

AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE

by and between

PACIFICA SFO LLC,
a California limited liability company

as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,
as Buyer

For the purchase and sale of

624 Laguna Street San Francisco, California
(Block, Lot 0807/035)

December 27, 2023

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AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE
(624 Laguna Street, San Francisco)

THIS AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE (this "**Agreement**") dated for reference purposes only as of December, 27, 2023 is by and between PACIFICA SFO LLC, a California limited liability company ("**Seller**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**Buyer**" or "**City**").

IN CONSIDERATION of the payment of the non-refundable sum of One Hundred Dollars (\$100.00) ("**Independent Consideration**") by City, the receipt of which is hereby acknowledged by Seller, and the respective agreements contained hereinbelow, Seller and City agree as follows:

1. PURCHASE AND SALE

1.1 Property Included in Sale

Seller agrees to sell and convey to City, and City agrees to purchase from Seller, subject to the terms, covenants and conditions hereinafter set forth, the following:

(a) the real property consisting of approximately Three Thousand Eight Hundred and Thirty Six (3,836) square feet of land, located in the City and County of San Francisco, commonly known as 624 Laguna Street, currently designated as Block, Lot 0807/035 and more particularly described in the legal description attached hereto as **Exhibit A** and incorporated herein by this reference (the "**Land**");

(b) all improvements and fixtures located on the Land, including, without limitation, (i) that certain 5-story assisted living facility containing approximately Nine Thousand Eight Hundred Forty-Nine (9,849) square feet of net rentable area and known as 624 Laguna Street as well as all other buildings and structures located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land and its improvements such as heating and air conditioning systems and facilities used to provide any utility, refrigeration, ventilation, garbage disposal or other services, (collectively, the "**Improvements**");

(c) any and all rights, privileges, and easements incidental or appurtenant to the Land or Improvements, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Land, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Land, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land or Improvements, and any and all of Seller's right, title and interest in and to all roads and alleys adjoining or servicing the Land or Improvements (collectively, the "**Appurtenances**");

(d) all personal property owned by Seller located on or in or used in connection with the Land or Improvements as of the date of this Agreement and as of the Closing Date (as defined in Section 6.2, Closing Date) mutually agreed upon and more specifically described in **Exhibit B** attached hereto (the "**Personal Property**"); and

All of the items referred to in Subsections (a), (b), (c), and (d) above are collectively referred to as the "**Property**."

2. PURCHASE PRICE

2.1 Purchase Price

The total purchase price for the Property is Thirteen Million Seven Hundred and Eighty Thousand Dollars (\$13,780,000) (the "**Purchase Price**").

2.2 Payment

On the Closing Date (as defined in Section 6.2 [Closing Date]), City shall pay Purchase Price, adjusted pursuant to the provisions of Article 7 [Expenses and Taxes], and reduced by any credits due City hereunder.

Seller acknowledges and agrees that if Seller fails at Closing to deliver to City the documents required under Sections 6.3(c) and 6.3(d) [Seller's Delivery of Documents], City may be required to withhold a portion of the Purchase Price pursuant to Section 1445 of the United States Internal Revenue Code of 1986, as amended (the "**Federal Tax Code**"), or Section 18662 of the California Revenue and Taxation Code (the "**State Tax Code**"). Any amount properly so withheld by City shall be deemed to have been paid by City as part of the Purchase Price, and Seller's obligation to consummate the transaction contemplated herein shall not be excused or otherwise affected thereby.

2.3 Funds

All payments made by any party hereto shall be in legal tender of the United States of America, paid by Controller's warrant or in cash or by wire transfer of immediately available funds to Title Company (as defined in Section 3.2), as escrow agent.

2.4 Independent Consideration.

Buyer and Seller have bargained for and agree that the Independent Consideration is consideration for Buyer's rights under this Agreement and for Seller providing the Due Diligence Period to Buyer. Upon receipt, the Title Company 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.

3. TITLE TO THE PROPERTY

3.1 Conveyance of Title to the Property

At the Closing Seller shall convey to City marketable and insurable fee simple title to the Land, the Improvements and the Appurtenances, by duly executed and acknowledged grant deed in the form attached hereto as Exhibit C (the "**Deed**"), subject to the Accepted Conditions of Title (as defined in Section 3.2 [Title Insurance]).

3.2 Title Insurance

Delivery of title in accordance with the preceding Section shall be evidenced by the commitment of Stewart Title Guaranty Company (the "**Title Company**") to issue to City an ALTA extended coverage owner's policy of title insurance (Form ALTA 2006 – updated 6/17/2006) (the "**Title Policy**") in the amount of the Purchase Price insuring fee simple title to the Land, the Appurtenances and the Improvements in City free of the liens of any and all deeds of trust, mortgages, assignments of rents, financing statements, rights of tenants or other

occupants, and all other exceptions, liens and encumbrances except solely for the Accepted Conditions of Title pursuant to Section 5.1(a) below. The Title Policy shall provide full coverage against mechanics' and materialmen's liens arising out of the construction, repair or alteration of any of the Property, and shall contain an affirmative endorsement that there are no violations of restrictive covenants, if any, affecting the Property and such other special endorsements as City may reasonably request. The Title Policy shall also provide for reinsurance with direct access with such companies and in such amounts as City may reasonably request.

3.3 Bill of Sale

At the Closing Seller shall transfer title to the Personal Property by bill of sale in the form attached hereto as **Exhibit D** (the "**Bill of Sale**"), such title to be free of any liens, encumbrances or interests. To the extent possible, any maintenance contract or warranty in connection with the purchase the Personal Property will be optional (namely, City may, but is not required to, purchase any maintenance contract or warranty).

