

---

---

**REAL PROPERTY PURCHASE AND SALE AGREEMENT  
AND ESCROW INSTRUCTIONS**

**by and between**

**401 7<sup>TH</sup> STREET, LLC,  
a Nevada limited liability company**

**as Seller**

**and**

**CITY OF LAS VEGAS REDEVELOPMENT AGENCY,  
an agency organized under the laws of the State of Nevada**

**as Buyer**

\_\_\_\_\_, 2025

**Relating to Real Property Located At:**

**401 North 7<sup>th</sup> Street  
Las Vegas, NV 89101**

---

---

## TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
<b>1. BASIC TERMS</b> .....	<b>1</b>
1.1 Property .....	1
1.2 Purchase Price.....	1
1.3 Escrow .....	1
1.4 Due Diligence Period .....	1
1.5 Closing Date .....	2
1.6 Title .....	2
1.7 Seller's Address for Notices.....	2
1.8 Buyer's Address for Notices .....	2
1.9 Brokers.....	2
<b>2. PURCHASE AND SALE</b> .....	<b>2</b>
2.1 Agreement to Buy and Sell.....	2
2.2 Payment of Purchase Price .....	3
2.3 Title Matters .....	4
2.4 Agreement to Honor Tony Hsieh .....	<b>Error! Bookmark not defined.</b>
<b>3. FEASIBILITY REVIEW PERIOD</b> .....	<b>4</b>
3.1 Deliveries by Seller .....	4
3.2 Buyer's Review of Title .....	5
3.3 Buyer's Review of the Property and Agreements.....	6
3.4 Buyer's Termination .....	8
3.5 Seller's Termination .....	9
<b>4. CONDITIONS TO CLOSING</b> .....	<b>9</b>
4.1 Seller's Conditions .....	9
4.2 Buyer's Conditions .....	9
4.3 Failure of Conditions.....	10
<b>5. ADDITIONAL AGREEMENTS OF THE PARTIES</b> .....	<b>10</b>
5.1 Representations and Warranties .....	10
5.2 Reaffirmation.....	14
<b>5.3 RELEASE AND WAIVER</b> .....	14
5.4 Condemnation.....	19
5.5 Damage or Destruction .....	19
5.6 Indemnity .....	20
<b>6. CLOSING</b> .....	<b>20</b>
6.1 Deposits Into Escrow .....	20
6.2 Prorations.....	21
6.3 Payment of Closing Costs .....	22
6.4 Closing of Escrow .....	22
6.5 Failure to Close; Cancellation.....	23
<b>6.6 LIQUIDATED DAMAGES</b> .....	23
<b>6.7 BUYER'S REMEDIES</b> .....	24
6.8 Possession.....	25
<b>7. GENERAL PROVISIONS</b> .....	<b>25</b>
7.1 Counterparts; Electronic Signatures.....	25
7.2 Entire Agreement.....	25
7.3 Legal Advice; Neutral Interpretation; Headings .....	25

7.4	Choice of Law; Jurisdiction; Venue.....	25
7.5	Severability .....	25
7.6	Waiver of Covenants, Conditions or Remedies.....	25
7.7	Exhibits .....	26
7.8	Amendments.....	26
7.9	Relationship of Parties.....	26
7.10	No Third Party Benefit .....	26
7.11	Time of the Essence .....	26
7.12	Further Acts .....	26
7.13	Recordation; Actions to Clear Title .....	26
7.14	Assignment .....	26
7.15	Attorneys' Fees .....	27
7.16	Brokers.....	27
7.17	Manner of Giving Notice .....	27
7.18	Survival .....	27

**EXHIBIT LIST**

<u>Exhibit</u>	<u>Description</u>
Exhibit A	PROPERTY DESCRIPTION
Exhibit B	BILL OF SALE AND GENERAL ASSIGNMENT OF INTANGIBLE PROPERTY
Exhibit C	[INTENTIONALLY OMITTED]
Exhibit D	[INTENTIONALLY OMITTED]
Exhibit E	[INTENTIONALLY OMITTED]
Exhibit F	FORM OF OWNER'S AFFIDAVIT

**REAL PROPERTY PURCHASE AND SALE AGREEMENT  
AND ESCROW INSTRUCTIONS**

**THIS REAL PROPERTY PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS** (this "Agreement") is entered into as of \_\_\_\_\_, 2025 (the "Effective Date"), by and between 401 7<sup>TH</sup> STREET, LLC, a Nevada limited liability company ("Seller"), and CITY OF LAS VEGAS REDEVELOPMENT AGENCY, an agency organized under the laws of the State of Nevada ("Buyer"). In consideration of the mutual covenants and agreements contained in this Agreement, Buyer and Seller agree as follows:

**1. BASIC TERMS**

- 1.1 Property. The real property that Seller is selling and Buyer is buying is located at 401 North 7<sup>th</sup> Street, in the City of Las Vegas, Clark County, Nevada (APN: 139-34-512-049). The real property, together with all other property that is the subject of this Agreement, is defined more fully in Section 2.1 below. The parties acknowledge that, concurrently with the execution and delivery of this Agreement, 300 LV Blvd, LLC, a Nevada limited liability company, an affiliate of Seller, and Buyer are executing and delivering that certain Purchase and Sale Agreement (the "300 N. Las Vegas Blvd. Purchase Agreement") with respect to the purchase and sale of certain real property located at 300 N. Las Vegas Blvd., Las Vegas, Nevada (the "300 N. Las Vegas Blvd. Property"). The parties hereby agree they intend to consummate the transaction contemplated hereunder concurrently with the consummation of the transaction contemplated under the 300 N. Las Vegas Blvd. Purchase Agreement. Without limiting the foregoing, Buyer shall have no right to purchase the Property without concurrently purchasing the 300 N. Las Vegas Blvd. Property, and if the 300 N. Las Vegas Blvd. Purchase Agreement is terminated for any reason other than a Seller default under the 300 N. Las Vegas Blvd. Purchase Agreement, Seller shall have the right (at its option) to terminate this Agreement, in which case the Deposit shall be disposed of in the same manner as the deposit under the 300 N. Las Vegas Blvd. Purchase Agreement.
- 1.2 Purchase Price. The purchase price for the property (the "Purchase Price") is One Million Ninety Thousand Dollars (\$1,090,000.00), subject to prorations and adjustments as set forth in this Agreement. Within five (5) business days after the Effective Date, Buyer shall deposit into Escrow (as defined below) the amount of Fifty Thousand Dollars (\$50,000.00) (including any interest earned thereon, the "Deposit").
- 1.3 Escrow. On or promptly after the date this Agreement is executed, an escrow (the "Escrow") shall be opened with First American Title Insurance Company, with an address of 8311 W. Sunset Road, Suite 100, Las Vegas, NV 89113 Attention: Anastasia Dion, Sr. Escrow Officer, Tel: (702) 855-0878 (direct), Email: adion@firstam.com (the "Escrow Holder"). This Agreement shall constitute both an agreement between Seller and Buyer and escrow instructions for Escrow Holder. Seller and Buyer shall promptly execute and deliver to Escrow Holder any additional escrow instructions requested by Escrow Holder, which are consistent with the terms of this Agreement. Any additional instructions shall not modify or amend the provisions of this Agreement unless expressly agreed in writing by Buyer and Seller. Seller and Buyer shall, in addition, each be entitled to submit escrow instructions to the Escrow Holder so long as such instructions are consistent with the provisions of this Agreement.
- 1.4 Due Diligence Period. Buyer shall have until the sixtieth (60th) day after the Effective Date (the "Decision Date") to complete all of its inspections, investigations and reviews of the property (including title reviews, structural, mechanical and engineering inspections, environmental inspections, financial and feasibility studies, and all other inspections, investigations and reviews), all in accordance with Article 3 below. Additionally, upon

written notice to Seller provided no later than thirty (30) days after the Effective Date, Buyer may extend the Decision Date for an additional thirty (30) days.

1.5 Closing Date. Escrow shall close fifteen (15) days after the Decision Date (as the same may be extended pursuant to Section 1.4 above), or on such earlier date as is agreed upon by Seller and Buyer in writing. As used in this Agreement, "Closing" means the recordation of the "Deed" (as defined below) in the Official Records of Clark County, Nevada, and the completion of the other matters required by this Agreement to be done contemporaneously. The date on which the Closing occurs shall be referred to as the "Closing Date."

1.6 Title. The title company (the "Title Company") shall be First American Title Insurance Company, with an address of 8311 W. Sunset Road, Suite 100, Las Vegas, NV 89113 Attention: Julie Skinner, Tel: (702) 855-0867, Email: jskinner@firstam.com.

1.7 Seller's Address for Notices. All notices to be provided to Seller shall be sent to the following addresses:

401 7<sup>th</sup> Street, LLC  
c/o Goldsmith Guymon PC  
2055 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 873-9500  
Email: dgoldsmith@goldguylaw.com  
Attn: Dara Goldsmith, Esq.

With a Copy to:  
Holland & Knight LLP  
400 South Hope Street, 8<sup>th</sup> Floor  
Los Angeles, California 90071  
Telephone: (213) 896-2540  
Email: susan.booth@hkklaw.com,  
jennifer.a.white@hkklaw.com,  
leizl.hinajon@hkklaw.com  
Attn: Susan Booth, Esq.,  
Jennifer White, Esq., Leizl Hinajon Esq.

1.8 Buyer's Address for Notices. All notices to be provided to Buyer shall be sent to the following addresses:

City of Las Vegas Redevelopment Agency  
Attn: Executive Director/City Manager  
495 S. Main Street, 7<sup>th</sup> Floor  
Las Vegas, NV 89101  
Telephone: (702) 229-6906  
Email: mjanssen@lasvegasnevada.gov  
Attn: Mike Janssen

With a Copy to:  
City of Las Vegas  
Attn: City Attorney's Office  
495 S. Main Street, 6<sup>th</sup> Floor  
Las Vegas, NV 89101  
Telephone: (702) 2129-6629  
Email: jridilla@lasvegasnevada.gov,  
jhenderson@LasVegasNevada.gov,  
treich@LasVegasNevada.gov  
Attn: John Ridilla, Esq.

1.9 Brokers. Neither party has dealt with a broker in connection with this transaction.

## **2. PURCHASE AND SALE**

2.1 Agreement to Buy and Sell. Subject to all of the terms and conditions of this Agreement, Seller agrees to sell and convey to Buyer, and Buyer agrees to acquire and purchase from Seller, the following (all of which is collectively called the "Property" in this Agreement):

2.1.1 Real Property. The land legally described in Exhibit A attached hereto (the "Land"), and all buildings, improvements, structures, and amenities which may be located on the Land (collectively, the "Improvements"). The Improvements, Building and Land are collectively referred to as the "Real Property."

