

PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

This PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "Agreement") is dated as of March 28, 2024 (the "Execution Date") and is entered into by and between Glen M. Kammerer and Sherill R. Kammerer, ("SELLER") and CITY OF PALM DESERT, a California charter city ("BUYER").

RECITALS

A. The SELLER is the owner of the fee simple interest in that certain property referenced as Assessor's Parcel No. 637-300-023 in the City of Palm Desert consisting of five (1) parcels of land totaling approximately 1.01 acres in total size (the "Property"), as described on Exhibit "A," attached hereto and made a part hereof by this reference.

B. SELLER and BUYER agree that the purchase price is Four Hundred Fifty Three Thousand and 00/100 Dollars (\$453,000.00) available immediately at close of escrow, and BUYER agrees to the purchase of the property "**AS-IS**", except as specifically provided in this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the SELLER and BUYER hereto agree as follows:

Section 1. Recitals.

The recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. Purchase and Sale of Property.

Subject to all of the terms, conditions, and provisions of this Agreement and for the consideration set forth below, SELLER hereby agrees to sell, convey, and transfer to BUYER and BUYER hereby agrees to acquire all of the right, title, and interest of SELLER in and to the Property.

The Property will be conveyed to BUYER when the Purchase Price is paid in full in accordance with this Agreement.

Section 3. Consideration.

The total consideration to be paid by BUYER for the acquisition of the Property shall be FOUR HUNDRED FIFTY THREE THOUSAND AND 00/100 Dollars (\$453,000.00) (the "Purchase Price"). The Purchase Price shall be payable by BUYER to SELLER in accordance with the following terms and conditions:

(a) Initial Deposit. Within three (3) Business Days following the Opening of Escrow (as defined below), Buyer shall deposit into Escrow (as defined below) the sum of Twenty-Two Thousand, Five Hundred Dollars (\$22,500.00), in the form of cash, which amount shall serve as an earnest money deposit ("Earnest Money Deposit" or "Deposit").

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(b) Closing Deposit. The Purchase Price, less the Earnest Money Deposit (“Closing Deposit”), shall be paid by Buyer to Escrow Agent, in the form of Cash, pursuant to Section 6.

(c) Notwithstanding anything herein to the contrary, One Hundred Dollars (\$100.00) of the Earnest Money Deposit (the "Independent Consideration") shall not be refundable to BUYER, but shall represent consideration for this Agreement and shall be paid to SELLER. The Independent Consideration shall be paid to SELLER upon Closing or upon termination of this Agreement. The Independent Consideration shall serve as consideration for the granting of the time periods herein contained for BUYER to exercise BUYER's right to satisfy and approve all of BUYER's conditions herein contained and shall not be applied toward the Purchase Price.

(d) If directed by BUYER, the Deposit will be invested by Escrow Holder in an interest-bearing account at a financial institution acceptable to BUYER and SELLER, and all such interest shall accrue to the benefit of BUYER and be deemed part of the Deposit.

Section 4. Opening of Escrow.

(a) The transfer and sale of the Property shall take place through escrow (the “Escrow”), and such Escrow shall be administered by Alissa Vatter of Fidelity National Title (or Seller’s Choice – Please indicate if so). The Escrow for the Property shall be deemed open (“Opening of Escrow”) upon the receipt by the Escrow Holder of a copy of this Agreement executed by SELLER and BUYER. The date of Opening of Escrow shall be memorialized by Escrow Holder in writing delivered to the parties.

(c) If this Agreement is terminated or Escrow is cancelled as a result of a default by SELLER, then SELLER shall be solely responsible to the Escrow Holder for payment of all customary and reasonable escrow cancellation charges to the Escrow Holder without further or separate instruction to the Escrow Holder. If this Agreement is terminated or Escrow is cancelled for any reason other than SELLER’s default, then BUYER shall be solely responsible for the payment of all customary and reasonable escrow cancellation charges to the Escrow Holder without further or separate instruction to the Escrow Holder.

Section 5. Due Diligence Period.