4. BUYER'S DUE DILIGENCE INVESTIGATIONS

4.1 Due Diligence and Time for Satisfaction of Conditions

City has been given or will be given before the end of the Due Diligence Period (as defined below), a full opportunity to investigate the Property, either independently or through agents of City's own choosing, including, without limitation, the opportunity to conduct such appraisals, inspections, tests, audits, verifications, inventories, investigations and other due diligence regarding the economic, physical, environmental, title and legal conditions of the Property as City deems fit, as well as the suitability of the Property for City's intended uses. City and its Agents may commence due diligence investigations on the Property on or after the date this Agreement is executed by both parties hereto. The period for completion of all such investigations shall expire five (5) days after approval by the San Francisco Board of Supervisors and the Mayor (the "**Due Diligence Period**"), subject to the terms and conditions provided hereinbelow. In accordance with that certain letter of intent by and between City and Seller, dated December 5, 2022 (the "**LOI**"), Seller agrees to deliver to City all of the plans, reports and documents material to Property described under the terms of the LOI and, to the extent not provided as of the date hereof, Seller agrees to deliver to City all of the Documents and other items described in Section 5.1(d) below, within three (3) days after the date hereof, provided that if Seller fails to do so, then the expiration of the Due Diligence Period shall be extended by the number of days after the end of such 3-day delivery period that Seller delivers all such items to City.

Notwithstanding anything in this Agreement to the contrary, City shall have the right to terminate this Agreement at any time during the Due Diligence Period upon written notice to Seller. Upon such termination, neither City nor Seller shall have any further rights or obligations hereunder, except as otherwise expressly provided herein and further except that City shall assign to Seller all inspection reports the fees for which covered under this Section to the extent they are assignable and to the extent Seller has reimbursed City for all of the foregoing fees and expenses. This Section is subject to, and shall not serve to modify or limit, any right or remedy of City arising under Section 5.1 [City's Conditions to Closing], of this Agreement.

5. ENTRY

During the Due Diligence Period and at all times prior to the Closing Date Seller shall afford City and its Agents reasonable access to the Property for the purposes of satisfying City with respect to the representations, warranties and covenants of Seller contained herein and the satisfaction of the Conditions Precedent (as defined below); provided, however, City shall not

perform any destructive testing, including, without limitation, the drilling of test wells and the taking of soil borings without the express written consent of Seller, which shall not be unreasonably withheld, delayed or conditioned. City hereby agrees to indemnify and hold Seller harmless from any damage or injury to persons or property caused by the negligence or misconduct of City or its Agents during any such entries onto the Property prior to the Closing, except to the extent such damage or injury is caused by the acts or omissions of Seller or any of its Agents. The foregoing Indemnity shall not include any claims resulting from the discovery or disclosure of pre-existing environmental conditions or the non-negligent aggravation of pre-existing environmental conditions on, in, under or about the Property, including the Improvements. In the event this Agreement is terminated for any reason other than Seller's default hereunder, City shall restore the Property to substantially the condition it was found subject to applicable laws. This indemnity shall survive the termination of this Agreement or the Closing, as applicable, provided that Seller must give notice of any claim it may have against City under such indemnity (i) within six (6) months of such termination if the claim is brought by a third party against Seller or (ii) within three (3) months of such termination or the Closing Date, as applicable, if the claim involves damage to the Property or any other claim not brought by a third party against the Seller.

5.1 City's Conditions to Closing

The following are conditions precedent to City's obligation to purchase the Property (collectively, "**Conditions Precedent**"):

(a) City shall have reviewed and approved title to the Property, in accordance with the following procedures:

(i) Not later than three (3) days after the date City and Seller execute this Agreement, Title Company shall deliver to City and Seller a current extended coverage preliminary report on the Property, issued by Title Company, accompanied by copies of all documents referred to in the report (collectively, the "**Preliminary Report**");

(ii) If Seller is aware of any existing or proposed easements, covenants, restrictions, agreements or other documents that affect the Property, that are not disclosed by the Preliminary Report, Seller shall deliver the same to City within 3-days after receipt of the Preliminary Report; and

(iii) City may at its option arrange for an "as-built" survey of the Real Property and Improvements prepared by a licensed surveyor (the "**Survey**"). Such survey shall be acceptable to, and certified to, City and Title Company and in sufficient detail to provide the basis for and the Title Policy without boundary, encroachment or survey exceptions.

City shall advise Seller, prior to the end of the Due Diligence Period, what exceptions to title, if any, City is willing to accept (the "**Accepted Conditions of Title**"). City's failure to so advise Seller within such period shall be deemed disapproval of title. Seller shall have ten (10) days after receipt of City's notice of any objections to title to give City: (A) evidence satisfactory to City of the removal of all objectionable exceptions from title or that such exceptions will be removed or cured on or before the Closing; or (B) notice that Seller elects not to cause such exceptions to be removed. Failure of Seller to provide such notice shall be deemed Seller's election under subsection (B), above. If Seller gives or is deemed to have given notice under clause (B), City shall have ten (10) business days to elect to proceed with the purchase or terminate this Agreement. If City shall fail to give Seller notice of its election within such ten (10) days, City shall be deemed to have elected to terminate this Agreement. If Seller gives notice pursuant to clause (A) and fails to remove any such objectionable exceptions from title prior to the Closing Date, and City is unwilling to take title subject thereto, Seller's title

condition under this Section 5.1 (a) shall be deemed to have failed and City shall have the rights and remedies provided for herein.

(b) City's review and approval, within the Due Diligence Period, of the physical and environmental conditions of the Property, including, without limitation, structural, mechanical, electrical and other physical conditions of the Property. Such review may include an examination for the presence or absence of any Hazardous Material (as defined in Section 8.1(j)). City shall be responsible for performing or arranging any such reviews at City's expense, provided that if City's consultants reasonably determine that, based upon their Phase I examination, a Phase II examination is necessary with respect to all or a part of the Property, City may elect to perform a Phase II examination at City's expense subject to Seller's prior written consent which shall not be unreasonably withheld, delayed or conditioned.

If any of City's investigations reveal any contamination of the Property with any Hazardous Material, then City may terminate this Agreement.

(c) City's review and approval, within the Due Diligence Period, of the compliance of the Property with all applicable laws, regulations, permits and approvals.

