

INSTALLMENT LAND SALE CONTRACT WITH POWER OF SALE

THIS INSTALLMENT LAND SALE CONTRACT WITH POWER OF SALE ("Agreement"), made and entered into this ____ day of _____, _____, by and between _____ [vendor's name and capacity] ("Vendor"), and _____ [vendee's name and capacity] ("Vendee"), whose address is _____ [address of vendee]; and _____ [trustee's name and capacity] ("Trustee").

Recitals

A. Vendor is now the owner of certain real property situated in the County of _____, State of California, commonly known as _____ [property street address], and described as follows: _____ [attach property description] (the "Property").

B. Vendor has agreed to sell and Vendee has agreed to buy the Property on the terms and conditions hereinafter set forth;

C. Vendor shall retain legal title to the Property as a security interest in the Property until the payment of the balance of the Purchase Price (as hereinafter defined) has been paid by Vendee to Vendor as set forth below.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

Section 1. Purchase Price.

Vendor agrees to sell, and Vendee agrees to buy the Property for the sum of _____ (\$_____) (the "Purchase Price"), lawful money of the United States, as hereinafter more fully set forth.

Section 2. Payment of Purchase Price.

Vendee shall pay the Purchase Price as follows:

(a) Vendee shall pay to Vendor the sum of _____ Dollars (\$_____) (the "Down Payment") as a down payment.

(b) The balance of Purchase Price of _____ (\$_____) shall be paid by Vendee to Vendor with interest at the rate of _____ percent per annum on any balance unpaid. Said sum shall be paid in installments of _____ (\$_____) on the _____ day of each month commencing _____ and continuing thereafter until _____.

Each payment shall be credited first to interest, with the balance to principal. This Agreement will require _____ years and _____ months to complete payment in accordance with its terms. Vendor shall make payment of any installments on existing first, second and/or third deeds of trust in accordance with paragraph (c) below.

Total Monthly payment is to include the following:

Principal and interest \$ _____

Tax and Fire Insurance Impounds \$ _____

Service Charges \$ _____

_____ \$ _____

_____ \$ _____

Total Payment \$ _____

[Optional provision:]

(c) Vendor under this Agreement shall make due and timely payments of installments in the amount of \$_____ principal and interest on the first deed of trust and note in the original amount of \$_____ in favor of _____, current unpaid balance of which is _____ with interest paid to _____.

[Optional provision:]

Vendor under this Agreement shall make due and timely payments of installments in the amount of \$_____ principal and interest on the second deed of trust and note in the original amount of \$_____ in favor of _____, the current unpaid balance of which is _____ with interest paid to _____.

Vendor hereby indemnifies and agrees to save Vendee harmless from any default in connection with the obligation or obligations secured by the above first or second deeds of trust. In the event any such installment payments on the obligations secured by said deeds of trust shall be in default, Vendee under this Agreement may make payments thereof at its option and credit such payments to the obligation herein secured. In the event Vendee makes a payment upon the deeds of trust that is in excess of the amount required to be made under this Agreement, such excess shall be credited on the next installment or installment payments that may become due under this contract, and Vendee shall not be required to pay such excess in addition to the regular payment of monthly installments under this Agreement.

(d) Upon recordation of this Agreement, Vendor and Vendee will obtain policies of title insurance from _____, with cost to be borne by _____.

(e) The basis upon which the tax estimates in this Agreement are made is the tax billed for the fiscal year.

(f) At any time after the calendar year in which this Agreement is recorded, Vendee may prepay without penalty all or any portion of the balance due Vendor or due on any other encumbrance on the property when the terms of such encumbrance so provides. In such event any payments made by Vendee shall be credited against the balance of the obligation owed by Vendee to Vendor as set forth in (c) above. Any prepayment penalty shall be paid by Vendee and shall not reduce the balance owed to Vendor.

Section 3. Appointment and Powers of Trustee.

Upon recordation of this Agreement, Vendor and Vendee irrevocably grant, transfer, and assign their respective rights, titles, and interests to the Property herein to Trustee in trust for purposes of securing Vendor's and Vendee's obligations herein, and confer upon Trustee the following powers:

(a) Power to convey to Vendee legal title upon full satisfaction of Vendee's obligation to Vendor, upon instructions from Vendor or his or her successor in interest.