- 2.1.2 Personalty. All right, title, and interest of Seller, if any, in and to all personal property and other tangible property located on the Real Property, including but not limited to the following, if any: all carpeting and other floor coverings; all heating, lighting, plumbing, electrical, air-conditioning, and humidifying equipment, units, and fixtures; all hot water heaters, furnaces, heating controls, motors, boiler pressure systems and equipment; and all other furniture, fixtures and equipment attached to or located within the Improvements (all of the above personal property in which Seller has any right, title, or interest is collectively referred to as the "Personalty").
- 2.1.3 [Intentionally Omitted.]
- 2.1.4 Other Property Rights. All of Seller's right, title and interest in and to, and obligations under, all of the following, if any, to the extent assignable: (a) all land use entitlements, governmental permits and allocations, and other governmental approvals held by Seller in connection with the Land, Improvements or Personalty ("Entitlements"); (b) all easements for the benefit of the Land ("Easements"); and (c) all plans, drawings, specifications, surveys, engineering reports, and other technical information in the possession of Seller, if any, pertaining to the Land, Building, Improvements or Personalty ("Plans") (such Entitlements, Easements and Plans are referred to collectively as "Other Property Rights").
- 2.2 Payment of Purchase Price. The Purchase Price shall be payable as follows:
- 2.2.1 Deposit. Not later than the dates stated in Section 1.2 above, Buyer shall deposit the Deposit into Escrow. All deposits referenced in this paragraph shall be made by certified check or wire transfer of federal funds or in other immediately available funds. Except as otherwise stated in this Agreement, the Deposit shall be nonrefundable to Buyer after the Decision Date in accordance with the provisions of Section 6.6 below. The Deposit shall be applied to the Purchase Price at Closing. If Buyer terminates this Agreement in accordance with any right to terminate granted to Buyer by the terms of this Agreement, the Nonrefundable Portion of the Deposit shall be returned to Buyer by Escrow Holder, and neither party hereto shall have any further rights or obligations under this Agreement except for such obligations which by their terms expressly survive the termination of this Agreement (the "Surviving Obligations").
- 2.2.2 Separate Consideration for Termination Rights. Notwithstanding anything to the contrary stated in this Agreement, One Hundred Dollars (\$100.00) of the Deposit (the "Nonrefundable Portion") shall be deemed to be separate consideration for (a) Buyer's right to terminate this Agreement pursuant to Section 3.4 or any other relevant paragraph of this Agreement, and (b) Seller's agreement to permit Buyer to obtain a refund of the Deposit (minus the Nonrefundable Portion) in the event of such a termination. Accordingly, even if Buyer terminates this Agreement in a situation where Buyer is entitled to a refund of the Deposit, Buyer agrees that the Nonrefundable Portion will not be returned to Buyer, but instead will be delivered to Seller.
- 2.2.3 Balance of Purchase Price. On or before the Closing Date, Buyer shall deliver or cause to be delivered into Escrow in immediately available funds the balance of the Purchase Price and all amounts required of Buyer in connection with any prorations and closing costs to be paid by Buyer as provided in this Agreement.

### 2.3 Title Matters.

- 2.3.1 General. If this Agreement is not terminated prior to Closing in accordance with the terms hereof, Seller shall convey the Property to Buyer by a Quitclaim Deed (the "Deed") prepared pursuant to that certain Notice of Entry Order re: Status Report and Petition For Authority to Sell Real Property of the Estate Without Bids dated September 21, 2023, with respect to the matter of the Estate of Anthony Hsieh, P-20-105105-E, as supplemented by that certain Report of Administrator Advising of the Sale of Estate Real Property Without Bids filed with the Clerk of the Court on October 11, 2024 (the "Order Confirming Sale") filed in the Eighth Judicial District Court for the State of Nevada (the "Court"), subject only to the "Permitted Exceptions" (defined below).
- 2.3.2 Title Insurance. At the Closing, Seller shall cause the Title Company to issue and deliver to Buyer a standard coverage form policy of title insurance, with liability and limits in the amount of the Purchase Price, insuring title to the Property as vested in Buyer in fee simple absolute, subject only to the Permitted Exceptions (the "Owner's Policy"). Buyer may, at its option, require that the Owner's Policy be an ALTA extended coverage policy instead of a standard coverage policy so long as that does not cause a delay to the Closing and Buyer pays the additional cost therefor (including the cost of any survey required by the Title Company and any endorsements requested by Buyer). Buyer may also elect to purchase any endorsements to the Owner's Policy at Buyer's sole cost and expense, but the issuance of such endorsements shall not be a condition to Buyer's obligation to close its purchase of the Property. On or before the Decision Date, Buyer shall have satisfied itself pursuant to Section 3.2 below that the Title Company is committed to issuing the Owner's Policy in such form and containing such endorsements that Buyer may require. After the Decision Date, Buyer may request changes or additional endorsements to the Owner's Policy, but it shall not be a condition to Closing that the Title Company agree to any such changes or additional endorsements.

### 3. FEASIBILITY REVIEW PERIOD

#### 3.1 Deliveries by Seller.

- 3.1.1 To the extent not delivered prior to the Effective Date, within ten (10) business days after the Effective Date, Seller shall cause the Title Company to delivered to Buyer a copy of that certain Commitment for Title Insurance dated March 6, 2025 issued by the Title Company as Commitment No. NCS-1125927-HHLV, covering the Real Property (collectively, the "PTR").
- 3.1.2 To the extent not delivered prior to the Effective Date, within five (5) days after the Effective Date, Seller shall promptly provide, or make available to Buyer through a dropbox or datasite, copies of the following materials to the extent the following are, to Seller's Actual Knowledge, in Seller's possession or control: (1) building plans and specifications, (2) copies of all agreements and all service contracts applicable to the Property; (3) copies of all licenses and permits regarding the Property, and (4) copies of other material written information regarding the condition of the Property which, to Seller's Actual Knowledge, is in Seller's possession or control (the "Materials"); provided, however that the Materials shall not include, and Seller shall have no obligation to provide any of the following materials: (i) any document or correspondence which would be subject to the attorney-client privilege or covered by the attorney work-product doctrine and any memo, correspondence or other document to or from counsel, whether or not covered by the attorney-client privilege; (ii) any document or item

which Seller is contractually or otherwise bound to keep confidential; (iii) any documents pertaining to the marketing of the Property for sale to prospective buyers; (iv) any internal memoranda, reports or assessments of Seller or Seller's affiliates relating to Seller's marketing, disposition or valuation of the Property; (v) any appraisals of the Property, whether prepared internally by Seller or Seller's affiliates or externally; (vi) any documents or items which Seller considers proprietary (such as Seller's or its property manager's operation manuals, software programs or other electronic media or services that are subject to licenses or other agreements that are personal to Seller or Seller's property manager, insurance policies, or any current operating budgets for the Property); (vii) organizational, financial and other documents relating to Seller or Seller's affiliates (other than evidence of due authorization and organization as may be required under the Purchase Contract); (viii) any materials projecting or relating to the future performance of the Property; and (ix) Seller's financial analyses or projections, including Seller's pre-acquisition due diligence materials, acquisition files on the Property and the book value of the Property. Seller advises Buyer that Seller does not have any of the following, and the Materials delivered by Seller will not include any of the following: engineering reports, soils reports, or as-built plans.

- 3.1.3 Seller makes no representation or warranty as to the truth, accuracy or completeness of any such delivered Materials, and Buyer agrees notwithstanding the delivery of such materials, Buyer shall rely solely on its own investigations of the Property in determining, prior to the Decision Date, whether to purchase the Property. Seller shall not be required to provide or make available to Buyer any internally prepared reports, appraisals, or analysis concerning the valuation or potential performance of the Property, marketing studies, or any documents or materials which are subject to attorney-client or attorney work product privilege or which are the subject of a confidentiality obligation of Seller.

3.2 Buyer's Review of Title.

- 3.2.1 On or before the seventh (7th) day before the Decision Date (the "Title Disapproval Date"), Buyer shall deliver to Seller written notice (the "Title Disapproval Notice") of Buyer's disapproval or conditional approval of title as shown on the PTR (the "Disapproved Exceptions"). If any update to the PTR after the Title Disapproval Date reveals any new title exception not previously disclosed to Buyer in the PTR (a "New Defect"), Buyer shall have a period of three (3) business days after receipt of such update to the PTR (the "New Title Disapproval Date") to object to such new matter by written notice to Seller (the "New Title Disapproval Notice"). Buyer's failure to provide the Title Disapproval Notice or New Title Disapproval Notice on or before the required date shall constitute Buyer's approval of the condition of title as shown on the PTR. Notwithstanding the foregoing, Buyer preemptively disapproves as a Disapproved Exception of any and all Notice of Lis Pendens recorded against the Property; and Seller shall have all Notice of Lis Pendens removed from title prior to Closing.
- 3.2.2 If Buyer timely delivers the Title Disapproval Notice, Seller shall have until the 5th day after Seller's receipt of the Title Disapproval Notice for title exceptions disapproved by Buyer in the Title Disapproval Notice (and three (3) business days after receipt of any New Title Disapproval Notice for each New Defect) to provide Buyer with a written notice ("Seller's Title Notice") stating that: (a) Seller has removed the Disapproved Exceptions from title (or met Buyer's conditions for approval of a title exception); or (b) Seller is covenanting to do so as of or before Closing; or (c) Seller will not remove (or meet the conditions of approval of)

specified Disapproved Exceptions. Failure to address Disapproved Exceptions in any notice, or failure to give such a notice, shall constitute Seller's statement that it will not remove or otherwise address the Disapproved Exceptions.