(d) City's review and approval, within the Due Diligence Period, of (i) the following documents, all to the extent such documents exist and are either in the possession or control of Seller or may be obtained by Seller through the exercise of commercially reasonable efforts: structural calculations for the Improvements; site plans; certified copies of the as-built plans and specifications for the Improvements; recent inspection reports by Seller's engineers; service contracts; utility contracts; maintenance contracts; employment contracts, management contracts; brokerage and leasing commission agreements which may continue after Closing; certificates of occupancy; presently effective warranties or guaranties received by Seller from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Improvements or any tenant improvements; insurance policies, insurance certificates of tenants, and reports of insurance carriers insuring the Property and each portion thereof respecting the claims history of the Property; environmental reports, studies, surveys, tests and assessments; soils and geotechnical reports; and any other contracts or documents of significance to the Property (collectively, the "**Documents**"); and (ii) such other information relating to the Property that is specifically requested by City of Seller in writing during the Due Diligence Period (collectively, the "**Other Information**").

(e) Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement, and all of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date. At the Closing Seller shall deliver to City a certificate certifying that each of Seller's representations and warranties contained in Section 8.1 [Representations and Warranties of Seller] below are true and correct as of the Closing Date.

(f) The physical condition of the Property shall be substantially the same on the Closing Date as on the date of City's execution of this Agreement, reasonable wear and tear and loss by casualty excepted (subject to the provisions of Section 9.1 [Risk of Loss]), and, as of the Closing Date, there shall be no litigation or administrative agency or other governmental proceeding, pending or threatened, which after the Closing would materially adversely affect the value of the Property or the ability of City to operate the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the change, re-designation or other modification of the zoning classification of, or of any building or environmental code requirements applicable to, any of the Property.

(g) Title Company shall be committed at the Closing to issue to City (i) the Title Policy as provided in Section 3.2 [Title Insurance].

(h) The transactions contemplated herein shall have been approved by all applicable City departments and agencies, including, without limitation, The Department of Public Health, in their respective sole discretion.

(i) The City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transactions.

(j) Seller shall have delivered the items described in Section 6.3 below [Seller's Delivery of Documents] on or before the Closing.

(k) Title Company shall have agreed to be the real estate reporting person for the Closing in compliance with the Reporting Requirements (as defined in Section 6.6 below).

The Conditions Precedent contained in the foregoing Subsections (a) through (k) are solely for the benefit of City. If any Condition Precedent is not satisfied, City shall have the right in its sole discretion either to waive in writing the Condition Precedent in question and proceed with the purchase or, in the alternative, terminate this Agreement, provided that the Conditions Precedent described in items (h) and (i) above may not be waived. The waiver of any Condition Precedent shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant or agreement of Seller. If City shall not have approved or waived in writing all of the Conditions Precedent in items (a) through (d) by the end of the Due Diligence Period, then this Agreement shall automatically terminate. In addition, the Closing Date may be extended, at City's option, for a reasonable period of time specified by City, to allow such Conditions Precedent to be satisfied, subject to City's further right to terminate this Agreement upon the expiration of the period of any such extension if all such Conditions Precedent have not been satisfied.

In the event the sale of the Property is not consummated because of a default under this Agreement on the part of Seller or if a Condition Precedent cannot be fulfilled because Seller frustrated such fulfillment by some affirmative act or negligent omission, City may, at its sole election, either (1) terminate this Agreement by delivery of notice of termination to Seller, whereupon Seller shall pay to City any title, escrow, legal and inspection fees incurred by City and any other expenses incurred by City in connection with the performance of its due diligence review of the Property up to a cap of \$100,000, and neither party shall have any further rights or obligations hereunder, or (2) bring an action for specific performance to compel Seller to perform under this Agreement, and / or damages hereunder, including, without limitation, City's costs and expenses incurred hereunder, provided that such action shall be brought no later than sixty (60) days following the Closing Date.

5.2 Seller's Conditions to Closing.

Without limiting any of the rights of Seller elsewhere provided for in this Agreement, Seller's obligation to close the transaction described herein shall be subject to and conditioned upon the fulfillment of each and all of the following conditions precedent:

(a) Representations and Warranties. City's representations and warranties set forth in this Agreement shall have been true and correct in all material respects when made, and

shall be true and correct in all material respects on the Closing Date and as of the Effective Date as though such representations and warranties were made at and as of such date and time.

(b) Covenants. City shall have fully performed and complied with all covenants, conditions, and other obligations in this Agreement to be performed or complied with by it at or prior to Closing, including, without limitation, payment in full of the Purchase Price.

(c) Litigation. There shall not be pending or, to the knowledge of either City or Seller, any litigation or threatened litigation or administration action which, if determined adversely, would restrain the consummation of the transactions contemplated by this Agreement or declare illegal, invalid or non-binding any of the covenants or obligations of the City.

5.3 Mutual Cooperation of the Parties.

(a) Seller shall cooperate with City and do all acts as may be reasonably requested by City with regard to the fulfillment of any Conditions Precedent, including, without limitation, execution of any documents, applications or permits, but Seller's representations and warranties to City shall not be affected or released by City's waiver or fulfillment of any Condition Precedent. Seller hereby irrevocably authorizes City and its Agents to make all inquiries with and applications to any person or entity, including, without limitation, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

(b) City shall cooperate with Seller and do all acts as may be reasonably requested by Seller with regard to the fulfillment of any Conditions Precedent, including, without limitation, execution of any documents, applications or permits, but City's representations and warranties to Seller shall not be affected or released by Seller's waiver or fulfillment of any Condition Precedent.

6. ESCROW AND CLOSING

6.1 Opening of Escrow

On or before the Effective Date (as defined in Article 11 [General Provisions]), the parties shall open escrow by depositing an executed counterpart of this Agreement with Title Company, and this Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and City agree to execute such additional or supplementary instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement and close the transaction; provided, however, that in the event of any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

6.2 Closing Date

The consummation of the purchase and sale contemplated hereby (the "**Closing**") shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of Title Company located at 100 Pine St Suite 450, San Francisco, California 94111, on March 31, 2024, or on such earlier date as City and Seller may mutually agree (the "**Closing Date**"), subject to the provisions of Section 5.1 [City's Conditions to Closing]. The Closing Date may not be extended without the prior written approval of both

Seller and City, except as otherwise expressly provided in this Agreement. In the event the Closing does not occur on or before the Closing Date, Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the depositor thereof items which may have been deposited hereunder. Any such return shall not, however, limit the provisions hereof or otherwise relieve either party hereto of any liability it may have for its wrongful failure to close.