(b) power to foreclose under power of sale below, and issue a deed upon foreclosure and sale. Said deed shall convey title without covenant or warranty, expressed or implied, and any recitals contained therein of any matters or facts shall constitute proof of the truthfulness thereof. Any person, including Vendor, Vendee or Trustee may purchase at such sale. The parties do not intend hereby to alter in any manner their rights as Vendor or Vendee, but rather to vest the Trustee with title so as to create powers coupled with an interest, and Vendor and Vendee shall retain the rights and obligations imposed upon them by California Civil Code Section 2985 and all other applicable laws and statutes.

Section 4. Possession.

Vendee shall be entitled to possession of the Property upon recordation of this Agreement. Vendor's interest in the Property is security for payment of balance owed Vendor, and for performance of all terms and conditions to be performed by Vendee hereunder.

When the vendee receives possession, it is not required to occupy the property physically and it can rent the property to a tenant. When the vendee is given possession under certain specified conditions that restrict his or her use of the property, a violation of these restrictive conditions may permit the vendor to rescind the agreement. Even when the vendee is not given possession of the property by the terms of the agreement, the vendor must be able to

place the vendee in physical possession of the property when the vendor's obligation to convey title arises.

The vendee in possession has the obligation to maintain the property, regardless of any express covenant in the contract. The vendee in possession has the same duty to avoid waste to the property that a beneficiary under a deed of trust, a life tenant, or a tenant in possession would have. The vendor can enjoin the commission of waste, but since the contract of sale has the same attributes of a security instrument as a deed of trust, the vendor may not be able to terminate the contract unless the value of the property becomes insufficient to secure the balance due on the contract, and it may not be able to recover damages unless the vendee's waste is in "bad faith."

Section 5. Assignment of Rents.

Vendee hereby absolutely and irrevocably assigns to and confers upon Vendor the right, power and authority, during the continuance of this Agreement, to collect the rents, issues, and profits of the Property, reserving unto Vendee a license, prior to any default by Vendee in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues, and profits as they become due and payable. Upon any such default, Vendor may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, sue in its own name for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney fees, upon any indebtedness secured hereby, and in such order as Vendor may determine. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, and the application thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

Section 6. Beneficiary Statement.

On the written demand of the Vendee or authorized agent, made at any time before, or within two months after, the recording of a notice of default under this contract, if the power of sale herein is to be exercised, or otherwise made more than thirty (30) days prior to entry of the decree of foreclosure, and upon the payment of \$15 or such other amount authorized by law, Vendor or its authorized agent shall prepare and deliver to the person demanding it a written statement showing:

- (a) the amount of the unpaid balance of the obligation secured by this Agreement and the interest rate together with the total amounts, if any, of all overdue installments of either principal or interest, or both;
- (b) the amounts of periodic payments hereunder, if any;
- (c) the date on which the obligation is due in whole or in part;
- (d) the date on which real estate taxes and special assessments have been paid, to the extent such information is known to Vendor;
- (e) the amount of hazard insurance in effect and the term and premium of such insurance, to the extent such information is known to Vendor;
- (f) the amount in an account, if any, maintained for the accumulation of funds with which to pay taxes and insurance premiums; and
- (g) the nature, and if known, the amount of any additional charges, costs, or expenses paid or incurred by Vendor that have become a lien on the Property as part of the obligation secured hereby.

Section 7. Power of Sale.

(a) If Vendor elects to foreclose by exercise of the power of sale in this Agreement, Vendor will also deposit with Trustee this Agreement and any receipts and evidence of expenditures made and secured as Trustee may require. If notice of default has been given as then required by law, and after lapse of the time that may then be required by law, after recordation of the notice of default, Trustee, without demand on Vendee, will, after notice of sale having been given as required by law, sell the Property at the time and place of sale fixed by it in the notice of sale, either as a whole or in separate parcels as Trustee determines, and in any order that it may determine, at public auction to the highest bidder. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time after that may postpone the sale by public announcement at the time fixed by the preceding postponement, and without further notice make the sale at the time fixed by the last postponement; or Trustee may, in its discretion, give a new notice of