- 3.2.3 If Seller does not remove or covenant to remove (or meet or covenant to meet the conditions of approval of) any Disapproved Exceptions, Buyer shall have the right, on or before the Decision Date (or within three (3) business days after receipt of Seller's Title Notice delivered after the Decision Date), to terminate this Agreement or to waive its objection to the Disapproved Exceptions in question and proceed to Closing as Buyer's sole and exclusive remedy. Buyer's failure to timely provide written notice of termination shall constitute Buyer's waiver of its disapproval of the Disapproved Exceptions. In the case of Buyer's waiver (or deemed waiver) of Disapproved Exceptions, Seller shall have no obligation to remove or otherwise address the Disapproved Exceptions from title and such waived Disapproved Exceptions shall be deemed approved. If Buyer elects to terminate this Agreement, the provisions of Section 3.4 shall apply.
- 3.2.4 In this Agreement, the term "Permitted Exceptions" means: (a) installments of general and special real property taxes and assessments not then delinquent, (b) any encumbrance arising from the acts or omissions of Buyer, and (c) any other exception showing on the PTR other than the Disapproved Exceptions that Seller removes or covenants to remove. Notwithstanding the foregoing, Seller agrees that all Notice of Lis Pendens and liens which secure an obligation to pay money, including, without limitation, all liens evidencing any deed of trust, all delinquent tax liens, and all mechanic's and/or materialmen's liens which have not been bonded (collectively "Monetary Liens"), other than installments of real estate taxes not delinquent as of the Closing Date, shall automatically be Disapproved Exceptions and shall not be Permitted Exceptions, regardless of whether they were included in Buyer's Title Disapproval Notice. As of the Closing the Seller shall be obligated to pay or otherwise cause to be removed all Notice of Lis Pendens and Monetary Liens.

### 3.3 Buyer's Review of the Property and Agreements.

- 3.3.1 Review of Agreements. Buyer shall have until the Decision Date to review the documents and other materials delivered pursuant to Section 3.1. If on the basis of the review, Buyer determines in its sole and absolute discretion that the Property is not suitable for Buyer's intended use, then on or before the Decision Date, Buyer may terminate this Agreement in accordance with Section 3.4 below. Buyer's failure to provide a written termination notice on or before the Decision Date pursuant to Section 3.4 below shall constitute Buyer's approval of each document and each other material described in Section 3.1 (whether or not it was actually reviewed by Buyer).

#### 3.3.2 Inspection of the Property.

- (a) Nonexclusive License. Seller hereby grants to Buyer and its agents, employees, representatives or contractors (collectively, the "Buyer's Agents") a nonexclusive license to enter onto the Property solely for the purpose of conducting Buyer's inspection of the Property to determine if the Property is suitable for Buyer's purposes (the "Inspection"). Any Inspection work shall be at the sole cost and expense of Buyer, and all Inspections and Inspection work shall be conducted during normal business hours. The license created under this paragraph shall expire on the Closing Date (or on the date this Agreement is terminated, if earlier than the Closing Date). At least two (2) business days prior to

any entry and Inspection, Buyer shall deliver to Seller written notice (email notice being sufficient in this case) of its intention to enter the Property to conduct such Inspection and the proposed date and time of such entry (and Buyer may enter only on the dates and at the times contained in such notices, and Seller shall have the right to have one or more of its representatives or agents accompany Buyer and Buyer's Agents at all times while Buyer or Buyer's Agents are on the Property).

- (b) Physical Testing. Notwithstanding the foregoing, without first obtaining Seller's prior written consent, Buyer shall only conduct a visual inspection, with no right to conduct any physical testing, boring, sampling or removal of any portion of the Property (collectively, "Physical Testing"). If Buyer wishes to conduct any Physical Testing of the Property, Buyer shall submit a work plan to Seller for Seller's prior written approval, which Seller may modify, limit or disapprove in its sole and absolute discretion. If Seller approves a work plan, all Physical Testing shall comply strictly with the work plan that has been approved by Seller, and if Seller does not approve a work plan, Buyer shall not conduct the proposed Physical Testing of the Property but shall be entitled to submit to Seller one or more modifications to the work plan for Seller's consent, in Seller's sole and absolute discretion. If Buyer intends to conduct any Physical Testing, Buyer shall, prior to commencing any such Physical Testing, provide Seller with sufficient evidence to show that Buyer and Buyer's Agents who are to enter upon the Property are adequately covered by policies of insurance insuring Buyer and Seller against any and all liability arising out of Buyer's or Buyer's Agents' entry upon and Inspection of the Property, including without limitation any loss or damage to the Property, with coverage in the amount not less than \$2,000,000 per occurrence. If Buyer or Buyer's Agents conduct any activities on the Property that are excluded from the definition of "Inspection" (except pursuant to a work plan approved by Seller in accordance with this paragraph), that shall be a material breach of this Agreement and Seller may at Seller's option terminate this Agreement in accordance with the terms of Section 3.5 and keep the Deposit and any interest accrued thereon as liquidated damages pursuant to Section 6.6.
- (c) Indemnification. Buyer agrees to hold harmless, defend and indemnify and hereby releases Seller, its shareholders, members, officers, directors, employees, subsidiaries, affiliates, partners, trustees, agents and contractors, and its and their respective successors and assigns (the "Seller's Parties") and the Property from and against any and all claims, demands, causes of actions, losses, liabilities, liens, encumbrances, costs or expenses, including reasonable attorneys' fees and litigation costs (collectively, "Inspection Claims") arising out of or connected with any injuries to persons (including death) or property (real or personal) by reason of the work or activities conducted on the Property by Buyer or Buyer's Agents whether before or after the Effective Date. In no event shall Buyer be required to indemnify the Seller's Parties against any Inspection Claims resulting from the mere discovery by Buyer or Buyer's Agents of the presence of Hazardous Materials at the Real Property unless such Hazardous Materials are intentionally or negligently disturbed or exacerbated by Buyer or Buyer's Agents. The provisions of this paragraph shall not be limited in any way by any other terms of this Agreement, including Section 6.6 of this Agreement.

- (d) Condition of the Property. In no event shall Buyer or Buyer's Agents have the right to place any materials or equipment on the Property (including signs or other advertising material) until after the Closing has occurred. Buyer shall, at its sole cost and expense, clean up the Property, in whatever manner necessary, after Buyer's or Buyer's Agents' entry so that the Property shall be returned to the same condition that existed prior to Buyer's or Buyer's Agents' entry.
- (e) Copies of Due Diligence Materials. If this Agreement terminates for any reason other than Seller's default, Seller shall promptly be provided with a copy of any and all information, materials and data that Buyer and/or Buyer's Agents discover, obtain or generate in connection with or resulting from its Inspection and work under Section 3.3.2, provided, however, Buyer shall not be required to deliver to Seller internally prepared reports, appraisals, or analysis concerning the valuation or potential performance of the Property, marketing studies, architectural plans or drawings, or any documents or materials which are subject to attorney-client or attorney work product privilege or which are the subject of a confidentiality obligation of the Buyer. Any reports or other documents delivered by Seller to Buyer pursuant to this Section 3.3.2(e) shall be delivered without representation or warranty, nor shall Seller assert any warranty or rights against consultants of Buyer who have prepared such reports. All such information, materials and data shall be confidential "Information" as such term is used in Section 7.17 below.
- (f) Termination of this Agreement. On or before the Decision Date, Buyer shall have caused the preparation of, obtained, reviewed (or shall have chosen not to have reviewed) and approved, among other things, all reports of investigations of the Property, including such structural, mechanical, soils, geological, engineering and environmental tests and reports and other inspections of the Property as Buyer shall deem necessary in order to determine whether the Property is suitable for Buyer's intended use, as well as investigated all applicable zoning requirements, federal, state and local laws, ordinances, rules, regulations, permits, licenses, approvals and orders. If, on the basis of the review and the Inspection described in this Section, Buyer determines in its sole discretion that the Property is not suitable for Buyer's intended use, then on or before the Decision Date, Buyer may terminate this Agreement in accordance with Section 3.4. Buyer's failure to provide such notice on or before the Decision Date shall constitute Buyer's approval of the items described in this paragraph and of the condition of the Property.

3.4 Buyer's Termination. If Buyer elects to terminate this Agreement in accordance with Sections 3.2, 3.3, 5.4, or 5.5, then, on or before the dates specified in such Sections as the case may be, Buyer shall give Seller and Escrow Holder written notice that Buyer elects to terminate this Agreement. Buyer's failure to provide the notice by the specified deadline shall constitute Buyer's waiver of Buyer's right to terminate this Agreement for reasons for which that deadline applied and a waiver of any condition to Closing relating to such deadline, but not as to the reasons for which a later deadline applies. If Buyer elects to terminate this Agreement pursuant to this Section, the Escrow Holder shall return to the depositor thereof any funds and interest thereon accrued while in Escrow (including the Deposit which is to be promptly returned to Buyer, minus the Nonrefundable Portion which shall be delivered to Seller) and materials previously placed in Escrow and remaining in Escrow; Buyer shall pay all title and escrow charges; and

neither party shall thereafter have any further rights or obligations under this Agreement unless expressly provided otherwise in this Agreement.

- 3.5 Seller's Termination. If Seller elects to terminate this Agreement as a result of a material breach of Buyer's obligations hereunder, then, within ten (10) business days after the date of the material breach and Buyer's failure to cure, Seller shall give Buyer and Escrow Holder written notice that Seller elects to terminate this Agreement. Seller's failure to provide the notice by the specified deadline shall constitute Seller's waiver of Seller's right to terminate this Agreement for reasons for which that deadline applied and a waiver of any condition to Closing relating to such deadline, but not as to the reasons for which a later deadline applies. In the event Seller elects to terminate this Agreement pursuant to this Section, Section 6.6 shall apply; Buyer shall pay all title and escrow charges; and neither party shall thereafter have any further rights or obligations under this Agreement unless expressly provided otherwise in this Agreement.