6.3 Seller's Delivery of Documents

At or before the Closing, Seller shall deliver to City [, or the Nominee,] through escrow, the following:

- (a) a duly executed and acknowledged Deed;
- (b) duly executed Bill of Sale originals of the Documents and any other items relating to the ownership or operation of the Property not previously delivered to City;
- (c) a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as **Exhibit H**, and on which City is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code;
- (d) a properly executed California Franchise Tax Board Form 593 certifying that Seller is a California resident if Seller is an individual or Seller has a permanent place of business in California or is qualified to do business in California if Seller is a corporation or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the State Tax Code;
- (e) such resolutions, authorizations, or other partnership documents or agreements relating to Seller and its partners as City or the Title Company may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;
- (f) closing statement in form and content satisfactory to City and Seller; and
- (g) the duly executed certificate regarding the continued accuracy of Seller's representations and warranties as required by Section 5.1(e) hereof.

6.4 City's Delivery of Documents and Funds

At or before the Closing, City shall deliver to Seller through escrow the following:

- (a) an acceptance of the Deed executed by City's Director of Property;
 - (b) a closing statement in form and content satisfactory to City and Seller;
- and
- (c) the Purchase Price, as provided in Article 2 hereof.

6.5 Other Documents

Seller and City shall each deposit such other instruments as are reasonably required by Title Company as escrow holder or otherwise required to close the escrow and consummate the

purchase of the Property in accordance with the terms hereof. On or before the Closing Date, City shall deliver to the Title Company a statement for delivery to the County Tax Assessor in the form attached as **Exhibit J** (the “**Apportionment Notice**”). Upon Closing, the Title Company will insert the Closing Date in the Apportionment Notice and send the Apportionment Notice to the County Tax Assessor in the jurisdiction in which the Property is located.

6.6 Title Company as Real Estate Reporting Person

Section 6045(e) of the United States Internal Revenue Code of 1986 and the regulations promulgated thereunder (collectively, the “**Reporting Requirements**”) require that certain information be made to the United States Internal Revenue Service, and a statement to be furnished to Seller, in connection with the Closing. Seller and City agree that if the Closing occurs, Title Company will be the party responsible for closing the transaction contemplated in this Agreement and is hereby designated as the real estate reporting person (as defined in the Reporting Requirements) for such transaction. Title Company shall perform all duties required of the real estate reporting person for the Closing under the Reporting Requirements, and Seller and City shall each timely furnish Title Company with any information reasonably requested by Title Company and necessary for the performance of its duties under the Reporting Requirements with respect to the Closing.

7. EXPENSES AND TAXES

7.1 Apportionments

The following are to be apportioned through escrow as of the Closing Date:

(a) Utility Charges

Seller shall cause all the utility meters to be read on the Closing Date, and will be responsible for the cost of all utilities used prior to the Closing Date. All utility deposits paid by Seller shall remain the property of Seller and City shall reasonably cooperate to cause such deposits to be returned to Seller to the extent Seller is entitled thereto.

(b) Other Apportionments

Amounts payable under any contracts assumed pursuant hereto, annual or periodic permit or inspection fees (calculated on the basis of the period covered), and liability for other normal Property operation and maintenance expenses and other recurring costs shall be apportioned as of the Closing Date.

7.2 Closing Costs

City shall pay the cost of the Survey, the premium for the Title Policy and the cost of the endorsements thereto, and escrow and recording fees. Seller shall pay the cost of transfer taxes, if any, applicable to the sale and the sales tax on any Personal Property. Seller shall be responsible for all costs incurred in connection with the prepayment or satisfaction of any loan, bond or other indebtedness secured by the Property including, without limitation, any prepayment fees, penalties or charges. Any other costs and charges of the escrow for the sale not otherwise provided for in this Section or elsewhere in this Agreement shall be allocated in accordance with the closing customs for San Francisco County, as determined by Title Company.

7.3 Real Estate Taxes and Special Assessments

At or before the Closing, Seller will pay all general real estate taxes payable for the tax year in which the Closing occurs and all prior years. Seller may file claim with the City and County of San Francisco for a property tax refund for any taxes paid for the period from and after the Closing Date. At or before the Closing, Seller will pay the full amount of any special assessments against the Property, including, without limitation, interest payable thereon, applicable to the period prior the Closing Date. Seller will pay all hotel or other taxes applicable to the period prior the Closing Date. General real estate taxes payable for the tax year prior to year of Closing and all prior years shall be paid by Seller at or before the Closing. General real estate taxes payable for the tax year of the Closing shall be prorated through escrow by Seller and City as of the Closing Date. At or before the Closing, Seller shall pay the full amount of any special assessments against the Property, including, without limitation, interest payable thereon, applicable to the period prior the Closing Date.

7.4 Sales and Use Taxes for Transferred Taxable Personal Property

Notwithstanding anything to contrary in this Agreement, Seller will accept a Use Tax Direct Payment Exemption Certificate in lieu of any use tax payment if the City, in its sole discretion, elects to provide such Certificate to Seller. If the City pays use tax to Seller, Seller will remit the entire amount of the use tax payment to the state and provide the City with a receipt in accordance with the California Sales and Use Tax Law. Seller will be liable to the City for all amounts of use tax paid to Seller that Seller fails to remit to the State.

7.5 Post-Closing Reconciliation

If any of the foregoing prorations cannot be calculated accurately on the Closing Date, then they shall be calculated as soon after the Closing Date as feasible. Either party owing the other party a sum of money based on such subsequent prorations shall promptly pay such sum to the other party.

7.6 Survival

The provisions of this Section 7 shall survive the Closing.

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of Seller

Seller represents and warrants to and covenants with City as follows:

(a) To the best of Seller's knowledge, there are now, and at the time of the Closing will be, no material physical or mechanical defects of the Property, and no violations of any laws, rules or regulations applicable to the Property, including, without limitation, any earthquake, life safety and handicap laws (including, but not limited to, the Americans with Disabilities Act).