(a) As used in this Agreement, the term “Due Diligence Period” shall refer to a period of time to expire at 5:00 p.m., Pacific Time, on the date which is sixty (60) days from the Opening of Escrow to allow the BUYER the opportunity to investigate the condition and suitability of the Property for BUYER’s intended use. In the event BUYER finds the Property unsatisfactory for any reason, at its sole discretion, BUYER shall notify SELLER and Escrow Holder in writing prior to the expiration of the Due Diligence Period and, thereafter, SELLER and BUYER shall have no further obligation to each other, Escrow shall be cancelled and this Agreement shall automatically terminate on the date of such election and the parties shall each be relieved and discharged from all further responsibility or liability under this Agreement and BUYER’s failure to give written notice of termination to SELLER on or before the expiration of the Due Diligence Period shall constitute an election by BUYER to waive the termination right contemplated under this Section 5 and proceed with this Agreement, subject to all the other terms and conditions of this Agreement.

(b) SELLER hereby grants to BUYER for use by BUYER and its officers, directors, employees, agents, representatives, tenants, prospective tenants, contractors, and other persons accessing the Property by, through or with the permission or under the direction or auspices of BUYER, a limited and revocable license to enter upon the Property for purposes of (a) conducting BUYER’s due diligence inspection and/or (b) obtaining data and making surveys and tests, determined reasonably necessary by BUYER to permit it to determine the physical condition of the Property and any hazardous substances located thereon and to determine the suitability of the Property for BUYER’s purposes, provided that, BUYER shall (i) give the


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SELLER forty eight (48) hours telephonic, electronic mail or written notice of any intended access which involves work on the Property; and (ii) conduct no Invasive Investigations without the written consent of the SELLER. In this regard, the term “**Invasive Investigations**” means and refers to environmental testing, sampling, invasive testing, or boring into the soils. If BUYER desires to conduct any Invasive Investigations, it will first provide SELLER with a written statement describing the scope of any such Invasive Investigations. SELLER will not unreasonably withhold, condition, or delay its consent to any such Invasive Investigations and will be deemed to have given its consent to the specified scope of such Invasive Investigations if SELLER does not (within three (3) business days following receipt of the proposed scope of such Invasive Investigations) give BUYER a written statement identifying those items to which SELLER has an objection.

(c) If not already provided by SELLER to BUYER, within five (5) days following the Opening of Escrow, SELLER shall deliver to BUYER copies of the following materials (the “Property Information”) which SELLER or any affiliate of SELLER has in its possession, or to which SELLER or any affiliate of SELLER has access through the exercise of commercially reasonable efforts:

(i) Copies of any existing title policy/commitment and any existing survey in SELLER’s possession or control that relate to the Property, including complete and legible copies of all instruments referred to in the title policy or commitment as conditions or exceptions to the title of the Property;

(ii) All environmental reports, engineering studies, soil-bearing test data and any similar reports and studies with respect to the Property;

(iii) All existing documents relating to the development rights pertaining to the Property, including, without limitation, zoning, site plan, concurrency and other developmental governmental permits and approvals; pending applications for approvals and permits and materials in support of any such applications; and developer agreements or other agreements with governmental entities;

(iv) All current tenant leases with any and all amendments;

(v) All service contracts, warranties, and tenant correspondence relating to the Property;

(vi) Any declarations of easements, covenants and restrictions and/or property owners’ association documents which pertain to the Property and any drafts of any easements or declarations proposed to affect any portion of the Property; and

(vii) Such other items in Seller’s possession or under Seller’s control that BUYER may reasonably request in connection with its inspection of the Property and determination of the feasibility of the Project.

(d) Upon BUYER’s receipt of any Property Information, BUYER shall have the unrestricted right to use such information, including reports and studies, in connection with BUYER’s review of the Property and BUYER’s efforts to obtain its permits and approvals; provided that any such use shall be without any representation or warranty from Seller of any kind as to any information contained in such Property Information. BUYER shall have the right to make copies of same at BUYER’s expense and to distribute the same to its attorneys and consultants. To the extent that any new or updated information pertaining to the Property is received by SELLER or any of its agents or employees while this Agreement is in effect, SELLER promptly shall deliver a true, correct and complete copy of such new and/or updated information to BUYER.