#### **4. CONDITIONS TO CLOSING**

- 4.1 Seller's Conditions. The obligation of Seller to sell and convey the Property pursuant to this Agreement is subject to the satisfaction on or before the date scheduled for Closing (or such earlier date as is specifically set forth in this Agreement) of all of the following conditions precedent, which conditions are for the benefit of Seller only and the satisfaction of which may be waived only in writing by Seller:
- 4.1.1 Buyer's Performance. Buyer shall have performed in all material respects each and every agreement to be performed by Buyer pursuant to this Agreement including, without limitation, delivery and execution by Buyer of all monies, items and instruments required to be delivered by Buyer pursuant to this Agreement;
  - 4.1.2 Buyer's Representations. Buyer's warranties and representations set forth herein shall be true and correct in all material respects as of the Closing Date;
  - 4.1.3 No Termination. Buyer shall not have terminated this Agreement pursuant to Section 3.4 above; and
  - 4.1.4 300 N. Las Vegas Blvd. Purchase Agreement Closing. The transaction contemplated under the 300 N. Las Vegas Blvd. Purchase Agreement shall close concurrently with the Closing hereunder. Notwithstanding the foregoing, if the closing under the 300 N. Las Vegas Blvd. Purchase Agreement does not close because of a Seller default under such purchase agreement, and Buyer is not in default under this Agreement, Buyer shall still have the right to close on the Property under this Agreement.
- 4.2 Buyer's Conditions. The obligation of Buyer to acquire the Property pursuant to this Agreement is subject to the satisfaction on or before the date scheduled for Closing (or such earlier date as is specifically set forth in this Agreement) of all of the following conditions precedent which conditions are for the benefit of Buyer only and the satisfaction of which may be waived only in writing by Buyer:
- 4.2.1 Seller's Performance. Seller shall have performed in all material respects each and every agreement to be performed by Seller pursuant to this Agreement including, without limitation, delivery and execution by Seller of all instruments and other items required to be delivered by Seller pursuant to this Agreement;

- 4.2.2 Seller's Representations. Seller's warranties and representations set forth herein shall be true and correct in all material respects as of the Closing Date;
- 4.2.3 Owner's Policy. As of the Closing, the Title Company shall have issued or shall have irrevocably committed to issue, upon the sole condition of the payment of its regularly scheduled premium, the Owner's Policy in the full amount of the Purchase Price, showing fee simple title vested in Buyer subject only to the Permitted Exceptions;
- 4.2.4 City Council Approval. Prior to the Decision Date (as the same may be extended), Buyer's purchase of the Property pursuant to this Agreement shall have been approved by the Las Vegas City Council at a duly noticed meeting;
- 4.2.5 No Termination. Buyer shall not have terminated this Agreement pursuant to Section 3.4 above; and
- 4.2.6 300 N. Las Vegas Blvd. Purchase Agreement Closing. The transaction contemplated under the 300 N. Las Vegas Blvd. Purchase Agreement shall close concurrently with the Closing hereunder. Notwithstanding the foregoing, if the closing under the 300 N. Las Vegas Blvd. Purchase Agreement does not close because of a Seller default under such purchase agreement, and Buyer is not in default under this Agreement, Buyer shall still have the right to close on the Property under this Agreement.
- 4.3 Failure of Conditions. If any of the conditions set forth in Sections 4.1 or 4.2 are not timely satisfied or waived, for any reason other than the default of Buyer or Seller under this Agreement (in which case the provisions of Sections 6.6 and 6.7 shall be applicable), then this Agreement and the rights and obligations of Buyer and Seller shall, at the election of the party benefitting from the failed condition, terminate upon written notice on or before the Closing Date (except with respect to Section 4.2.4 which notice must be given within five (5) days of the Decision Date (as the same may be extended)) given by the applicable party to the other party and the Title Company and be of no further force or effect except as to those matters as specifically stated in this Agreement to survive termination, in which case, subject to Section 6.6, the Title Company is hereby instructed to return promptly to the party which placed such items into Escrow all funds and documents which are held by the Title Company on the date of termination.

## **5. ADDITIONAL AGREEMENTS OF THE PARTIES**

### **5:1 Representations and Warranties.**

5.1.1 Buyer's Representations and Warranties. Buyer represents, warrants and covenants to and agrees with Seller as follows:

(a) Buyer's Investigation; "As Is" Purchase. Except as otherwise expressly provided in this Agreement:

- (i) There are no representations or warranties of any kind whatsoever, express or implied, made by Seller in connection with this Agreement, the purchase of the Property by Buyer, the physical condition of the Property, the financial performance of the Property, the compliance of the Property with any applicable governmental requirements, the status of zoning or whether the Property is appropriate for Buyer's intended use;

- (ii) On or before the Decision Date, Buyer will have (or will have chosen not to have) fully investigated the Property and all matters pertaining thereto;
  - (iii) Buyer is not relying on any statement or representation of Seller, its agents or its representatives nor on any information supplied by Seller, its agents or its representatives, except as expressly provided in this Agreement;
  - (iv) It is the parties' express understanding and agreement that any Materials provided to Buyer are for Buyer's convenience and information in making its own examination and determination prior to the end of Decision Date as to whether it wishes to purchase the Property, and, in doing so, Buyer is relying entirely and exclusively on its own evaluation of every aspect of the Property of the Property and its independent investigation of the Property;
  - (v) On or before the Decision Date, Buyer will be aware (or will have chosen not to be aware) of all title matters; zoning regulations; other governmental requirements; site and physical conditions; status of entitlements or the ability to obtain entitlements for Buyer's intended use; potential costs and procedures for operating the Property in the manner intended by Buyer; potential costs and procedures for developing the Property and constructing Buyer's intended improvements thereon; the past and potential future financial performance of the Property; the past and possible future compliance of the Property with any applicable governmental requirements; structural, mechanical or other physical conditions of the Property; Hazardous Materials or environmental condition of the Property; soils conditions; status of permits or licenses for the Property; termites or other pests; condition of any leases or other contracts relating to the Property; the suitability of the Property for Buyer's intended use; other matters affecting the use and condition of the Property; and any other contingency or other matter whatsoever; and
  - (vi) Buyer shall purchase the Property in its "as is" condition as of the date of Closing.
- (b) Authority. Subject to obtaining the approval of the Las Vegas City Council, Buyer has the power and authority to own the Property and to consummate the transactions contemplated by this Agreement. Subject to obtaining the approval of the Las Vegas City Council, this Agreement and all instruments, documents and agreements to be executed by Buyer in connection with this Agreement are or when delivered shall be duly authorized, executed and delivered by Buyer and are valid, binding and enforceable obligations of Buyer. Subject to obtaining the approval of the Las Vegas City Council, each individual executing this Agreement on behalf of Buyer represents and warrants to Seller that he or she is duly authorized to do so.
- (c) Consents. Other than obtaining the approval of the Las Vegas City Council, Buyer is not required to obtain any consents or approvals to consummate the transactions contemplated in this Agreement.

- (d) Patriot Act. Buyer is not, and to Buyer's knowledge, each person or entity owning an interest in Buyer is not, nor prior to Closing or the earlier termination of this Agreement, will become, a person or entity with whom a United States citizen, entity organized under the laws of the United States or its territories or entity having its principal place of business within the United States or any of its territories (each a "U.S. Person") is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under United States laws, regulations, executive orders, lists published by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") including those executive orders and lists published by OFAC with respect to persons or entities that have been designated by executive order or by the sanction regulations of OFAC as persons or entities with whom U.S. persons may not transact business or must limit their interactions to types approved by OFAC or otherwise. Buyer is not, and to Buyer's knowledge, each person or entity owning an interest in Buyer is not, an Embargoed Person (as defined below) and to Buyer's knowledge, none of the funds or other assets of Buyer constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person. The term "Embargoed Person" means any person, entity or government subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder.

5.1.2 Seller's Representations and Warranties. Seller represents, warrants and covenants to and agrees with Buyer as follows:

- (a) Authority. Seller has the power and authority to own the Property and to consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by Seller in connection with this Agreement are or when delivered shall be duly authorized, executed and delivered by Seller and are valid, binding and enforceable obligations of Seller. Each individual executing this Agreement on behalf of Seller represents and warrants to Buyer that he or she is duly authorized to do so.
- (b) Consents. To Seller's knowledge, Seller is not required to obtain any consents or approvals to consummate the transactions contemplated in this Agreement, or if it is required to, has obtained such consents or approvals.
- (c) Foreign Person. Seller is not a "foreign person" as a defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the income tax regulations issued thereunder.
- (d) Patriot Act. Seller is not, and to Seller's knowledge, each person or entity owning an interest in Seller is not, nor prior to Closing or the earlier termination of this Agreement, will become, a person or entity with whom a U.S. Person is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under United States laws, regulations, executive orders, lists published by OFAC, including those executive orders and lists published by OFAC with respect to persons or entities that have been designated by executive order or by the sanction regulations of OFAC as persons or entities with whom U.S. persons may not transact business or must limit

their interactions to types approved by OFAC or otherwise. Seller is not, and to Seller's knowledge, each person or entity owning an interest in Seller is not, an Embargoed Person and to Seller's knowledge, none of the funds or other assets of Seller constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person.

- (e) Litigation. To Seller's knowledge, there are no threatened or pending actions, suits, arbitrations, claims or proceedings at law, in equity, or otherwise, affecting all or any portion of the Property, or in which Seller is the party by reason of Seller's ownership of the Property.
- (f) Leases. At Closing there will be no leases, occupancies, tenancies or licenses in effect pertaining to the Real Property or any portion thereof.
- (g) Seller's Knowledge. Any and all uses of the phrase, "to Seller's Knowledge" or other references to Seller's knowledge in this Agreement, shall mean the actual, present, conscious knowledge of Mark Carlson (the "Seller Knowledge Individual") as to a fact at the time given without any investigation or inquiry. Without limiting the foregoing, Buyer acknowledges that the Seller Knowledge Individual has not performed and is not obligated to perform any investigation or review of any files or other information in the possession of Seller, or to make any inquiry of any persons, or to take any other actions in connection with the representations and warranties of Seller set forth in this Agreement. Neither the actual, present, conscious knowledge of any other individual or entity, nor the constructive knowledge of the Seller Knowledge Individual or of any other individual or entity, shall be imputed to the Seller Knowledge Individual. In no event shall the individual named as Seller Knowledge Individual have any personal liability as a result of being designated a knowledge party hereunder. The Seller Knowledge Individual is involved in the day to day operation of the Property and is otherwise familiar with the Property and operation of the Property.
- (h) Survival. Any and all representations and/or warranties that may be made by Seller in connection with this Agreement or the purchase of the Property shall terminate on the Closing Date and shall not survive Closing.
- (i) Third-Party Contracts. From the Effective Date through and including the Closing Date, Seller agrees to enter into only those third-party contracts which are necessary to carry out its obligations, which shall be on market terms and cancellable on thirty (30) days written notice or less, without payment of any fee or penalty. Buyer shall not assume any other contracts entered into by Seller except for Permitted Exceptions or contracts approved by Buyer in writing during the Due Diligence Period.
- (j) Obligation to Provide Notices. Seller agrees to promptly provide Buyer with copies of any and all notices which Seller receives from and after the Effective Date concerning (i) any proposed or threatened condemnation of the Property, (ii) any alleged violations of the Property with respect to applicable governmental laws or requirements, (iii) any litigation filed or threatened in writing against Seller or the Property, or (iv) any other matter that adversely affects the Property.