(b) To the best of Seller's knowledge, the Documents and Other Information furnished to City are all of the relevant documents and information pertaining to the condition and operation of the Property to the extent available to Seller, and are and at the time of Closing will be true, correct and complete copies of such documents.

(c) To the best of Seller's knowledge, no document or instrument furnished or to be furnished by the Seller to the City in connection with this Agreement contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

(d) Seller does not have knowledge of any condemnation, either instituted or planned to be instituted by any governmental or quasi-governmental agency other than City, which could detrimentally affect the use, operation or value of the Property.

(e) To Seller's knowledge, all water, sewer, gas, electric, telephone, and drainage facilities and all other utilities required by law or by the normal use and operation of the Property are and at the time of Closing will be installed to the property lines of the Property and are and at the time of Closing will be adequate to service the Property.

(f) To the best of Seller's knowledge, there are no easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to the Property, and there are no easements, rights of way, permits, licenses or other forms of agreement which afford third parties the right to traverse any portion of the Property to gain access to other real property. There are no disputes with regard to the location of any fence or other monument of the Property's boundary nor any claims or actions involving the location of any fence or boundary.

(g) There is no litigation pending or, to the best of Seller's knowledge, threatened, against Seller or any basis therefor that arises out of the ownership of the Property or that might detrimentally affect the use or operation of the Property for its intended purpose or the value of the Property or the ability of Seller to perform its obligations under this Agreement.

(h) Seller is the legal and equitable owner of the Property, with full right to convey the same, and without limiting the generality of the foregoing, Seller has not granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of the Property.

(i) Seller is a limited liability company, duly organized and validly existing under the laws of the State of California and is in good standing under the laws of the State of California; this Agreement and all documents executed by Seller which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by Seller, are, or at the Closing will be, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, are, and at the Closing will be, sufficient to convey good and marketable title (if they purport to do so), and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(j) Seller represents and warrants to City that it has not been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event Seller has been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, debarment, discipline or prohibition may result in the termination or suspension of this Agreement.

(k) Seller knows of no facts nor has Seller failed to disclose any fact that would prevent City from using and operating the Property after Closing in the normal manner in which it is intended.

(l) Seller hereby represents and warrants to and covenants with City that to the best of Seller's knowledge, the following statements are true and correct and will be true and correct as of the Closing Date: (i) neither the Property nor to the best of Seller's knowledge any real estate in the vicinity of the Property is in violation of any Environmental Laws; (ii) the Property is not now, nor to the best of Seller's knowledge has it ever been, used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material (iii) there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the Property; (iv) there have not been and there are not now any underground storage tanks, septic tanks or wells or any aboveground storage tanks at any time used to store Hazardous Material located in, on or under the Property, or if there have been or are any such tanks or wells located on the Property, their location, type, age and content has been specifically identified in Seller's Environmental Disclosure, they have been properly registered with all appropriate authorities, they are in full compliance with all applicable statutes, ordinances and regulations, and they have not resulted in the release or threatened release of any Hazardous Material into the environment; (v) the Property does not consist of any landfill or of any building materials that contain Hazardous Material; and (vi) the Property is not subject to any claim by any governmental regulatory agency or third party related to the release or threatened release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, under or about the Property, or the migration of Hazardous Material from or to other property. As used herein, the following terms shall have the meanings below:

(i) "**Environmental Laws**" shall mean any present or future federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use, handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Property, including, without limitation, soil, air and groundwater conditions.

(ii) "**Hazardous Material**" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("**CERCLA**", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Improvements or are naturally occurring substances on or about the Property; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

(iii) "**Release**" or "**threatened release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any of the improvements, or in, on, under or about the Property. Release shall include, without limitation, "release" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601).

(m) There are now, and at the time of Closing will be, no leases or other occupancy agreements affecting any of the Property. At the time of Closing there will be no outstanding written or oral contracts made by Seller for any of the Improvements that have not

been fully paid for and Seller shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to the Property prior to the time of Closing. There are no obligations in connection with the Property which will be binding upon City after Closing

(n) Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code.

(o) Seller represents that it is fully compliant with the California Sales and Use Tax Law and warrants to City that it will fulfill its use tax obligations under that law with respect to the subject transaction.

8.2 Definition of "Knowledge."

Representations and warranties above made to the knowledge of Seller shall be deemed to imply Seller's commercially reasonable duty of inquiry. For purposes of this Agreement, the term Seller's "knowledge" shall mean and refer to only actual knowledge of the Designated Representatives (as hereinafter defined) of the Seller and shall not be construed to refer to the knowledge of any other partner, officer, director, agent, employee or representative of the Seller, or any affiliate of the Seller, or to impose upon such Designated Representatives any duty to investigate the matter to which such actual knowledge or the absence thereof pertains, or to impose upon such Designated Representatives any individual personal liability. As used herein, the term "**Designated Representatives**" shall refer to Deepak Israni and Adam Vandel, the principals of Seller.

8.3 Indemnity

(a) Seller, on behalf of itself and its successors and assigns, hereby agrees to indemnify, defend and hold harmless City, its Agents and their respective successors and assigns, from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable attorneys' and consultants' fees, resulting from any misrepresentation or breach of warranty or breach of covenant made by Seller in this Agreement or in any document, certificate, or exhibit given or delivered to City pursuant to or in connection with this Agreement. The foregoing indemnity includes, without limitation, costs or damages incurred in connection with the relocation of any tenants or businesses from the Property, the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material. The indemnification provisions of this Section shall survive beyond the Closing, or, if title is not transferred pursuant to this Agreement, beyond any termination of this Agreement.

(b) City, on behalf of itself and its successors and assigns, hereby agrees to indemnify, defend and hold harmless Seller, its Agents and their respective successors and assigns, from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable attorneys' and consultants' fees, to the extent resulting from any misrepresentation or breach of warranty or breach of covenant made by City in this Agreement or in any document, certificate, or exhibit given or delivered to Seller pursuant to or in connection with this Agreement. The indemnification provisions of this Section shall survive beyond the Closing, or, if title is not transferred pursuant to this Agreement, beyond any termination of this Agreement; provided, that Seller must give notice of any claim it may have against City under such indemnity within three (3) months of such termination or the Closing Date.

