State of California, more particularly described as in Exhibit A, attached hereto and by this reference incorporated herein.

Dated: \_\_\_\_\_

GRANTOR:

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the deed or grant dated \_\_\_\_\_, 200\_\_, from \_\_\_\_\_, a \_\_\_\_\_, to the City of Santa Clara, a municipal corporation, is hereby accepted by order of the City Council by the undersigned officer or agent on behalf of Council, pursuant to authority conferred by Resolution No. \_\_\_\_\_, of the City of Santa Clara City Council adopted on \_\_\_\_\_, 200\_\_, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_

CITY OF SANTA CLARA

By: \_\_\_\_\_

Its: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## EXHIBIT C

### PROPERTY INFORMATION

TENANT NAME	Suite	Square Footage	Expiration Date
02 Creative	940	1,800	8/31/2025
02 Creative	950	1,530	8/31/2025
ARG Tile / Tile & Stone Central	2900-2920	3,615	5/31/2026
FenzTech dba Livcozy Live Commerce	2902	1,610	MTM
Acharya	2904	1,610	MTM
Acharya	2906	1,610	MTM
Sousa's Garage Doors	2908	1,900	4/30/2025
Acharya	2930	1,700	MTM
Total		15,375	