5.2 Reaffirmation. The representations and warranties of Buyer and Seller in Section 5.1 are true and correct as of the date of this Agreement and shall be true and correct as of the Closing. The Closing shall constitute Buyer's and Seller's reaffirmation of those representations and warranties as of the Closing. Seller shall be entitled to rely upon Buyer's representations and warranties in Section 5.1.1(a), notwithstanding any inspection or investigation of the Property that was made or could have been made by Buyer.

5.3 **RELEASE AND WAIVER.**

5.3.1 **AS-IS/RELEASE.**

- (a) **SELLER HAS INFORMED BUYER THAT THE PROPERTY WAS NOT DEVELOPED OR CONSTRUCTED BY THE CURRENT OWNERSHIP OR MANAGEMENT OF SELLER. BUYER ACKNOWLEDGES THAT SELLER AND SELLER'S PARTIES HAVE VIRTUALLY NO FIRST-HAND KNOWLEDGE OF MATTERS REGARDING THE PROPERTY, HAVE BEEN PROVIDED WITH LIMITED, AND, AT TIMES UNRELIABLE, INFORMATION REGARDING THE PROPERTY AND ITS PRIOR MANAGEMENT, AND HAVE NO ABILITY TO VERIFY THE ACCURACY OF THE BOOKS, RECORDS OR OTHER INFORMATION RELATING TO THE PROPERTY AND, EXCEPT AS EXPRESSLY STATED IN SECTION 5.1.2 ABOVE, BUYER AGREES THAT IT IS NOT RELYING ON ANY STATEMENT, REPRESENTATION OR WARRANTY MADE BY SELLER, AND BUYER AGREES TO RELY SOLELY UPON BUYER'S DUE DILIGENCE INSPECTIONS OF THE PROPERTY IN DETERMINING WHETHER OR NOT TO PURCHASE THE PROPERTY.**
  
- (b) **AS A MATERIAL INDUCEMENT TO THE EXECUTION AND DELIVERY OF THIS AGREEMENT BY SELLER AND THE PERFORMANCE BY SELLER OF ITS DUTIES AND OBLIGATIONS HEREUNDER, BUYER, AS OF EACH OF THE EFFECTIVE DATE AND THE CLOSING, DOES HEREBY ACKNOWLEDGE, REPRESENT, WARRANT AND AGREE, TO AND WITH THE SELLER, THAT, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1.2 OF THIS AGREEMENT:**
  - (i) **BUYER IS PURCHASING THE PROPERTY IN AN "AS-IS" AND "WHERE IS" CONDITION, WITH ALL FAULTS, AS OF THE DATE OF THE CLOSING WITH RESPECT TO ANY FACTS, CIRCUMSTANCES, CONDITIONS AND DEFECTS;**
  - (ii) **SELLER HAS NO OBLIGATION TO REPAIR OR CORRECT ANY SUCH FACTS, CIRCUMSTANCES, CONDITIONS OR DEFECTS OR COMPENSATE BUYER FOR SAME;**
  - (iii) **BY THE CLOSE OF ESCROW, BUYER SHALL HAVE UNDERTAKEN ALL SUCH PHYSICAL INSPECTIONS AND EXAMINATIONS OF THE PROPERTY AS BUYER DEEMS NECESSARY OR APPROPRIATE UNDER THE CIRCUMSTANCES, AND THAT BASED UPON SAME, BUYER IS AND WILL BE RELYING STRICTLY AND SOLELY UPON SUCH INSPECTIONS AND EXAMINATIONS AND THE ADVICE AND COUNSEL OF ITS AGENTS AND OFFICERS (AND NOT UPON ANY REPRESENTATIONS OR**

WARRANTIES OF SELLER), AND BUYER IS AND WILL BE FULLY SATISFIED THAT THE PURCHASE PRICE IS FAIR AND ADEQUATE CONSIDERATION FOR THE PROPERTY;

- (iv) SELLER IS NOT MAKING AND HAS NOT MADE ANY WARRANTY OR REPRESENTATION WITH RESPECT TO ALL OR ANY PART OF THE PROPERTY (INCLUDING, BUT NOT LIMITED TO, ANY MATTERS CONTAINED IN DOCUMENTS MADE AVAILABLE OR DELIVERED TO BUYER IN CONNECTION WITH THIS AGREEMENT);
- (v) IN FURTHERANCE OF, AND NOT IN LIMITATION OF, THE FOREGOING, SELLER HAS AND HEREBY SPECIFICALLY DISCLAIMS, AND NEITHER IT NOR ANY OTHER PERSON IS MAKING, ANY REPRESENTATION, WARRANTY, ASSURANCE, PROMISE, COVENANT, AGREEMENT OR GUARANTY WHATSOEVER TO BUYER AND NO WARRANTIES, REPRESENTATIONS, ASSURANCES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, ARE MADE BY SELLER OR RELIED UPON BY BUYER WITH RESPECT TO THE PROPERTY (OR ANY PORTION THEREOF), THE STATUS OF TITLE TO OR THE MAINTENANCE, REPAIR, CONDITION, DESIGN, LEASING OR MARKETABILITY OF THE PROPERTY, OR ANY PORTION THEREOF;
- (vi) THE FOREGOING DISCLAIMERS OF REPRESENTATIONS, WARRANTIES, ASSURANCES, PROMISES, COVENANTS, AGREEMENTS AND GUARANTEES INCLUDE, BUT ARE NOT LIMITED TO, DISCLAIMERS IN CONNECTION WITH, AND/OR WITH RESPECT TO, THE FOLLOWING MATTERS (ALL OF WHICH ARE HEREBY SPECIFICALLY DISCLAIMED BY SELLER, AND ALL OF WHICH BUYER HEREBY ACKNOWLEDGES IT IS NOT RELYING UPON):
  - (1) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY OR MARKETABILITY,
  - (2) ANY IMPLIED OR EXPRESS WARRANTY OF HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE,
  - (3) ANY IMPLIED OR EXPRESS WARRANTY OF CONFORMITY TO MODELS OR SAMPLES OF MATERIALS,
  - (4) ANY RIGHTS OF BUYER UNDER APPROPRIATE STATUTES TO CLAIM DIMINUTION OF CONSIDERATION,
  - (5) ANY CLAIM BY BUYER FOR DAMAGES BECAUSE OF DEFECTS, WHETHER KNOWN OR UNKNOWN, NOW OR HEREAFTER EXISTING, WITH RESPECT TO THE IMPROVEMENTS OR THE PERSONALTY RELATING TO THE PROPERTY,

- (6) THE FINANCIAL CONDITION OR PROSPECTS OF THE PROPERTY AND,
  - (7) LEASES OR OCCUPANCY AGREEMENTS WITH RESPECT TO THE PROPERTY OR THE ABILITY TO LEASE THE PROPERTY OR ANY PORTION THEREOF,
  - (8) THE COMPLIANCE OR LACK THEREOF OF THE PROPERTY OR ANY PORTION THEREOF (OR THE OPERATION THEREOF) WITH GOVERNMENTAL OR QUASI-GOVERNMENTAL LAWS, RULES, ORDINANCES OR REGULATIONS (INCLUDING, WITHOUT LIMITATION, ANY ZONING LAWS, ORDINANCES OR REQUIREMENTS),
  - (9) THE NATURE, QUALITY OR PHYSICAL CONDITION OF THE PROPERTY,
  - (10) THE CONSTRUCTION OF THE IMPROVEMENTS OR WHETHER THERE EXISTS ANY CONSTRUCTION DEFECTS THEREIN,
  - (11) THE WATER, SOIL AND GEOLOGY OF THE PROPERTY OR RELATING THERETO,
  - (12) THE INCOME TO BE DERIVED FROM THE PROPERTY,
  - (13) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON,
  - (14) THE COMPLIANCE OF OR BY THE PROPERTY (OR THE OPERATION THEREOF) WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY OTHER BODY HAVING JURISDICTION THEREOVER,
  - (15) THE STATUS OR CONDITION OF ENTITLEMENTS PERTAINING TO THE PROPERTY,
  - (16) ANY MATTER REGARDING TERMITES OR WASTES, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R.,
  - (17) ANY MATTERS RELATING TO HAZARDOUS MATERIALS, OR ENVIRONMENTAL LAWS, AND
  - (18) THE ADEQUACY OF PARKING IN CONNECTION WITH THE PROPERTY.
- (vii) BY REASON OF ALL OF THE FOREGOING, BUYER SHALL ASSUME THE FULL RISK OF ANY LOSS OR DAMAGE OCCASIONED BY ANY FACT, CIRCUMSTANCE, CONDITION OR DEFECT PERTAINING TO THE PROPERTY, INCLUDING

WITHOUT LIMITATION THE PRESENCE OF ANY HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT THE PROPERTY, AND BUYER HEREBY EXPRESSLY AND UNCONDITIONALLY WAIVES AND RELEASES SELLER AND ALL OF ITS PARENTS, SUBSIDIARIES, AFFILIATES AND PARTNERSHIPS, OFFICERS, DIRECTORS, PROPERTY MANAGERS, ASSET MANAGERS, INVESTMENT ADVISERS, MANAGERS, SHAREHOLDERS, PARTNERS, MEMBERS, REPRESENTATIVES, AGENTS AND EMPLOYEES, AND THEIR RESPECTIVE SUCCESSORS, HEIRS AND ASSIGNS AND EACH OF THEM (INDIVIDUALLY AND COLLECTIVELY, THE "RELEASED PARTIES") FROM ANY AND ALL CLAIMS AGAINST SELLER AND/OR THE RELEASED PARTIES WITH RESPECT TO THE PROPERTY OR MATTERS RELATING TO THE PROPERTY (INCLUDING WITHOUT LIMITATION:

- (1) THE CONDITION, VALUATION, MARKETABILITY OR UTILITY OF THE PROPERTY,
  - (2) IN CONNECTION WITH ANY LEASES OR OCCUPANCY AGREEMENTS RELATING TO THE PROPERTY,
  - (3) ANY RIGHTS OF BUYER UNDER ENVIRONMENTAL LAWS OR OTHER SIMILAR LAWS, AND
  - (4) IN CONNECTION WITH LATENT, PATENT, ALLEGED OR ACTUAL DESIGN OR CONSTRUCTION DEFICIENCIES OR DEFECTS (WHETHER RESULTING FROM ANY ACTS OR OMISSIONS OF SELLER, ANY SELLER PARTY, ANY PRIOR OWNER OF ALL OR ANY PORTION OF THE PROPERTY, OR ANY OTHER PARTY).
- (viii) BUYER ACKNOWLEDGES AND AGREES THAT THE FOREGOING WAIVER AND RELEASE INCLUDES ALL CLAIMS OF BUYER (AND ANY PERSON OR ENTITY CLAIMING BY, OR THROUGH, BUYER) AGAINST SELLER AND/OR ANY OTHER RELEASED PARTIES PERTAINING TO THE PROPERTY, WHETHER HERETOFORE OR NOW EXISTING OR HEREAFTER ARISING, OR WHICH COULD, MIGHT, OR MAY BE CLAIMED TO EXIST, OF WHATEVER KIND OR NATURE, WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, LIQUIDATED OR UNLIQUIDATED, EACH AS THOUGH FULLY SET FORTH HEREIN AT LENGTH, WHICH IN ANY WAY ARISE OUT OF, OR ARE CONNECTED WITH, OR RELATE TO, THE PROPERTY. THE FOREGOING RELEASE INCLUDES CLAIMS OF WHICH BUYER IS PRESENTLY UNAWARE OF WHICH BUYER DOES NOT PRESENTLY SUSPECT TO EXIST WHICH, IF KNOWN BY BUYER, WOULD MATERIALLY AFFECT BUYER'S RELEASE TO SELLER AND/OR THE OTHER RELEASED PARTIES. IN CONNECTION AND TO THE EXTENT PERMITTED BY LAW, BUYER HEREBY AGREES, REPRESENTS AND WARRANTS THAT, AS OF EACH OF THE EFFECTIVE DATE AND THE CLOSING,

BUYER REALIZES AND ACKNOWLEDGES THAT FACTUAL MATTERS NOW UNKNOWN TO IT MAY HAVE GIVEN OR MAY HEREAFTER GIVE RISE TO WHICH ARE PRESENTLY UNKNOWN, UNANTICIPATED AND UNSUSPECTED, AND BUYER FURTHER AGREES, REPRESENTS AND WARRANTS THAT THE WAIVERS AND RELEASES HEREIN HAVE BEEN NEGOTIATED AND AGREED UPON IN LIGHT OF THAT REALIZATION AND THAT BUYER NEVERTHELESS HEREBY INTENDS TO RELEASE, DISCHARGE AND ACQUIT SELLER AND THE OTHER RELEASED PARTIES FROM ANY SUCH UNKNOWN CLAIMS. THE FOREGOING WAIVERS AND RELEASES BY BUYER SHALL SURVIVE (A) THE CLOSING AND THE RECORDATION OF THE DEED, AND SHALL NOT BE DEEMED MERGED INTO THE DEED UPON ITS RECORDATION, AND/OR (B) ANY TERMINATION OF THIS AGREEMENT.

- (c) BUYER HEREBY INITIALS THIS SECTION 5.3.1 TO SPECIFICALLY INDICATE THAT IT HAS READ AND UNDERSTANDS THE FOREGOING AGREEMENTS, ASSUMPTION OF RISK, RELEASE AND WAIVER AS PROVIDED IN THIS SECTION 5.3.1 AND ACKNOWLEDGES THAT THE PURCHASE PRICE WAS NEGOTIATED BASED ON BUYER'S EXPRESS UNDERSTANDING OF THE FOREGOING FACTS AND CIRCUMSTANCES.

---

**Buyer's Initials**

5.3.2 Definitions.

- (a) "Claims" means any and all claims, losses, costs, damages, injuries, penalties, enforcement actions, fines, taxes, remedial actions, removal and disposal costs, investigation and remediation costs and expenses (including, without limit, reasonable attorneys' fees, litigation, arbitration and administrative proceeding costs, expert and consultant fees and laboratory costs), sums paid in settlement of claims, demands, obligations, liabilities, indebtedness, breaches of contract, breaches of duty or of any relationship, acts, omissions, misfeasances, malfeasance, cause or causes of action, debts, sums of money, accounts, compensations, contracts, controversies, promises, losses and expenses, of every type, kind, nature, description or character, and irrespective of how, why, or by reason of what facts, whether now existing, existing prior to the date of this Agreement or arising after the date of this Agreement, or which could, might, or may be claimed to exist, of whatever kind or name, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, each as though fully set forth at length in this Agreement.
- (b) "Hazardous Material" means (i) petroleum or any petroleum product or fraction thereof, (ii) asbestos, (iii) mold, (iv) any substance, product, waste or other material of any nature whatsoever which is or becomes regulated or listed by any local, state or federal governmental authority, entity or agency or pursuant to any "Environmental Law" (as defined below), including, without limitation, any substance defined as "hazardous substances," "hazardous materials," or "toxic materials" by

any Environmental Law, and (v) any substance, product, waste or other material otherwise defined in this paragraph as a Hazardous Material which may give rise to any liability under any Environmental Law or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court.

- (c) “Environmental Law” means any federal, state or local law, regulation, guideline, code, ordinance, rule, resolution, order or decree regulating the use, generation, handling, storage, treatment, transport, decontamination, clean-up, removal, encapsulation, enclosure, abatement or disposal of any Hazardous Material, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Sections 9601, et seq., the Toxic Substance Control Act, 15 U.S.C. Sections 2601 et seq., the Clean Water Act, 33 U.S.C. Sections 1251 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sections 136 et seq., the and any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material, as now or at any time hereafter in effect, all as amended or hereafter amended.

5.3.3 No Limitation to Liability. The provisions of this Section 5.3 shall not be limited in any way by any other terms of this Agreement including, but not limited to, Section 6.6 of this Agreement (Liquidated Damages).

- 5.4 Condemnation. If, prior to Closing, any portion of the Property is condemned or becomes the subject of any pending or threatened condemnation action, Seller shall promptly notify Buyer thereof. This Agreement shall remain in full force and effect, regardless of the condemnation or threatened or pending action, and if any condemnation award is received by Seller prior to Closing, the amount of the award shall be applied as a credit against the Purchase Price. Any condemnation awards received by Seller on or after Closing shall be promptly delivered by Seller to Buyer.
- 5.5 Damage or Destruction. Prior to the Closing, and notwithstanding the pendency of this Agreement, the entire risk of loss or damage by earthquake, flood, landslide, fire, or other casualty shall be borne and assumed by Seller, except as otherwise provided in this Section 5.5. If, prior to the Closing, any part of the Real Property is damaged or destroyed by earthquake, flood, fire, landslide, or other casualty, Seller shall immediately notify Buyer in writing of such fact. If such damage or destruction is “material” (as defined below), each of Seller and Buyer shall have the option to terminate this Agreement upon notice to the other party given not later than ten (10) business days after receipt of Seller’s written notice. For purposes of this Section 5.5, “material” shall be deemed to be any damage or destruction (i) where the costs of repair is estimated to be One Million Dollars (\$1,000,000), or more or (ii) which Seller reasonably estimates shall take more than one hundred eighty (180) days to repair. If neither party exercises this option to terminate this Agreement within the time period stated above, or the casualty is not material, neither party shall thereafter have the right to terminate this Agreement, but Seller shall assign and turn over to Buyer, and Buyer shall be entitled to any insurance proceeds payable to it with respect to such destruction and the parties shall proceed to the Closing pursuant to the terms hereof without modification of the terms of this Agreement and without any reduction in the Purchase Price provided the insurance proceeds to be paid over to Buyer cover the entire cost of the casualty (except for a credit in the amount of any deductible under Seller’s insurance and the amount of any

uninsured or underinsured loss). If the insurance proceeds to be paid over to Buyer do not cover the entire cost of the casualty, Buyer shall receive a credit against the Purchase Price in the amount of the shortfall of the insurance proceeds. If either party elects to terminate this Agreement pursuant to this Section 5.5, this Agreement shall terminate, all rights and obligations hereunder of each party shall be at an end (except those matters which are specifically stated in this Agreement to survive the termination), and the Title Company is hereby instructed to return promptly to the party which placed such items in Escrow all funds (including the Deposit which is to be promptly returned to Buyer) and documents which are held by the Title Company on the date of termination.

- 5.6 Indemnity. Buyer shall hold harmless, indemnify and defend the Seller's Parties from and against (a) any and all Claims (other than matters arising from any act, conduct or omission of the Seller's Parties) in any way related to the Property and first occurring after the Closing, or in any way related to or arising from any act, conduct, omission, contract or commitment of Buyer and/or Buyer's Agents; (b) any loss or damage to Seller resulting from any inaccuracy in or breach of any representation or warranty of Buyer or resulting from any breach or default by Buyer under this Agreement; and (c) all costs and expenses, including reasonable attorneys' fees, related to any actions, suits or judgments incident to any of the foregoing.

## 6. CLOSING

### 6.1 Deposits Into Escrow.

6.1.1 Seller's Deposits. At least one (1) business day prior to the Closing Date, Seller shall deposit into Escrow:

- (a) One (1) original of the Deed duly signed and acknowledged by Seller, subject only to the Permitted Exceptions, together with a copy of the Order Confirming Sale.
- (b) An affidavit or qualifying statement which satisfies the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and the related regulations (the "Non-Foreign Affidavit").
- (c) One (1) original of the State of Nevada Declaration of Value (the "Declaration of Value").
- (d) An original of a Bill of Sale and General Assignment of Intangible Property (the "Bill of Sale"), duly executed by Seller, assigning and conveying to Buyer all of Seller's right, title and interest in and to the Personalty and Other Property Rights. The Bill of Sale shall be substantially in the form of, and upon the terms contained in, Exhibit B.
- (e) [Intentionally Omitted].
- (f) [Intentionally Omitted].
- (g) Such proof of Seller's authority and authorization to enter into this Agreement and consummate the transaction contemplated hereby and such proof of the power and authority of the individual(s) executing and/or delivering any instruments, documents or certificates on behalf of Seller to act for and bind Seller as may be reasonably required by the Title Company.