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Section 6. City Council Approval. As a condition precedent to BUYER's obligation to purchase the Property, BUYER's city council shall have approved this Agreement and the purchase of the Property ("Final Approval"). Notwithstanding anything to the contrary contained herein, as of the date of this Agreement, said Final Approval has not yet been granted. Absent Final Approval, BUYER shall have no obligation to purchase the Property from SELLER or otherwise perform under this Agreement. BUYER's representatives shall diligently pursue said approval. Upon final consideration of this Agreement by the BUYER's legislative body, the BUYER shall issue formal notice to the Seller whether Final Approval is granted or denied. In the event that Final Approval is denied (i) this Agreement shall be terminated and neither party shall have any further rights or obligations hereunder, excepting any rights or obligations that expressly survive termination, (ii) the escrow shall be canceled, and (iii) all documents and funds shall be returned by the Escrow Holder to each party who deposited the same.

Section 7. Close of Escrow.

(a) As used herein, "Close of Escrow" means and refers to the date on which the conditions set forth in this Agreement for the close of Escrow for the transfer of the Property have been satisfied, and the Deed is recorded by the Escrow Holder. The Property shall be transferred to BUYER at the Close of Escrow, provided that within the periods of time set forth in this Agreement provided: (i) BUYER has not terminated this Agreement, (ii) BUYER has accepted the Deed, and (iii) all other conditions of the Close of Escrow set forth in this Agreement have been met and BUYER has paid, or caused to be paid to the Escrow Holder all applicable escrow costs relating to such closing. The Close of Escrow shall occur on a date designated by BUYER (on advance notice to SELLER) no later than thirty (30) days after the later of (i) the expiration of the due diligence period or (ii) Final Approval.

(b) Conditions to Buyer's Performance. BUYER's obligation to consummate the Close of Escrow is conditioned on all of the following:

(1) SELLER's Closing Deliveries. At Close of Escrow, SELLER shall deliver the following to the Escrow Holder:

- (i) The Deed, executed and acknowledged by SELLER, in the form attached as Exhibit B.
- (ii) an affidavit of non-foreign status of SELLER under the Foreign Investment in Real Property Tax Act.
- (iii) a settlement statement showing both the SELLER's and the BUYER's credits and debits consistent with this Agreement (the "**Settlement Statement**").
- (iv) any transfer declarations required by applicable law;
- (v) an owner's affidavit in form and substance reasonably acceptable to Escrow Holder to delete the non-survey related standard, pre-printed exceptions.
- (vi) any other customary closing documents in form and substance reasonably satisfactory to SELLER and BUYER to consummate the Transaction.

(2) Pre-Existing Obligations. There shall exist no leases, contracts or rights of occupancy or other agreements or contracts with respect to the Property entered into by SELLER that shall survive the Close of Escrow.

(3) Title Conditions Satisfied. The Escrow Holder shall be in a position to issue the Title Policy to BUYER in the amount of the Purchase Price with respect to the Property and subject only to the exceptions permitted by Section 9 of this Agreement.

(4) SELLER's Deliveries Complete. SELLER shall have delivered all of the documents and other items required pursuant to Section 7(b)(1) and shall have performed all other material obligations under this Agreement to be performed by SELLER at or prior to the Close of Escrow provided that SELLER shall have a reasonable opportunity to cure any such default after receiving written notice thereof from BUYER.

(5) Representations True. All representations and warranties made by SELLER in this Agreement shall be true and correct in all material respects on and as of the Close of Escrow, as if made on and as of such date.

(c) Conditions to SELLER's Performance. SELLER's obligation to consummate the Close of Escrow is conditioned on all of the following:

(1) BUYER's Closing Deliveries. At the Close of Escrow, BUYER shall deliver the following:

(i) The Purchase Price less the Deposit, as adjusted for apportionments and other adjustments required under this Agreement, plus any other amounts required to be paid by BUYER at the Close of Escrow.