sale. Vendor may rescind any notice of default at any time before Trustee's sale by executing a notice of rescission and recording it. The recordation of the notice will constitute a cancellation of any prior declaration of default and demand for sale and of any acceleration of maturity of amounts owing hereunder affected by any prior declaration or notice of default. The exercise by Vendor of the right of rescission will not constitute a waiver of any default then existing or subsequently occurring, or impair the right of Vendor to execute other declarations of default and demand for sale, or notices of default and of election to cause the Property to be sold, nor otherwise affect this Agreement, or any of the rights, obligations, or remedies of Vendor or Trustee. After sale, Trustee will deliver to the purchaser its deed conveying the property sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts will be conclusive proof of their truthfulness. Any person, including Vendee, Trustee, or Vendor, may purchase at that sale. If allowed by law, Vendor, if it is the purchaser at such sale, may credit the amount owing under this Agreement toward payment of the purchase price (or for endorsement of the purchase price as a payment hereunder if the amount owing exceeds the purchase price). Vendee expressly waives any right of redemption after sale that Vendee may have at the time of sale or that may apply to the sale.

(b) Trustee, upon the sale, will make (without any covenant or warranty, express or implied), execute and, after due payment made, deliver to a purchaser and its heirs or assigns a deed or other record of interest, as the case may be, to the Property sold, which will convey to the purchaser all the title and interest of Vendee in the Property and will apply the proceeds of the sale in payment:

(i) first, of the expenses of the sale together with the expenses of the trust, including, without limitation, attorney fees, that will become due on any default made by Vendee, and also any sums that Trustee or Vendor have paid for procuring a search of the title to the Property subsequent to the execution of this Agreement; and

(ii) second, in payment of the amounts then remaining unpaid hereunder, and the amount of all other monies with interest in this Agreement agreed or provided to be paid by Vendee.

Trustee will pay the balance or surplus of the proceeds of sale to Vendee and its successors or assigns as its interests may appear.

Section 8. Substitution of Trustees.

Vendor, or any successor in ownership of any indebtedness secured hereby, may from time to time, by written instrument, substitute a successor or successors to any trustee named herein or acting hereunder, which instrument, executed by the Vendor and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor trustee or trustees, who shall, without conveyance from the predecessor trustee, succeed to all its title, estate, rights, powers, and duties. Said instrument must contain the name of the original Vendee, Trustee, and Vendor hereunder, the book and page where this Agreement is recorded, and the name and address of the new trustee.

Section 9. Amendment of Power of Sale.

In the event any changes, amendments, or modifications are enacted to the Civil Code or other codes of the State of California affecting foreclosures under power of sale, trustee powers or other matters contained in this Agreement, the provisions hereinabove shall be deemed amended in conformity with such new legislation upon its effective date. Pertinent legislation includes, but is not limited to, Division III, Part Four, Title XIV, Chapter 2 of the California Civil Code.

Section 10. Defense of Actions.

Vendee shall appear and defend Vendor or trustee in any action or proceeding brought against Vendor or trustee by a third person arising by reason of the relationship between the parties herein created by this contract or purporting to affect the security or rights of the Vendor or trustee, and to pay all costs and expenses, including reasonable attorney fees in any such action or proceeding in which Vendor or trustee may appear. If Vendee shall fail to appear and defend Vendor or trustee, any expense, including reasonable attorney fees, incurred by Vendor or trustee in their own defense or in the defense of each other, shall be added to the balance due under this agreement and shall bear interest at the rate provided for in Section 2(b) above or at the maximum interest rate allowed by law, whichever is greater, until the same has been paid in full.

Section 11. Delivery of Grant Deed upon Vendee's Performance.

Trustee or Vendor shall deliver to Vendee a grant deed of the above real property as hereinabove provided for, at such time as Vendee has paid so Vendor, as hereinabove provided, the entire balance due directly to Vendor under the provisions of Section 2(b) above.

Section 12. Taxes.

Vendee hereby assumes and agrees to pay before delinquency any and all taxes and assessments hereafter falling due on the Property. If Vendee shall fail to pay any of said taxes or assessments on or before the due date thereof, Vendor may at its option declare a default under this Agreement or may pay said taxes and assessments and add any amounts so paid to the balance due Vendor under the terms of this Agreement. Any sums so paid by Vendor and added to the balance due under this Agreement shall bear interest at the rate provided for herein or the maximum interest rate provided by law, whichever is greater, until the same has been paid in full.

Section 13. Insurance.

(a) Vendee further agrees that from and after the date of this Agreement, and until such time as all balances due to Vendor have been paid, Vendee shall obtain and keep in force at all times, at Vendee's sole expense, the following insurance:

(i) Casualty Insurance. Casualty insurance insuring the Property against fire, and extended coverage (including "all risk" coverage, earthquake and volcanic-action insurance, and flood and surface water insurance, if applicable) for the full replacement cost of the improvements constructed on the Property, with deductibles and the form and endorsements of the coverage as selected by Vendor.