9. RISK OF LOSS AND POSSESSION

9.1 Risk of Loss

If any of the Property is damaged or destroyed prior to the Closing Date, or if condemnation proceedings are commenced against any of the Property, then the rights and obligations of Seller and City hereunder shall be as follows:

(a) If such damage or destruction is fully covered by Seller's insurance except for the deductible amount thereunder, and the insurer agrees to timely pay for the entire cost of such repair, and such damage or destruction would cost less than One Million Dollars (\$1,000,000) (the "**Threshold Damage Amount**") to repair or restore, then this Agreement shall remain in full force and effect and City shall acquire the Property upon the terms and conditions set forth herein. In such event, City shall receive a credit against the Purchase Price equal to such deductible amount, and Seller shall assign to City at Closing all of Seller's right, title and interest in and to all proceeds of insurance on account of such damage or destruction pursuant to an instrument satisfactory to City.

(b) If such damage or destruction is not fully covered by Seller's insurance, other than the deductible amount, and would cost less than the Threshold Damage Amount to repair or restore, then the transaction contemplated by this Agreement shall be consummated with City receiving a credit against the Purchase Price at the Closing in an amount reasonably determined by Seller and City (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction.

(c) If the cost of such damage or destruction would equal or exceed the Threshold Damage Amount, or if condemnation proceedings are commenced against any of the Property, then, City shall have the right, at its election, either to terminate this Agreement in its entirety, or only as to that portion of the Property damaged or destroyed or subject to condemnation proceedings (in which case there shall be an equitable adjustment to the Purchase Price), or to not terminate this Agreement and purchase the Property (or the portion not damaged or affected by condemnation, as the case may be). City shall have thirty (30) days after Seller notifies City that an event described in this Subsection (c) has occurred to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such thirty (30)-day period shall be deemed City's election to terminate this Agreement in its entirety. If this Agreement is terminated in its entirety or in part pursuant to this Subsection (c) by City's delivery of notice of termination to Seller, then City and Seller shall each be released from all obligations hereunder pertaining to that portion of the Property affected by such termination. If City elects not to terminate this Agreement, Seller shall notify City of Seller's intention to repair such damage or destruction, in which case this Agreement shall remain in full force and effect, or notify City of Seller's intention to give City a credit against the Purchase Price at the Closing in the amount reasonably determined by City and Seller (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction and, in the event of a result of such condemnation proceeding, the value of any Property taken as a result of such proceeding, in which case this Agreement shall otherwise remain in full force and effect, and Seller shall be entitled to any proceeds of insurance or condemnation awards. Any repairs elected to be made by Seller pursuant to this Subsection shall be made within one hundred eighty (180) days following such damage or destruction and the Closing shall be extended until the repairs are substantially completed. As used in this Section, the cost to repair or restore shall include the cost of lost rental revenue, including additional rent and base rent.

9.2 Insurance

Through the Closing Date, Seller shall maintain or cause to be maintained, at Seller's sole cost and expense, a policy or policies of property insurance in amounts equal to the full replacement value of the Improvements and the Personal Property, insuring against all insurable risks, including, without limitation, fire, vandalism, malicious mischief, lightning, windstorm, water, and other perils customarily covered by casualty insurance and the costs of demolition and debris removal. Seller shall furnish City with evidence of such insurance upon request by City.

9.3 Possession

Possession of the Property shall be delivered to City on the Closing Date.

10. MAINTENANCE; CONSENT TO NEW CONTRACTS

10.1 Maintenance of the Property by Seller

Between the date of Seller's execution of this Agreement and the Closing, Seller shall maintain the Property in good order, condition and repair, reasonable wear and tear excepted and shall make all repairs, maintenance and replacements of the Improvements **and any Personal Property** and otherwise operate the Property in the same manner as before the making of this Agreement, as if Seller were retaining the Property.

10.2 City's Consent to New Contracts Affecting the Property; Termination of Existing Contracts

After the date the Director of Property submits legislation for approval by City's Board of Supervisors of this Agreement, Seller shall not enter into any Lease or contract, or any amendment thereof, or permit any tenant of the Property to enter into any sublease, assignment or agreement pertaining to the Property, without in each instance obtaining City's prior written consent thereto. City agrees that it shall not unreasonably withhold or delay any such consent. Seller shall terminate prior to the Closing, at no cost or expense to City, any and all management agreements affecting the Property that City does not agree in writing prior to the Closing to assume.

11. GENERAL PROVISIONS

11.1 Notices

Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, against receipt, (ii) one (1) day after being deposited with a reliable overnight courier service, or (iii) two (2) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

City:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: 624 Laguna
Facsimile No.: (415) 552-9216

with copy to:

Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Re: [Identify Project/Property]
Facsimile No.: (415) _____

Seller:

Pacifica SFO LLC
1775 Hancock Street, Suite 200
San Diego, CA 92110
Attn: Deepak Israni
Phone: (619) 296-9000
Fax: (619) 296-9090
E-Mail: disrani@pacificacompanies.com

With a copy to:

Thomas P. Sayer, Jr., Esq.
9984 Scripps Ranch Blvd., #284
San Diego, CA 92131
Phone: (858) 335-9590
Fax: (619) 296-9090
E-Mail: tsayer1@gmail.com

or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above. For convenience of the parties, copies of notices may also be given by telefacsimile, to the telephone number listed above, or such other numbers as may be provided from time to time. However, neither party may give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

11.2 Brokers and Finders

Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the purchase and sale contemplated herein, except for Rob Reis License No. 01775960 of Marcus and Millichap, whose commission, if any is due, shall be the sole responsibility of Seller pursuant to a separate written agreement with such broker, and City shall have no liability whatsoever therefor. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his or her claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive the Closing.

11.3 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

11.4 Amendments

Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by City and Seller.