(ii) The Settlement Statement.

(iii) any transfer declarations required by applicable law;

(iv) any other customary closing documents in form and substance reasonably satisfactory to BUYER to consummate the Transaction.

(2) BUYER's Deliveries Complete. BUYER shall have delivered all of the documents and other items required pursuant to Section 6(c)(1) and shall have performed all other material obligations to be performed by BUYER at or prior to the Close of Escrow provided that BUYER shall have a reasonable opportunity to cure any such default after receiving written notice thereof from SELLER.

(3) Representations True. All representations and warranties made by BUYER in this Agreement shall be true and correct in all material respects on and as of the Closing Date, as if made on and as of such date.

Section 8. Escrow Instructions.

SELLER and BUYER each agree to execute and deliver to the Escrow Holder the customary supplemental written escrow instructions (consistent with the terms of this Agreement) of the Escrow Holder. In the event of a conflict between the additional terms of such customary supplemental escrow instructions of the Escrow Holder and the provisions of this Agreement, this Agreement shall supersede and be controlling. Upon any termination of this Agreement or cancellation of the Escrow, except as results from the default of SELLER, BUYER shall be solely responsible for the payment of the escrow cancellation costs of the Escrow Holder.

Section 9. Conveyance of Title.

(a) On or before the Close of Escrow, SELLER shall deliver to the Escrow Holder the Grant Deed, in form attached hereto as Exhibit "B" (the "Deed") duly executed and acknowledged by SELLER. The Deed shall grant fee simple marketable title to the Property to BUYER. The Escrow Holder shall be instructed to record the Deed in the Official Records of Riverside County, California, if and when the Escrow Holder holds the funds for the SELLER as set forth herein.

(b) Within five (5) days following the Opening of Escrow, SELLER shall use commercially reasonable efforts to cause to be delivered or otherwise made available to BUYER a current preliminary report from a title company of BUYER's choice (the "Title Company") covering the Property, together with full and legible copies of all supporting documents (collectively, "Preliminary Report"), and may further order a survey of the Property from a licensed surveyor sufficient to obtain an ALTA title insurance policy ("Survey"). The Title Company shall issue an ALTA Owner's policy ("Title Policy") at the Close of Escrow insuring fee title in BUYER, subject only to the following matters:

- (1) a lien for real property taxes, bond, or assessments not then delinquent;
- (2) matters of the Property's title not disapproved by BUYER in writing;
- (3) all matters that affect title to the Property that would be revealed by an accurate and complete survey of the Property as of the end of the Inspection Period;
- (4) dedication of all streets abutting the Property;
- (5) customary utility rights-of-way and easements that do not materially interfere with the existing use of the Property;
- (6) zoning and other governmental restrictions;
- (7) matters common to any general area or subdivision in which the Property is located;
- (8) matters affecting the condition of the Property's title created by or with the consent of the BUYER or BUYER's officers, employees or agents.
- (9) such other title exceptions, if any, resulting from documents being recorded or delivered through Escrow.

Section 10. Inspections and Review.

(a) BUYER acknowledges and agrees that the Property is being conveyed in an "AS IS," "WHERE IS" condition and "WITH ALL FAULTS" as of the date of this Agreement and the date of Close of Escrow. Except as expressly set forth in this Agreement, no representations or warranties have been made or are made and no responsibility has been or is assumed by SELLER or by any officer, person, firm, agent or representative acting or purporting to act on behalf of SELLER as to the condition or repair of the Property or the value, expense of operation, or income potential thereof, or as to any other fact or condition which has or might affect the Property or the condition, repair, value, expense of operation or income potential of the Property or any portion thereof. BUYER further acknowledges and agrees that it has relied solely upon its own investigations of the Property and its own review of such information and documentation as it has deemed appropriate and is satisfied with the opportunity afforded for investigation. BUYER is not relying upon any statement or representation by SELLER or by any officer, person, firm, agent or representative acting or purporting to act on behalf of SELLER unless such statement or representation is specifically embodied in this Agreement, or the Exhibits attached hereto. Except as expressly set forth herein, SELLER makes no representations or warranties as to whether the Property contains any Hazardous Materials or pertaining to the extent, location or nature of the same. Further, to the extent that SELLER has provided to BUYER information from any inspection, engineering or environmental reports concerning any Hazardous Materials, SELLER makes no representations or warranties with

respect to the accuracy, completeness, methodology of preparation or otherwise concerning the contents of such reports.