(ii) General Liability Insurance. A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than _____ Dollars (\$_____) per occurrence and _____ Dollars (\$_____) in the aggregate, providing coverage for, among other things, blanket contractual liability, premises, products and completed operations, and personal and advertising injury coverage.

(iii) Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance having limits not less than those required by state statute and federal statute, if applicable, and covering all persons employed by Vendee in the conduct of Vendee's operations on the Property. This must include the all-states endorsement and, if applicable, the volunteer's endorsement, together with employer's liability insurance coverage in the amount of at least _____ Dollars (\$_____).

(iv) Personal Property Insurance. "All risk" property insurance, including boiler and machinery comprehensive form, if applicable, covering damage to or loss of any equipment of Vendee and coverage for the full replacement cost, including electronic data processing equipment, and coverage for the full replacement cost of the equipment, including business interruption of Vendee. If the property of Vendee's invitees is to be kept on the Property, the insurance should include warehouse's legal liability or bailee customers' insurance for the full replacement cost of the property belonging to invitees and located on the Property.

(b) General Insurance Provisions.

(i) Insurance Companies. Insurance required to be maintained by Vendee shall be written by companies licensed to do business in the state in which the Property is located and having a "General Policyholders Rating" of at least A, or a higher rating if required by a lender having a lien on the Property, as set forth in the most current issue of "Best's Insurance Guide."

(ii) Certificates of Insurance. Vendee shall deliver to Vendor certificates of insurance for all insurance required to be maintained by Vendee prior to the date Vendee takes possession of the Property. Vendee, at least ten (10) days prior to expiration of the policy, shall furnish Vendor with certificates of renewal or "binders." Each certificate will expressly provide that the policies are not cancelable or otherwise subject to modification except after thirty (30) days' prior written notice to the parties named as additional insureds in this Agreement. However, the certificate will further provide that in the case of cancellation for nonpayment of premium, the cancellation will not take effect until at least (10) days' notice has been given to Vendor. If Vendee fails to maintain any insurance required in this Agreement, Vendee shall be liable for all losses and costs resulting from that failure; Vendor shall have the right, but not the obligation, to obtain insurance on behalf of Vendee, and Vendee shall immediately on demand pay Vendor the premiums on the insurance; and Vendor may declare a default under this Agreement. In the event Vendee promptly fails to

pay Vendor the premiums on insurance procured by it pursuant to this section, Vendor may add to the balance due under this Agreement the amount of any premium thereof. Such added sum shall bear interest at the rate provided for herein or the maximum interest rate provided by law, whichever is greater, until the same has been paid in full.

(iii) Additional Insureds. Vendor must be named as an additional insured under all of the policies required by Section 13(a). The policies required under Section 13(a)(ii) must provide for severability of interest.

(iv) Primary Coverage. All insurance to be maintained by Vendee must, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance of Vendor. Any umbrella liability policy or excess liability policy must provide primary insurance. The limits of insurance maintained by Vendee will not limit Vendee's liability under this Agreement.

(v) Waiver of Subrogation. Vendee waives any right to recover against Vendor for damages to the Property. This fully waives, for the benefit of Vendor, any rights and claims that might give rise to a right of subrogation in favor of any insurance carrier. The coverage obtained by Vendee pursuant to this Agreement must include, without limitation, a waiver of subrogation endorsement attached to the certificate of insurance.

(c) Indemnification. Vendor shall not be liable for any loss or damage to person or property caused by theft, fire, acts of God, acts of a public enemy, riot, strike, insurrection, war, court order, requisition, or order of government body or authority, or for any damage or inconvenience that may arise through repair or alteration of any part of the Property or failure to make any repair. Vendee shall indemnify and defend Vendor, by counsel acceptable to Vendor, against any liabilities, including reasonable attorney fees and court costs, arising out of or relating to the following:

(i) claims of injury to or death of persons or damage to property occurring or resulting directly or indirectly from the use or occupancy of the Property, or from activities of Vendee, Vendee's invitees, or anyone on or about the Property, or from any other cause;

(ii) claims for work or labor performed, or for materials or supplies furnished to or at the request of Vendee in connection with performance of any work done for the account of Vendee on or about the Property; and

(iii) claims arising from any breach or default on the part of Vendee in the performance of any covenant contained in this Agreement.