- (h) An affidavit in the form attached hereto as Exhibit E, which is required by the Escrow Holder to remove any standard exceptions from the Title Policy, including mechanics' liens, parties in possession and similar matters, together with a gap Indemnity.
  - (i) Seller shall execute and deliver to the Title Company a Seller's Closing Statement, in conformity with the terms of this Agreement, and otherwise in form satisfactory to Seller.
- 6.1.2 Buyer's Deposits. At least one (1) business day prior to the Closing Date, Buyer shall deposit into Escrow:
- (a) Funds in accordance with the Section 2.2.2.
  - (b) An original counterpart of the Declaration of Value signed by Buyer.
  - (c) A counterpart original of the Bill of Sale duly executed by Buyer.
  - (d) [Intentionally Omitted].
  - (e) Such proof of City Council authorization of this Agreement and the transaction contemplated hereby and such proof of the power and authority of the individual(s) executing and/or delivering any instruments, documents or certificates on behalf of Seller to act for and bind Seller as may be reasonably required by the Title Company.
- 6.1.3 Additional Deposits. Seller and Buyer shall each deposit such other instruments and funds as are reasonably required by Escrow Holder or otherwise required to close Escrow and consummate the sale of the Property in accordance with the terms of this Agreement.
- 6.2 Prorations. The following prorations shall be made as of 12:01 a.m. on the Closing Date on the basis of a 365-day year. At least five (5) business days prior to the Closing Date, Escrow Holder shall deliver to Seller and Buyer a tentative proration schedule setting forth a preliminary determination.
- 6.2.1 [Intentionally Omitted].
- 6.2.2 All non-delinquent real estate taxes and assessments shall be prorated as of the Closing on the basis of the most recent tax statement for the Property. Any delinquent taxes on the Real Property shall be paid at Closing from funds accruing to Seller. If, after the Closing, supplemental real estate taxes are assessed against the Real Property by reason of any event occurring prior to the Closing Date, Buyer and Seller shall promptly adjust the proration of real estate taxes with Seller responsible for all taxes attributable to the period prior to the date of Closing and Buyer responsible for all taxes attributable to the period on or after the date of Closing (it being agreed that Buyer shall be solely responsible for any increase in real estate taxes resulting from the sale of the Property to Buyer pursuant to this Agreement).
- 6.2.3 All utility charges, costs of maintenance, and other items of expense shall be prorated as of the Closing on the basis of schedules prepared by Seller for that purpose and approved by Buyer. Seller shall be responsible for all costs and expenses attributable to the Property through the day prior to Closing and Buyer shall be responsible for all such costs and expenses accruing to the Property

commencing as of the Closing Date. Seller shall not assign to Buyer any deposits which Seller has made with any utility companies servicing the Property and Seller shall be entitled to retain any deposits which Seller has made with respect to any utility companies. Buyer shall arrange with such companies to have accounts opened in Buyer's name beginning at 12:01 a.m. on the date of Closing. To the extent possible Seller and Buyer shall obtain billings and meter readings as of the date of Closing and all utility costs and other costs and expenses shall be prorated based upon the information then available. Any amount due from Seller to Buyer or Buyer to Seller shall be promptly paid upon final determination of the amounts due with post-closing adjustments made between Seller and Buyer by cash payment upon demand to the party entitled thereto.

6.2.4 All prorations which can be reasonably estimated as of the Closing Date shall be made in Escrow on the Closing Date. Seller shall make available for review by Buyer such financial documents as may be appropriate in connection with the estimated amounts proposed by Seller in connection with the preparation of the estimated schedule. As soon as reasonably practicable following the Closing, upon obtaining the necessary information any required adjustments to the prorations made pursuant to the schedule as of the Closing shall be made by Seller and Buyer. In connection with any such adjustments Seller and Buyer shall each make available to the other for review such financial documents as may be appropriate in connection with the preparation of any adjustments. The net credit due from one party to the other as a result of such post-Closing prorations and adjustments shall be paid to the other in cash immediately upon the parties' written agreement pursuant to a final schedule of post-closing adjustments. All post-closing adjustments shall be made within 90 days of Closing or shall have been deemed waived.

6.3 Payment of Closing Costs.

6.3.1 Closing Costs Borne by Seller. Seller shall bear and Escrow Holder shall discharge on Seller's behalf out of the sums payable to Seller all county transfer taxes for the sale of the Real Property, one-half of Escrow Holder's fee, the standard cost of the Owner's Policy, and any additional costs and charges customarily charged to sellers in accordance with common escrow practices in Clark County, Nevada.

6.3.2 Closing Costs Borne by Buyer. Buyer shall deposit with Escrow Holder for disbursement by Escrow Holder one-half of Escrow Holder's fee, all costs and expenses of extended coverage for the Owner's Policy (including any additional premium charged for any endorsements requested by Buyer and the cost of any survey which may be required by the Title Company), the recording fees required in connection with the transfer of the Property to Buyer, and any additional charges customarily charged to buyers in accordance with common escrow practices in Clark County, Nevada.

6.4 Closing of Escrow.

6.4.1 Escrow Holder shall hold the Closing on the Closing Date if: (i) it has received in a timely manner all the funds and materials required to be delivered into Escrow by Buyer and Seller; and (ii) it has received assurances satisfactory to it that, effective as of the Closing, the Title Company will issue the Owner's Policy to Buyer.

6.4.2 To Close the Escrow, Escrow Holder shall:

- (a) Cause the Deed to be recorded, and deliver conformed copies of the Deed, together with the Owner's Policy, original Bill of Sale, and Non-Foreign Affidavit, to Buyer; and
- (b) Deliver to Seller conformed copies of the Deed and the Covenant, together with the Order Confirming Sale, Bill of Sale, and by wire transfer of federal funds, funds in the amount of the Purchase Price and plus or less any net debit or credit to Seller by reason of the prorations and allocations of closing costs provided for in this Agreement.

6.4.3 Pursuant to Section 6045 of the Internal Revenue Code, Escrow Holder shall be designated the closing agent hereunder and shall be solely responsible for complying with the tax reform act of 1986 with regard to reporting all settlement information to the Internal Revenue Service.

6.5 Failure to Close; Cancellation. If the Escrow Holder is not in a position to Close the Escrow on the Closing Date, then, except in the event that the provisions of Section 6.6 or 6.7 are applicable, Escrow Holder shall deliver the Nonrefundable Portion to Seller, and return to the depositor thereof any funds or other materials previously placed in Escrow. No such return shall relieve either party of liability for any failure to comply with the terms of this Agreement.

6.6 **LIQUIDATED DAMAGES.** THE PARTIES HAVE DETERMINED THAT IF AFTER THE DECISION DATE THE SALE OF THE PROPERTY AS CONTEMPLATED BY THIS AGREEMENT IS NOT CONSUMMATED DUE TO A BREACH BY BUYER, THE DAMAGE TO SELLER WILL BE EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN, SUCH DAMAGE INCLUDING COSTS OF NEGOTIATING AND DRAFTING THIS AGREEMENT, COSTS OF COOPERATING IN SATISFYING CONDITIONS TO CLOSING, COSTS OF SEEKING ANOTHER BUYER UPON BUYER'S BREACH, OPPORTUNITY COSTS IN KEEPING THE PROPERTY OUT OF THE MARKETPLACE, AND OTHER COSTS INCURRED IN CONNECTION HEREWITH. IN ADDITION, BUYER WISHES TO LIMIT ITS LIABILITY IN EVENT OF ITS BREACH OF THIS AGREEMENT AND FAILURE TO PURCHASE THE PROPERTY AS CONTEMPLATED IN THIS AGREEMENT, AND SELLER HAS AGREED TO SUCH A LIMITATION. THE PARTIES THUS AGREE THAT SHOULD AFTER THE DECISION DATE THE SALE OF THE PROPERTY AS CONTEMPLATED BY THIS AGREEMENT FAIL TO OCCUR DUE TO A BREACH BY BUYER, THE SOLE AND EXCLUSIVE REMEDY OF SELLER (EXCEPT FOR ANY DAMAGES, COSTS AND EXPENSES INCURRED IN CONNECTION WITH OR RESULTING FROM BUYER'S BREACH OF ITS OBLIGATIONS UNDER SECTIONS 7.13 AND 7.17 BELOW) SHALL BE TO RECOVER THE DEPOSIT FROM BUYER; ALL OTHER CLAIMS FOR DAMAGES OR CAUSES OF ACTION ARE HEREBY EXPRESSLY WAIVED BY SELLER. SAID AMOUNT WILL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY BUYER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER. SELLER HEREBY WAIVES THE RIGHT OF SPECIFIC PERFORMANCE WITH RESPECT TO ANY BREACH OR DEFAULT BY BUYER UNDER THIS AGREEMENT. IN NO EVENT SHALL THIS SECTION 6.6 LIMIT THE DAMAGES RECOVERABLE BY EITHER PARTY AGAINST THE OTHER PARTY DUE TO (A) THE OTHER PARTY'S OBLIGATION TO INDEMNIFY SUCH PARTY IN ACCORDANCE WITH THIS AGREEMENT OR (B) THIRD PARTY CLAIMS. BY THEIR SEPARATELY EXECUTING THIS SECTION 6.6 BELOW, BUYER AND SELLER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTOOD THE ABOVE

PROVISIONS COVERING LIQUIDATED DAMAGES, AND THAT EACH PARTY HAS BEEN REPRESENTED BY COUNSEL WHO HAVE EXPLAINED THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION AT THE TIME THIS AGREEMENT WAS EXECUTED.