(b) The provisions of this Section 10 shall survive the Close of Escrow and shall be binding upon BUYER.

(c) SELLER shall assist and cooperate with BUYER in endeavoring to remove title exceptions unacceptable to BUYER, but SELLER shall have no obligation to cause such objections to be removed or to expend any sums in such endeavor, except that SELLER shall remove all monetary liens and encumbrances created by or as a result of SELLER's activities.

(e) SELLER covenants not to further encumber and not to place any further liens or encumbrances on the Property, including, but not limited to, covenants, conditions, restrictions, easements, liens, options to purchase, rights of first offer options to lease, leases, tenancies, or other possessory interests.

(f) SELLER covenants not to authorize others to take any action that adversely affects the physical condition of the Property or its soils to any material extent.

Section 11. Closing Costs, Possession.

(a) SELLER shall pay: (i) the cost of recording any releases of mortgages, liens or encumbrances as required hereunder; (ii) one half of Escrow Agent's fees and costs for the Escrow, (iii) the cost of an ALTA Standard Owner's Policy in the amount of the Purchase Price, (iv) Seller's share of prorations, and (v) Seller's attorneys' fees. BUYER shall pay (i) the premium for any requested ALTA extended coverage title policy, cost of the Survey and all requested ALTA survey policy endorsements, (ii) the cost of recording the Deed and any documentary or other transfer taxes payable on account of the conveyance of the Property to BUYER, (iii) one half of Escrow Agent's fees and costs for the Escrow; (iv) BUYER's share of prorations, and (v) Buyer's attorneys' fees. Any other costs shall be divided among the parties in accordance with practices as are customary for similar transactions in the region where the Property is located.

(b) BUYER shall be entitled to exclusive possession of the Property immediately upon the Close of Escrow.

Section 12. Representations and Warranties.

(a) SELLER hereby makes the following representations, covenants and warranties:

(1) Power and Authority. SELLER has the legal power, right and authority to enter into this Agreement and to execute the instruments and documents referenced herein, and to consummate the transaction contemplated hereby.

(2) Requisite Action. SELLER has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of the transactions contemplated hereby, and no consent of any other party is required.

(3) Enforceability of Agreement. The persons executing this Agreement and any instrument or document referenced herein for or on behalf of SELLER have been duly authorized to so act on behalf of SELLER and this Agreement and any such

instrument or document is valid and legally binding on SELLER and enforceable against SELLER in accordance with their respective terms.

(4) No Litigation. There is no pending or, to the best of SELLER's knowledge, threatened claims, action, allegations or lawsuit of any kind, whether for personal injury, property damage, property taxes, or otherwise, that could affect the Property.

(5) No Violation. Neither the execution of this Agreement or the other instruments and documents referenced herein nor the performance by SELLER of its obligations hereunder and thereunder shall result in a breach or constitute a default under any agreement, document, instrument or other obligation to which SELLER is a party or by which SELLER may be bound or under law, statute, ordinance, rule, governmental regulation, state constitution, or any writ, injunction, order or decree of any court or governmental body applicable to SELLER.

(6) Operation and Condition Pending Closing. Between the date of this Agreement and the Close of Escrow hereunder, SELLER will continue to manage, operate, and maintain the Property in the same manner as existed prior to the execution of this Agreement.

(7) Contracts. There are no contracts or agreements to which SELLER is a party relating to the operation, maintenance, development, improvement, or ownership of the Property which will survive the Close of Escrow.