The provisions of this Section 13(c) will survive the termination of this Agreement with respect to any claims or liability occurring prior to the termination.

[Optional Provision:]

(d) Self-insurance. Vendee shall have the right to self-insure with respect to the coverage required of Vendee under Section 13(a). This is provided, however, that Vendee's net worth during the period of self-insurance is not less than _____ Dollars (\$_____). Prior to electing to self-insure, Vendee must give Vendor thirty (30) days' prior written notice of Vendee's intention to do so, and must include in the notice Vendee's most recent audited financial statement evidencing Vendee's net worth. So long as Vendee self-insures, Vendee's net worth must not be less than _____ Dollars (\$_____) and Vendee must deliver proof of that net worth in the manner provided above on an annual basis within ninety (90) days after the end of Vendee's fiscal year.

Section 14. Maintenance.

Vendee further agrees, until the Purchase Price hereof has been paid, that it will maintain all buildings and improvements now or hereafter placed on the Property in a good and habitable state of repair to maintain the value thereof and to pay when due all claims for labor performed and materials furnished therefor.

Section 15. Risk of Loss.

After Vendee takes possession of the Property under the provisions of this Agreement, Vendee assumes all hazards of damage to or destruction of any improvements now on the Property or hereafter placed thereon and of the taking of the Property, or any part thereof, for public use; and agrees that no such damage, destruction, or taking shall constitute a failure of consideration under this Agreement. In case any part of the Property is taken for public

use, the portion of the condemnation award remaining after payment of reasonable expenses of procuring the same shall be paid to Vendor and applied as payment on the Purchase Price or by payment to the beneficiary of a prior encumbrance as required by the terms of said encumbrance, unless said beneficiary and Vendor elect to allow Vendee to apply all or a portion of such condemnation award to the rebuilding or restoration of any improvements damaged by such taking. In case of damage or destruction from a peril insured against, the proceeds of such insurance remaining after payment of the reasonable expenses of procuring the same shall be devoted to the restoration or rebuilding of such improvements within a reasonable time, unless Vendee elects that said proceeds shall be paid to Vendor or prior encumbrancer.

Section 16. Environmental Provisions.

(a) Definitions. As used in this Section, the following terms have the following definitions:

"Agencies" means any federal, state, or local governmental authorities, agencies, or other administrative bodies with jurisdiction over Vendee or the Property.

"Environmental Laws" means any federal, state, or local environmental, health, or safety-related laws, regulations, standards, court decisions, ordinances, rules, codes, orders, decrees, directives, guidelines, permits, or permit conditions, currently existing and as amended, enacted, issued, or adopted in the future that are or become applicable to Vendee or the Property.

"Existing Environmental Conditions" means the conditions disclosed in the report dated _____[date], prepared for _____[Vendee or Vendor] by _____[environmental consultant's name], a copy of which is attached hereto and incorporated as Exhibit _____.

"Hazardous Material" means any chemical, substance, material, controlled substance, object, condition, waste, living organism, or combination that is or may be hazardous to human health or to the safety of the environment due to its radioactivity, flammability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, mutagenicity, phytotoxicity, infectiousness, or other harmful or potentially harmful properties or effects, including, without limitation, petroleum and petroleum products, asbestos, radon, polychlorinated biphenyls (PCBs) and all of those chemicals, substances, materials, controlled substances, objects, conditions, wastes, living organisms, or combinations that are now or become in the future listed, defined, or regulated in any manner by any Environmental Law based upon, directly or indirectly, their properties or effects.

"Vendee's Parties" means Vendee's employees, agents, customers, visitors, invitees, licensees, contractors or designees.

(b) Use of Hazardous Materials. Vendee shall not use or allow the use of the Property in a manner that may cause "Hazardous Materials" to be released or to become present on, under, or about the Property or other properties in the vicinity of the Property.

(c) Environmental Compliance.

(i) Vendee and Vendee's Parties will not, at any time during which amounts remain outstanding hereunder, cause or permit any Hazardous Materials to be brought upon, stored, manufactured, generated, blended, handled, recycled, treated, disposed, or used on, under, or about the Property for any purpose, except as specifically approved in writing by Vendor ("Permitted Hazardous Materials").

(ii) At any time during which amounts remain outstanding hereunder, Vendee shall take reasonable steps to protect against intentional or negligent acts or omissions of third parties that might result directly or indirectly in the release, disposal, or other placement of Hazardous Materials on or under the Property.