11.5 Continuation and Survival of Representations and Warranties

All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Closing, shall be deemed to be material, and, together with all conditions, covenants and indemnities made by the respective parties contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Closing, or, to the extent the context requires, beyond any termination of this Agreement. All statements contained in any certificate or other instrument delivered at any time by or on behalf of Seller in conjunction with the transaction contemplated hereby shall constitute representations and warranties hereunder.

11.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the Superior Court for the City and County of San Francisco, and each party agrees to the exclusive jurisdiction of such court in any such suit, action, or proceeding (excluding bankruptcy matters). The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim that any suit, action, or proceeding brought in San Francisco Superior Court relating to this Agreement has been brought in an inconvenient forum. The Parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to Federal Court.

11.7 Merger of Prior Agreements

The parties intend that this Agreement (including all of the attached exhibits and schedules, which are incorporated into this Agreement by reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

11.8 Parties and Their Agents; Approvals

The term "Seller" as used herein shall include the plural as well as the singular. If there is more than one (1) Seller, then the obligations under this Agreement imposed on Seller shall be joint and several. As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party. All approvals, consents or other determinations permitted or required by City hereunder shall be made by or through City's Director of Property unless otherwise provided herein, subject to applicable law.

11.9 Interpretation of Agreement

The article, section and other headings of this Agreement and the table of contents are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained herein. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

11.10 Seller Tax Obligations

Seller acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code (“**Delinquent Payment**”). If, under that authority, any payment City is required to make to Seller under this Agreement is withheld because Seller owes the City a Delinquent Payment, then City will not be in breach or default under this Agreement, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to Seller, without interest, late fees, penalties, or other charges, upon Seller coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

11.11 Sunshine Ordinance

Seller understands and agrees that under the City’s Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov. Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder public records subject to public disclosure. Seller hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

11.12 Conflicts of Interest

Through its execution of this Agreement, Seller acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provision, and agrees that if Seller becomes aware of any such fact during the term of this Agreement, Seller shall immediately notify the City.

11.13 Notification of Prohibition on Contributions

Through its execution of this Agreement, Seller acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from any department of the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (1) the City

elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or twelve (12) months after the date the contract is approved. Seller acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Seller further acknowledges that the (i) prohibition on contributions applies to each Seller; each member of Seller's board of directors, and Seller's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Seller; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Seller; and (ii) within thirty (30) days of the submission of a proposal for the contract, the City department with whom Seller is contracting is obligated to submit to the Ethics Commission the parties to the contract and any subcontractor. Additionally, Seller certifies that Seller has informed each of the persons described in the preceding sentence of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

11.14 Non-Liability of City Officials, Employees and Agents

Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to Seller, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Seller, its successors and assigns, or for any obligation of City under this Agreement.

11.15 Counterparts

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

11.16 Effective Date

As used herein, the term "**Effective Date**" means the date on which City, and Seller have executed this Agreement, as authorized by a resolution or ordinance, as applicable, enacted by the City's Board of Supervisors and Mayor approving and authorizing this Agreement and the transaction contemplated hereunder Severability.

11.17 Severability

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

11.18 Agreement Not to Market Prior to Effective Date

Seller agrees that unless and until this Agreement terminates pursuant to its terms, Seller shall not negotiate with any other parties pertaining to the sale of the Property and shall not market the Property to third parties.

11.19 Acceptance of Agreement by Seller

This Agreement shall be null and void unless Seller accepts it and returns to City four (4) fully executed counterparts hereof on or before 5:00 p.m. San Francisco Time on or before 5:00 p.m. San Francisco Time on the Friday prior to introduction to the Board of Supervisors of the legislation authorizing this transaction.

11.20 Cooperative Drafting.

This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

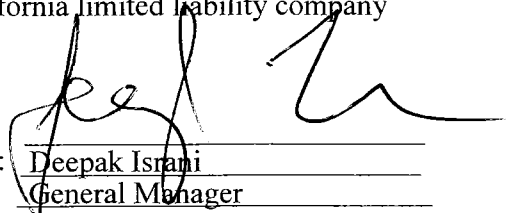
NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, SELLER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL APPROPRIATE LEGISLATION OF CITY'S BOARD OF SUPERVISORS SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH LEGISLATION, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY'S BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH LEGISLATION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

[SIGNATURES ON FOLLOWING PAGES]

The parties have duly executed this Agreement as of the respective dates written below.

SELLER:

PACIFICA SFO LLC,
a California limited liability company

By: 
Name: Deepak Israni
Its: General Manager

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

(Pursuant to Board of Supervisor Resolution No.
_____)

Date: _____

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
Vincent L. Brown
Deputy City Attorney

SCHEDULE 1

SELLER'S ENVIRONMENTAL DISCLOSURE

EXHIBIT A

REAL PROPERTY DESCRIPTION

All that certain real property located in the County of San Francisco, State of California, described as follows:

[LEGAL DESCRIPTION TO COME FROM PRELIMINARY REPORT]

EXHIBIT A

624 Laguna Street

APN: 035/0807

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of San Francisco, City of San Francisco and described as follows:

TRACT TWO:

Beginning at the intersection of the Northerly line of Ivy Street and the Easterly line of Laguna Street; thence Northerly along said line of Laguna Street, 48.00 feet; thence at a right angle Easterly, 80.00 feet; thence at a right angle Southerly 48.00 feet to the said Northerly line of Laguna Street; thence at a right angle Westerly along said line of Ivy Street, 80.00 feet to the point of beginning.

EXHIBIT B

PERSONAL PROPERTY DESCRIPTION

[TO COME FROM SELLER]

EXHIBIT C

GRANT DEED

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

The undersigned hereby declares this instrument to be
exempt from Recording Fees (CA Govt. Code § 27383)
and Documentary Transfer Tax (CA Rev. & Tax Code
§ 11922 and S.F. Bus. & Tax Reg. Code § 1105)

(Space above this line reserved for Recorder's use only)

GRANT DEED

(Assessor's Parcel No. 0807/0305)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, PACIFICA SFO LLC, a California limited liability company ("**Grantor**"), hereby grants to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City and County of San Francisco, State of California, described on Exhibit A attached hereto and made a part hereof (the "**Property**").