(8) Hazardous Substances. To SELLER's knowledge, after due inquiry, except as disclosed in any Phase I Environmental Inspection Report delivered by SELLER to BUYER (the "Environmental Report"), the Property has not been used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process Hazardous Substances (defined below) or solid waste, except in compliance with all applicable federal, state, and local laws, rules, and regulations, and Seller has not caused or knowingly permitted and has no knowledge of the presence or any Release (defined below) of any Hazardous Substances on or offsite the Property. For the purposes of this Agreement, "Hazardous Substances" shall include, without limitation, asbestos, polychlorinated biphenyls, and petroleum (including crude oil or any fraction thereof), and materials or substances defined as "hazardous waste," "hazardous substances," "hazardous materials," "pollutants," or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (PL 99-499); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et. seq.*; the Toxic Substance Control Act, 15 U.S.C. Section 2601, *et. seq.*; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901, *et. seq.*; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, *et. seq.*; any environmental law promulgated by the State of California; and in the rules or regulations adopted and guidelines promulgated pursuant to said laws. "Release" shall mean releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping.

All representations and warranties contained in this Section 12(a) are true and correct on the date hereof and on the date of the Close of Escrow and shall survive the Close of Escrow.

(b) Warranties and Representations by BUYER. BUYER hereby makes the following representations, covenants and warranties and acknowledges that the execution of this Agreement by SELLER has been made in material reliance by SELLER on such covenants, representations, and warranties:

(1) Subject to the Final Approval, BUYER has the legal right, power and authority to enter into this Agreement and the instruments and documents referenced herein and to consummate the transactions contemplated hereby. The persons executing this

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Agreement and such other instruments as may be referenced herein on behalf of BUYER hereby represent and warrant that such persons have the power, right and authority to bind BUYER.

(2) Except for the Final Approval, BUYER has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of the transactions contemplated hereby, and no consent of any other party is required.

(3) Subject to the Final Approval, this Agreement is, and all instruments and documents to be executed by BUYER pursuant to this Agreement shall be, duly executed by and are or shall be valid and legally binding upon BUYER and enforceable in accordance with their respective terms.

(4) Subject to the Final Approval, neither the execution of this Agreement nor the consummation of the transaction contemplated hereby shall result in a breach of or constitute a default under any other agreement, document, instrument, or other obligation to which BUYER is a party or by which BUYER may be bound, or under law, statute, ordinance, rule governmental regulation or any writ, injunction, order or decree of any court or governmental body applicable to BUYER.

All representations and warranties contained in this Section 12(b) are true and correct on the date hereof and on the date of the Close of Escrow and shall survive the Close of Escrow.

Section 13. Conflict of Interest.

No member, official or employee of either party having any conflict of interest, direct or indirect, related to this Agreement and the use and development of the Property shall participate in any decision relating to the Agreement. The parties represent and warrant that they do not have knowledge of any such conflict of interest.

Section 14. Nonliability of Officials and Employees.

No officer, official or employee of either party shall be personally liable to the other party, or any successor in interest of such other party, in the event of any default or breach or for any amount which may become due hereunder, or on any obligations under the terms of this Agreement.

Section 15. Indemnification.

BUYER agrees to indemnify and hold SELLER and its officers, employees, and agents harmless from and against all damages, judgments, costs, expenses, and attorney's fees arising from or related to any act or omission of BUYER in performing its investigations of the Property, except to the extent caused by the gross negligence or willful misconduct of SELLER. SELLER shall give BUYER written notice of the occurrence of a claim, litigation or other matters for which SELLER seeks indemnity under this Section as promptly as practicable following SELLER'S knowledge of the occurrence of such matter and SELLER shall reasonably cooperate with BUYER in the defense of any such claim or matter and shall not take any action that would adversely affect BUYER'S defense of such matter.

Section 16. Default.