(iii) No asbestos-containing materials shall be manufactured or installed for any purposes on or as part of the Property, whether as part of Vendee's or Vendee's Parties' business operations or as Vendee improvements, unless approved in advance in writing by Vendor.

(iv) Vendee shall keep, operate, and maintain the Property in compliance with all, and shall not cause or permit the Property to be in violation of any, Environmental Laws.

(d) Underground Storage Tanks. Neither Vendee nor any of Vendee's Parties shall install or use any underground storage tanks on the Property unless specifically approved in advance in writing by Vendor, which approval may be withheld in Vendor's sole discretion. If Vendor approves Vendee's installation or use of underground storage tanks, Vendee shall be responsible for compliance with all applicable requirements and Environmental Laws, including, but not limited to, financial assurance requirements, and must furnish evidence satisfactory to Vendor of that compliance. Vendee shall also test the soil for settling and conduct appropriate tests of the tank and associated piping and equipment at the time of installation to assure that the tank has been properly installed.

(e) Notification.

(i) Vendee shall give immediate written notice to Vendor of (A) any enforcement, remediation, or other regulatory action or order, taken or threatened, by any Agency regarding, or in connection with, the presence, release, or threat of release of any Hazardous Material on, under, about, or from the Property, or any tanks on the Property, or otherwise resulting from Vendee's use of the Property; (B) all demands or claims made or threatened by any third party against Vendee or Vendee's Parties or the Property relating to any liability, loss, damage, or injury resulting from the presence, release, or threat of release of any Hazardous Materials on, under, about, or from the Property or otherwise resulting from Vendee's use of the Property; (C) any significant spill, release, or discharge of a Hazardous Material on, under, about, or from the Property, including, without limitation, any spill, release, or discharge required to be reported to any Agency under applicable Environmental Laws; and (D) all incidents or matters for which Vendee and Vendee's Parties are required to give notice to any Agency pursuant to applicable Environmental Laws.

(ii) Vendee shall promptly provide to Vendor copies of all materials, reports, technical data, Agency inspection reports, notices and correspondence, and other information or documents relating to incidents or matters subject to notification under Section 16(e)(i). Also, Vendee shall promptly furnish to Vendor copies of all permits, approvals, and registrations Vendee receives or submits with respect to Vendee's operations on the Property, including, without limitation, any underground storage tank registrations, installation permits, and closure permits.

(f) Remediation.

(i) If any Hazardous Materials are released or found on, under, or about the Property arising out of Vendee's or Vendee's Parties' activities, or failure to act where Vendee had a duty to act, in connection with the Property, Vendee must promptly take all actions, at Vendee's sole expense, necessary to investigate and remediate the release or presence of Hazardous Materials on, under, or about the Property in accordance with Environmental Laws and the requirements of all Agencies. However, unless an emergency situation that requires immediate action exists, Vendor's written approval of these actions will be obtained first, and the approval will not be unreasonably withheld. Vendor's right of prior approval of these actions includes, but is not limited to, the selection of any environmental consultant to perform work on or related to the Property, the scope of work, and sampling activities to be performed by the consultant before the report is final. Vendee will provide Vendor with at least three (3) business days' advance notice of any sampling, and upon request of Vendor, will split samples with Vendor. Vendee will also promptly provide Vendor with the results of any test, investigation, or inquiry conducted by or on behalf of Vendee or Vendee's Parties in connection with the presence or suspected presence of Hazardous Materials on, under, about, or from the Property. Vendee shall notify Vendor in advance and give Vendor the right to participate in any oral or written communications with regulatory agencies concerning environmental conditions on or arising from the Property. Vendor has the right, but not the obligation, to assume control of any required remediation on the Property at Vendee's expense if Vendee fails to notify Vendor and obtain Vendor's approvals as required under this Section 16(f). Within thirty (30) days after Vendee's completion of any remediation of the Property, Vendee must deliver to Vendor a letter from the applicable Agency stating that the remediation was undertaken in accordance with all applicable Environmental Laws and that any residual contamination remaining after the remediation does not pose a threat to human health or the environment.