TOGETHER WITH any and all rights, privileges and easements incidental or appurtenant to the Property, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Property, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Property, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land and all of Grantor's right, title and interest in and to any and all roads and alleys adjoining or servicing the Property.

[SIGNATURES ON FOLLOWING PAGE]

Executed as of this _____ day of _____, 20____.

PACIFICA SFO LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

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)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, 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 _____ (Seal)

CERTIFICATE OF ACCEPTANCE

As required under Government Code Section 27281, this is to certify that the interest in real property conveyed by the Grant Deed, dated _____, from PACIFICA SFO LLC, a California limited liability company, to the City and County of San Francisco, a municipal corporation (“**Grantee**”), is hereby accepted by order of its Board of Supervisors’ Resolution No. 18110, adopted on August 5, 1957, and approved by the Mayor on August 10, 1957, and its Board of Supervisors’ Resolution No. _____, adopted on _____, 202__, and Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Penick
Director of Property

EXHIBIT A

REAL PROPERTY DESCRIPTION

All that certain real property located in the County of San Francisco, State of California, described as follows:

[LEGAL DESCRIPTION TO COME FROM PRELIMINARY REPORT]

EXHIBIT D

BILL OF SALE

For good and valuable consideration the receipt of which is hereby acknowledged, PACIFICA SFO LLC, a California limited liability company (“**Seller**”), does hereby sell, transfer and convey to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**Buyer**”), all personal property owned by Seller and located on or in or used in connection with the Land and Improvements (as such terms are defined in that certain Agreement of Purchase and Sale of Real Estate dated as of _____, 20____, between Seller and Buyer (or Buyer’s predecessor in interest), including, without limitation, those items described in Schedule 1 attached hereto.

Seller does hereby represent to Buyer that Seller is the lawful owner of such personal property, that such personal property is free and clear of all encumbrances, and that Seller has good right to sell the same as aforesaid and will warrant and defend the title thereto unto Buyer, its successors and assigns, against the claims and demands of all persons whomsoever.

DATED this _____ day of _____, 20____.

SELLER:

PACIFICA SFO LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

EXHIBIT E

ASSIGNMENT OF WARRANTIES AND GUARANTIES

THIS ASSIGNMENT is made and entered into as of this ____ day of _____, 20____, by and between PACIFICA SFO LLC, a California limited liability company (“**Assignor**”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**Assignee**”).

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date (as defined below), Assignor hereby assigns and transfers to Assignee all of Assignor’s right, title, claim and interest in and under:

A. all warranties and guaranties made by or received from any third party with respect to any building, building component, structure, system, fixture, machinery, equipment, or material situated on, contained in any building or other improvement situated on, or comprising a part of any building or other improvement situated on, any part of that certain real property described in **Exhibit A** attached hereto, including, without limitation, those warranties and guaranties listed in **Schedule 1** attached hereto (collectively, “**Warranties**”);

B. any other Intangible Property (as defined in that certain Agreement of Purchase and Sale of Real Estate dated as of _____, 20____, between Assignor and Assignee (or Assignee’s predecessor in interest)) (the “**Purchase Agreement**”).

ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. Assignor hereby agrees to indemnify Assignee against and hold Assignee harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys’ fees), originating prior to the Effective Date (as defined below) and arising out of the owner’s obligations under the Assumed Contracts, as defined in the Purchase Agreement.

2. Except as otherwise set forth in the Purchase Agreement, effective as of the Effective Date (as defined below), Assignee hereby assumes all of the owner’s obligations under the Assumed Contracts arising after the Effective Date (as defined below) and agrees to indemnify Assignor against and hold Assignor harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys’ fees), originating on or subsequent to the Effective Date (as defined below) and arising out of the owner’s obligations under the Assumed Contracts.

3. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

4. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

5. For purposes of this Assignment, the “**Effective Date**” shall be the date of the Closing (as defined in the Purchase Agreement).

6. This Assignment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

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

ASSIGNOR:

PACIFICA SFO LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

ASSIGNEE:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
Vincent L. Brown
Deputy City Attorney

EXHIBIT F
RESERVED

EXHIBIT G

RESERVED

EXHIBIT H

**CERTIFICATE OF TRANSFEROR
OTHER THAN AN INDIVIDUAL
(FIRPTA Affidavit)**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the transferee of certain real property located in the City and County of San Francisco, California, that withholding of tax is not required upon the disposition of such U.S. real property interest by PACIFICA SFO LLC, a California limited liability company (“**Transferor**”), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. Transferor’s U.S. employer identification number is _____; and

3. Transferor’s office address is _____

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: _____, 20____.

On behalf of:

PACIFICA SFO LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

EXHIBIT I
RESERVED

SCHEDULE 1
RESERVED

EXHIBIT J

**PROPERTY EXEMPTION NOTICE
California Revenue and Tax Code Section 5082**

[San Francisco Tax Assessor
1 Dr. Carlton B. Goodlett Place
City Hall, Room 190
San Francisco, CA 94102-4698]

[insert date]

Re: City and County of San Francisco Acquisition of Property
Notice of Property Tax Exemption Under CA Revenue and Tax Code § 5082

Dear _____[insert name of Tax Assessor]:

We write this letter to inform you that the City and County of San Francisco acquired the property described in the attached deed (the “**Property**”) on _____[*Title Company to insert Closing Date*] (the “**Apportionment Date**”).

In accordance with California Revenue and Tax Code §5082, we are notifying you of this acquisition, and request that you cancel property taxes for the remaining portion of the fiscal year following the Apportionment Date.

Please do not hesitate to contact the City’s Director of Property at the following address if you have any questions or need any further information:

Director of Property
City and County of San Francisco
25 Van Ness Avenue, 4th Floor
San Francisco, CA 94102
(p) 415-554-9860

Very truly yours,

Director of Property
City and County of San Francisco

cc: San Francisco Controller
San Francisco Tax Collector
San Francisco Department of Technology
San Francisco Public Utilities Commission