(a) Default by Buyer; Limitation on Liability; Liquidated Damages. **IF BUYER REFUSES OR FAILS TO CONSUMMATE THE CLOSE OF ESCROW UNDER THIS AGREEMENT FOR ANY REASON OTHER THAN: (I) THE FAILURE OF AN EXPRESS**


CONDITION PRECEDENT TO BUYER'S OBLIGATION TO CLOSE, OR (II) ANY OTHER EXPRESS RIGHT OF BUYER SET FORTH IN THIS AGREEMENT TO TERMINATE THIS AGREEMENT, AND IF BUYER FAILS TO CURE ANY SUCH FAILURE TO COMPLETE THE CLOSE OF ESCROW WITHIN TEN (10) DAYS FOLLOWING RECEIPT OF A WRITTEN NOTICE FROM SELLER INDICATING THE NATURE OF ANY DEFAULT ON THE PART OF BUYER, THE SELLER SHALL RETAIN THE DEPOSIT, PLUS ANY INTEREST ACCRUED THEREON, AS SELLER'S SOLE REMEDY FOR BUYER'S FAILURE TO CLOSE OR FOR ANY DEFAULT ON THE PART OF BUYER UNDER THIS AGREEMENT, AND IN SUCH A CASE, BOTH PARTIES SHALL BE RELIEVED OF AND RELEASED FROM ANY FURTHER LIABILITY HEREUNDER. THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT OF A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. SELLER AND BUYER AGREE THAT THE DEPOSIT, PLUS ANY INTEREST ACCRUED THEREON, IS A FAIR AND REASONABLE AMOUNT TO BE RETAINED BY SELLER AS AGREED AS LIQUIDATED DAMAGES IN LIGHT OF SELLER'S REMOVAL OF THE PROPERTY FROM THE MARKET AND THE COSTS INCURRED BY SELLER AND SHALL NOT CONSTITUTE A PENALTY OR A FORFEITURE.


BY PLACING ITS INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: SELLER:   BUYER: _____

(b) Default By Seller; Other Failure To Consummate Agreement. IN THE EVENT OF ANY DEFAULT ON THE PART OF SELLER UNDER THIS AGREEMENT, WHICH SELLER FAILS TO CURE WITHIN TEN (10) DAYS FOLLOWING RECEIPT OF A WRITTEN NOTICE, BUYER SHALL HAVE THE RIGHT, IN BUYER'S SOLE DISCRETION AND AS ITS SOLE AND ONLY REMEDIES HEREUNDER TO THE EXCLUSION OF ALL OTHER POTENTIAL REMEDIES, TO EITHER (I) TERMINATE THIS AGREEMENT AND RECEIVE THE DEPOSIT PLUS ANY INTEREST ACCRUED THEREON, AND RECEIVE FROM SELLER ALL OF PURCHASER'S OUT OF POCKET THIRD PARTY COSTS AND EXPENSES IN CONNECTION WITH THIS TRANSACTION, IN WHICH EVENT THIS AGREEMENT SHALL AUTOMATICALLY TERMINATE AND BE OF NO FURTHER FORCE OR EFFECT AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, OTHER THAN PURSUANT TO ANY PROVISION HEREOF WHICH EXPRESSLY SURVIVES THE TERMINATION OF THIS AGREEMENT; (II) BRING AN ACTION FOR SPECIFIC PERFORMANCE; OR (III) WAIVE SUCH FAILURE OR BREACH AND PROCEED TO CONSUMMATE THE PURCHASE OF THE PROPERTY, WAIVING ANY CLAIM AGAINST SELLER AND RELEASING SELLER FROM ANY LIABILITY OR OBLIGATIONS IN CONNECTION THEREWITH (PROVIDED THAT IN NO EVENT SHALL PURCHASER HAVE THE RIGHT TO WAIVE ANY OF SELLER'S CONDITIONS PRECEDENT HEREUNDER).

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Section 17. Broker Commissions. SELLER and BUYER each represent and warrant to the other that no real estate agent or broker was involved in negotiating the transaction contemplated herein except for CBRE, Inc. (Marco Rossetti, Brian Hutcherson and Matraya Homans) (“BUYER’s Broker”) and The Pena Group (“Seller’s Broker”). Buyer will pay to its representative CBRE, Inc. a 3% commission for its efforts hereunder at the Close of Escrow, separate and independent of the Purchase Price. Seller shall pay the Seller’s Broker, The Pena Group, a 3% commission at the Close of Escrow. In the event any other claims for real estate commissions, fees or compensation (collectively “Compensation”) arise in connection with this transaction, the party so incurring or causing such claims agrees to indemnify, defend and hold harmless the other party from any loss or damage, including attorneys’ fees, which said other party suffers because of said claims. Neither BUYER nor SELLER shall have any liability to BUYER’s Broker if this transaction should fail to close for any reason whatsoever.