(ii) If Vendee or Vendee's Parties have caused or permitted a release of Hazardous Materials that results in or threatens to result in Hazardous Materials becoming present on, under, or about the Property, threatens public health or safety or the environment, or is in noncompliance with any applicable Environmental Laws or requirements of this Section 16, Vendor may demand that Vendee promptly take action in accordance with Section 16(f)(i). If Vendee does not respond within thirty (30) days (unless there is an emergency, in which case Vendee must respond as soon as practicable, but not less than three (3) days), Vendor has the right, but not the obligation, to enter onto the Property and take all actions reasonably necessary to investigate and fully remediate the release or noncompliance at Vendee's sole expense. Any sums thus expended will be immediately due and payable upon receipt of an invoice and will constitute additional amounts due under this Agreement.

(g) Liability.

(i) Vendee's Indemnification of Vendor. Vendee will indemnify, protect, defend, and hold harmless Vendor and Vendor's partners, directors, officers, employees, shareholders, lenders, agents, contractors, and each of their respective successors and assigns (individually and collectively, "Vendor Indemnitees") from all claims, judgments, causes of action, damages, penalties, fines, taxes, costs, liabilities, losses, and expenses arising (directly or indirectly) as a result of or in connection with Vendee's or Vendee's Parties'

breach of any prohibition or provision of this Section 16, or the presence of any Hazardous Materials on or under the Property during any period in which any amount is owed by Vendee hereunder or any Hazardous Materials that migrate from the Property to other properties, as a result (directly or indirectly) of Vendee's or Vendee's Parties' activities, or failure to act when Vendee had a duty to act, on or in connection with the Property. This obligation by Vendee to indemnify, protect, defend, and hold harmless Vendor Indemnitees includes, without limitation, costs and expenses incurred for or in connection with any investigation, cleanup, remediation, monitoring, removal, restoration, or closure work required by the Agencies because of any Hazardous Materials present on, under, or about the Property; the costs and expenses of restoring, replacing, or acquiring the equivalent of damaged natural resources if required under any Environmental Law; all foreseeable consequential damages; all reasonable damages for the loss or restriction on use of rentable or usable space or of any amenity of the Property; all reasonable sums paid in settlement of claims; reasonable attorney fees; litigation, arbitration, and administrative proceeding costs; and reasonable expert, consultant, and laboratory fees. Neither the written consent of Vendor to the presence of Hazardous Materials on or under the Property, nor the strict compliance by Vendee with all Environmental Laws, will excuse Vendee from the indemnification obligation. This indemnity will survive the satisfaction or termination of this Agreement. Further, if Vendor detects a deficiency in Vendee's performance under this indemnity and Vendee fails to correct the deficiency within ten (10) days after receipt of written notice from Vendor, Vendor has the right to join and participate in any legal proceedings or actions affecting the Property that are initiated in connection with any Environmental Laws. However, if the correction of the deficiency will take longer than ten (10) days, Vendor may join and participate if Vendee fails to commence corrective action within the ten (10)-day period, or, having commenced the corrective within the ten-day period, fails thereafter to diligently complete it.

[Optional Provision:]

(ii) Vendor's Indemnification of Vendee. Vendor will indemnify, protect, defend, and hold harmless Vendee and Vendee's partners, directors, officers, employees, shareholders, lenders, agents, contractors, and each of their respective successors and assigns (individually and collectively, "Vendee Indemnitees") against all claims, judgments, causes of action, damages, penalties, fines, taxes, costs, liabilities, losses, and expenses arising as a result (directly or indirectly) of or in connection with (1) any Existing Environmental Condition, (2) the presence of any Hazardous Materials on the Property during any period in which any amount is owed by Vendee to Vendor hereunder, (3) the presence of or any Hazardous Materials that migrate from the Property to other properties as a result (directly or indirectly) of Vendor's or Vendor's Parties' activities, or failure to act when Vendor had a duty to act, on or in connection with the Property. This obligation by Vendor to indemnify, protect, defend, and hold harmless Vendee Indemnitees includes, without limitation, costs and expenses incurred for or in connection with any investigation, cleanup, remediation, monitoring, removal, restoration, or closure work required by the Agencies because of any Hazardous Materials present on the property; the costs and expenses of restoring, replacing, or acquiring the equivalent of damaged natural resources if required under any Environmental Law; all foreseeable consequential damages; all reasonable damages for the loss or restriction on use of rentable or usable space or of any amenity of the Property; all reasonable sums paid in settlement of claims; reasonable attorney fees; litigation, arbitration, and administrative proceeding costs; and reasonable expert, consultant, and laboratory fees. The strict compliance by Vendor with all Environmental Laws will not excuse Vendor from the indemnification obligation. This indemnity will survive the satisfaction or termination of this Agreement. If Vendee detects a deficiency in Vendor's performance under this indemnity and Vendor fails to correct the deficiency within ten (10) days after receipt of written notice from Vendee, Vendee will have the right to join and participate in any legal proceedings or actions affecting the Property initiated in connection with any Environmental Laws. However, if the correction of the deficiency will take longer than ten (10) days, Vendor may join and participate if Vendee fails to commence corrective action within the ten (10)-day period, or, having commenced the corrective within the ten-day period, fails thereafter to diligently complete it.