Section 18. Natural Hazard Disclosures. As used herein, the term “Natural Hazard Area” shall mean those areas identified as natural hazard areas or natural hazards in the Natural Hazard Disclosure Act, California Government Code Sections 8589.3, 8589.4 and 51183.5, and California Public Resources Code Sections 2621.9, 2694 and 4136, and any successor statutes or laws (collectively, the “Natural Hazards Laws”). SELLER shall provide BUYER with a Natural Hazard Disclosure Statement (“Disclosure Statement”) in a form required by the Natural Hazards Laws by not less than twenty (20) days prior to the end of the Due Diligence Period. BUYER acknowledges that SELLER will retain the services of Escrow Holder, or its agent, to examine the maps and other information made available to the public by government agencies for the purpose of enabling SELLER to fulfill its disclosure obligations with respect to the Natural Hazards Laws and to prepare the written report of the result of its examination (“Natural Hazards Report”). BUYER acknowledges that the Natural Hazards Report will fully and completely discharge SELLER from its disclosure obligations under the Natural Hazards Laws and under California Civil Code Sections 1102 through 1102.17. BUYER acknowledges and agrees that nothing contained in the Disclosure Statement releases BUYER from its obligation to fully investigate and satisfy itself with the condition of the Property, including, without limitation, whether the Property is located in any Natural Hazard Area. BUYER further acknowledges and agrees that the matters set forth in the Disclosure Statement or Natural Hazards Report may change on or prior to the Closing and that SELLER has no obligation to update, modify or supplement the Disclosure Statement or Natural Hazards Report.

Section 19. Time of the Essence.

Time is of the essence with respect to the Close of Escrow and all of the provisions of this Agreement.

Section 20. Miscellaneous.

(a) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and together shall constitute one and the same agreement, with one counterpart being delivered to each party hereto.

(b) All periods of time referred to in this Agreement shall include all Saturdays, Sundays and state or national holidays, provided that if the date or last date to perform any act or give any notice with respect to this Agreement shall fall on a Friday, Saturday, Sunday or state or national holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Friday, Saturday, Sunday or state or national holiday.

(c) The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions hereof unenforceable, invalid, or illegal.

Section 21 Entire Agreement

(a) This Agreement and the exhibits attached hereto constitute the entire understanding and Agreement of the parties.

(b) This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto with respect to the Property.

(c) The headings to the paragraphs of this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not in any way affect its interpretation.

REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY


GMK

04/01/24


SRK

04/01/24

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the dates set forth below.

BUYER:

CITY OF PALM DESERT,
a California charter city

By: _____
L. Todd Hileman, City Manager

Date: _____

ATTEST:

APPROVED AS TO LEGAL FORM:

By: _____
Anthony Mejia, MMC, City Clerk


By: _____
City Attorney, Best Best & Krieger LLC

Date: _____


Date: _____

SELLER:

Glen M. Kammerer

By:  Glen M. Kammerer Date: 04/01/24

Title: _____

Sherill R. Kammerer
By:  Sherill R. Kammerer Date: 04/01/24

Title: _____

EXHIBIT "A"

Legal Description

APN 637-300-023 described as five (1) parcels of land totaling approximately 1.01 acres.

EXHIBIT B

Form of Deed

[See attached]

ACKNOWLEDGMENTS

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

ATTACHMENT NO. 1

LEGAL DESCRIPTION – PROPERTY

APN 637-300-023 described as five (1) parcels of land totaling approximately 1.01 acres.

[CERTIFICATE OF ACCEPTANCE TO BE ATTACHED FOR RECORDING]