(h) Vendee's Release of Vendor. Vendee, on behalf of Vendee and Vendee's successors, assigns, and successors-in-interest, waives, releases, remises, acquits, and discharges Vendor Indemnitees from all claims, actions, causes of actions, demands, rights, damages, costs, expenses, or compensation, direct or indirect, known or unknown, foreseen or unforeseen, that Vendee now has or that may arise in the future on account of the physical condition of the real property; the Environmental Laws, including, but not limited to, the

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C.A. § § 9601 et seq., or their application to the Property; or the existence or condition of any fill, excavation, or filled ground on the real property that may affect the use, maintenance, monitoring, or otherwise of any underground storage tanks or related equipment installed by Vendee or Vendee's Parties. Also, Vendee waives the benefit of Civil Code § 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Vendee's release of Vendor does not apply to any Existing Environmental Condition or the presence of Hazardous Materials on the Property during any period in which any amount is owed by Vendee to Vendor hereunder as a result of the conduct or activities of Vendor, nor will Vendee's release of Vendor affect Vendee's discovery rights against Vendor in connection with any action brought by a third party.

Section 17. Time.

Time is of the essence of this Agreement.

Section 18. Attorney Fees.

If any party to this Agreement or any assignee of any party hereunder shall bring an action in any court of competent jurisdiction to enforce any covenant of this Agreement, including any action to collect any payment required hereunder, or to quiet his or her title against the other party to this Agreement, it is hereby mutually agreed that the prevailing party shall be entitled to reasonable attorney fees and all costs and expenses in connection with said action, which sums shall be included in any judgment or decree entered in such action in favor of the prevailing party.

Section 19. Assignment of Agreement.

Vendee shall not transfer, sell, or assign its interest in the real property unless such transfer, sale or assignment may be consummated without acceleration of any senior encumbrance on the Property. In the event of an acceleration of any senior encumbrance (by reason of a transfer sale or assignment by Vendee) the total amount of unpaid principal and interest due under this contract shall be immediately due and payable to Vendor in order to protect Vendor against the loss of its security interest herein.

Section 20. Request for Notice of Default.

In accordance with Section 2924b of the Civil Code, request is hereby made by the undersigned Vendor and Vendee that a copy of any Notice of Default and a copy of any Notice of Sale under Deed of Trust recorded _____ in Book _____, Page _____, Official Records of _____ County, California, as affecting above described property, executed by _____ as Trustor, in which _____ is named as beneficiary and _____ as Trustee, be mailed to Vendor and Vendee at the addresses set forth herein.

Section 21. Notices and Request for Notice.

Notices required or permitted under this agreement shall be binding if delivered personally to the party sought to be served or if mailed by registered or certified mail, postage prepaid in the United States mail, to the following:

Vendor and Vendee hereby request that notice of default and notice of sale hereunder be mailed to them at the above address.

Section 22. Binding Effect.

This agreement binds the parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns.

Section 23. Construction.

All words used in this agreement, including the words "Vendor" and "Vendee," shall be construed to include the plural as well as the singular number, and words used herein in the present tense shall include the future as well as the present, and words used in the masculine gender shall include the feminine and neuter gender.

WARNING: THE PARTIES HERETO ARE CAUTIONED THAT, BY COMPLETING AND EXECUTING THIS AGREEMENT, LEGAL RIGHTS AND DUTIES ARE CREATED. THEY ARE ADVISED TO SEEK INDEPENDENT LEGAL COUNSEL AS TO ALL MATTERS CONTAINED IN THIS DOCUMENT.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement as of the date first above written.
* * *

Trustee hereby acknowledges and accepts the powers hereinabove conferred, and agrees to act in accordance with the terms and conditions of this Agreement.

By _____

[name and capacity of trustee]