\_\_\_\_\_  
Initials of Buyer

\_\_\_\_\_  
Initials of Seller

- 6.7 **BUYER'S REMEDIES.** NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THIS AGREEMENT, IF THE SELLER REFUSES OR FAILS TO CONVEY THE PROPERTY AS REQUIRED BY THIS AGREEMENT, UNLESS THE REASON FOR SUCH REFUSAL OR FAILURE IS THAT (i) THE BUYER HAS DEFAULTED UNDER THIS AGREEMENT OR (ii) THE SELLER HAS THE RIGHT UNDER ANY PROVISION OF THIS AGREEMENT TO TERMINATE THIS AGREEMENT, OR (iii) ANY PROVISION OF THIS AGREEMENT OTHERWISE RELIEVES THE SELLER OF THE OBLIGATION TO CONVEY THE PROPERTY, THE BUYER'S SOLE AND EXCLUSIVE REMEDY SHALL BE TO EITHER (A) TERMINATE THIS AGREEMENT, OBTAIN A REFUND OF THE DEPOSIT, AND OBTAIN A REIMBURSEMENT FROM THE SELLER OF THE BUYER'S ACTUAL, REASONABLE, DOCUMENTED THIRD-PARTY OUT-OF-POCKET COSTS INCURRED IN CONNECTION WITH THE BUYER'S INVESTIGATION OF THE PROPERTY (INCLUDING LEGAL FEES, COSTS OF ENVIRONMENTAL TESTING, INSPECTION COSTS AND OTHER SIMILAR THIRD-PARTY COSTS), IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000.00), OR (B) TO ENFORCE, AS BUYER'S SOLE AND EXCLUSIVE REMEDY, SPECIFIC PERFORMANCE OF SELLER'S OBLIGATION TO CONVEY THE PROPERTY TO BUYER IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. BUYER SHALL BE DEEMED TO HAVE ELECTED TO TERMINATE THIS AGREEMENT AND RECEIVE BACK THE DEPOSIT AND ITS REIMBURSABLE COSTS IF BUYER FAILS TO FILE SUIT FOR A SPECIFIC PERFORMANCE AGAINST SELLER IN A COURT HAVING JURISDICTION IN THE COUNTY AND STATE IN WHICH THE PROPERTY IS LOCATED ON OR BEFORE NINETY (90) DAYS FOLLOWING THE DATE ON WHICH THE CLOSING WAS TO HAVE OCCURRED. IF BUYER ELECTS TO OBTAIN A REFUND OF THE DEPOSIT AND REIMBURSEMENT OF ITS COSTS AND EXPENSES PURSUANT TO CLAUSE (A) ABOVE, BUYER SHALL IRREVOCABLY BE DEEMED TO HAVE WAIVED (AND HEREBY DOES WAIVE) ANY RIGHT IT WOULD OTHERWISE HAVE TO SEEK OR OBTAIN THE SPECIFIC PERFORMANCE OF THIS AGREEMENT BY SELLER OR ANY OTHER EQUITABLE RELIEF, AND IF BUYER BRINGS AN ACTION TO OBTAIN THE REFUND REFERENCED ABOVE OR OTHERWISE RELATING TO THE RIGHTS AND REMEDIES OF THE PARTIES UNDER THIS AGREEMENT, BUYER HEREBY AGREES THAT ANY SUCH ACTION WILL NOT BE AN ACTION CONCERNING REAL PROPERTY OR AFFECTING THE TITLE OR THE RIGHT OF POSSESSION OF REAL PROPERTY, AND BUYER SHALL IRREVOCABLY BE DEEMED TO HAVE WAIVED (AND HEREBY DOES WAIVE) ANY RIGHT BUYER MAY OTHERWISE HAVE TO RECORD A NOTICE OF THE PENDENCY OF ANY SUCH ACTION. IF BUYER ELECTS TO ENFORCE SPECIFIC PERFORMANCE OF SELLER'S OBLIGATIONS PURSUANT TO CLAUSE (B) ABOVE, BUYER SHALL BE DEEMED TO HAVE WAIVED (AND HEREBY DOES WAIVE) ITS RIGHT TO OBTAIN A REFUND OF THE DEPOSIT, REIMBURSEMENT OF ITS COSTS DESCRIBED IN CLAUSE (A) ABOVE, OR ANY OTHER MONETARY DAMAGES. BUYER HEREBY WAIVES THE BENEFIT OF ANY LAW WHICH WOULD ALLOW BUYER ANY RIGHT OR REMEDY INCONSISTENT WITH THIS SECTION 6.7

\_\_\_\_\_  
Initials of Buyer

\_\_\_\_\_  
Initials of Seller

6.8 Possession. Possession of the Property shall be delivered to Buyer upon Closing.

## 7. GENERAL PROVISIONS

- 7.1 Counterparts; Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument. This Agreement may be signed electronically, and the delivery by one party of electronic signatures or of a pdf copy of signatures shall be accepted by the other party as the delivery of original signatures.
- 7.2 Entire Agreement. This Agreement contains the entire integrated agreement between the parties respecting the subject matter of this Agreement and supersedes all prior understandings and agreements, whether oral or in writing, between the parties respecting the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or in writing, between or among the parties to this Agreement relating to the subject matter of this Agreement that are not fully expressed in this Agreement. The terms of this Agreement are intended by the parties as a final expression of their agreement with respect to those terms and they may not be contradicted by evidence of any prior agreement or of any contemporaneous agreement. The parties further intend that this Agreement constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceeding involving this Agreement.
- 7.3 Legal Advice; Neutral Interpretation; Headings. Each party has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party as the source of the language in question. Headings used in this Agreement are for convenience of reference only and shall not be used in construing this Agreement.
- 7.4 Choice of Law; Jurisdiction; Venue. This Agreement shall be governed by the laws of the State of Nevada. The parties to this Agreement irrevocably agree to the jurisdiction of the Judicial District Court of the State of Nevada situated in Clark County, Nevada, or of the United States District Court situated in such County, and the parties agree that venue in such County is the correct and appropriate venue, for any action or other proceeding involving the rights, obligations and remedies of the parties under this Agreement.
- 7.5 Severability. If any term, covenant, condition or provision of this Agreement, or its application to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- 7.6 Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant, condition or promise under this Agreement. The waiver by either or both parties of the time for performing any act under this Agreement shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provision in this Agreement for any remedy shall not exclude other consistent remedies unless they are expressly excluded.

- 7.7 Exhibits. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.
- 7.8 Amendments. This Agreement may be amended at any time by the written agreement of Buyer and Seller. All amendments, changes, revisions and discharges of this Agreement, in whole or in part, and from time to time, shall be binding upon the parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the parties hereto.
- 7.9 Relationship of Parties. The parties agree that their relationship is that of seller and buyer, and that nothing contained herein shall result in either party being deemed the agent or legal representative of the other for any purpose whatsoever, nor shall this Agreement be deemed to create any form of business organization between the parties hereto, nor is either party granted any right or authority to assume or create any obligation or responsibility on behalf of the other party, nor shall either party be in any way liable for any debt of the other.
- 7.10 No Third Party Benefit. This Agreement is intended to benefit only the parties hereto and no other person or entity has or shall acquire any rights hereunder.
- 7.11 Time of the Essence. Time shall be of the essence as to all dates and times of performance, whether contained herein or contained in any escrow instructions to be executed pursuant to this Agreement, and all escrow instructions shall contain a provision to this effect. Notwithstanding the immediately preceding sentence, if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday, or legal holiday under the laws of the United States or the State of Nevada, then, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday, or legal holiday. All reference to a "day" except as otherwise specifically provided, shall refer to a calendar day and all references to a "business day" shall refer to any day other than a Saturday, Sunday, or legal holiday under the laws of the United States or the State of Nevada.
- 7.12 Further Acts. Each party agrees to perform any further acts and to execute, acknowledge and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.
- 7.13 Recordation; Actions to Clear Title. Buyer and Seller shall not record this Agreement, any memorandum of this Agreement, any assignment of this Agreement or any other document which would cause a cloud on the title to the Property.
- 7.14 Assignment. Buyer shall not assign its rights or delegate its obligations hereunder without the prior written consent of Seller in each instance, which consent Seller may withhold in Seller's sole and absolute discretion. If Buyer assigns its rights or delegates its obligations hereunder in violation of this Section, Seller shall have the right to terminate this Agreement pursuant to Section 3.5 above. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to this Agreement. Notwithstanding the above provisions of this Section 7.14, Buyer shall be entitled to assign its rights and obligations pursuant to this Agreement in its sole discretion and without any Seller approval right, to any entity controlled by or under common control with or controlling Buyer, including, without limitation, the City of Las Vegas, as long as (a) such entity assumes in writing all of Buyer's obligations under this Agreement, (b) Buyer shall not be relieved of any of its obligations pursuant to this Agreement by reason of any such assignment, and (c) in connection with any such assignment Buyer shall give Seller written notice of such assignment at least ten (10) business days prior to the date on which the Closing is scheduled.

- 7.15 Attorneys' Fees. In the event of any litigation involving the parties to this Agreement to enforce any provision of this Agreement, to enforce any remedy available upon default under this Agreement, or seeking a declaration of the rights of either party under this Agreement, the prevailing party shall be entitled to recover from the other such attorneys' fees and costs as may be reasonably incurred, including the costs of reasonable investigation, preparation and professional or expert consultation incurred by reason of such litigation. All other attorneys' fees and costs relating to this Agreement and the transactions contemplated hereby shall be borne by the party incurring the same.
- 7.16 Brokers. Buyer and Seller each represent and warrant to the other that (a) they have not dealt with any brokers or finders in connection with the purchase and sale of the Property, and (b) insofar as such party knows, no broker or other person is entitled to any commission or finder's fee in connection with the purchase and sale of the Property. Seller and Buyer each agree to indemnify and hold harmless the other against any loss, liability, damage, cost, claim or expense incurred by reason of any brokerage fee, commission or finder's fee which is payable or alleged to be payable to any broker or finder because of any agreement, act, omission or statement of the indemnifying party.
- 7.17 Manner of Giving Notice. All notices and demands which either party is required or desires to give to the other shall be given on a business day in writing by personal delivery, express courier service or by telecopy with a copy of the telecopy notice together with evidence of its successful transmission sent no later than the business day immediately following the day of transmission by recognized overnight courier for delivery on the immediately following business day to the address or telecopy number set forth in Sections 1.7 and 1.8 above for the respective party, provided that if any party gives notice of a change of name, address or telecopy number notices to that party shall thereafter be given as demanded in that notice. All notices and demands so given shall be effective upon receipt by the party to whom notice or a demand is being given. Notices given by telecopy shall be deemed to have been received upon transmission.
- 7.18 Survival. The provisions of Sections 2.2.1 (Deposit), 3.3.2 (Inspection of Property), 5.1 (Representations and Warranties), 5.2 (Reaffirmation), 5.4 (Hazardous Material Indemnification and Waiver), 5.5 (Condemnation), 5.6 (Damage or Destruction), 5.7 (Indemnity), 6.2 (Prorations), 6.3 (Payment of Closing Costs), 6.6 (Liquidated Damages), 6.7 (Buyer's Remedies), 6.8 (Possession), 6.9 (Deliveries and Actions Following Closing) and Article 7 (General Provisions) shall survive the Closing and the consummation of the transactions contemplated by this Agreement or the termination of this Agreement for any reason without the conveyance of the Property to Buyer.

[Signatures appear on the following page]

**IN WITNESS WHEREOF**, the parties have caused their duly authorized representatives to execute this Agreement as of the Effective Date.

SELLER

401 7<sup>TH</sup> STREET, LLC,  
a Nevada limited liability company

By: DTP MGMT, LLC,  
a Nevada limited liability company,  
its Manager

By: \_\_\_\_\_  
Name: Richard Hsieh  
Title: Manager  
Date of Signature: \_\_\_\_\_

BUYER

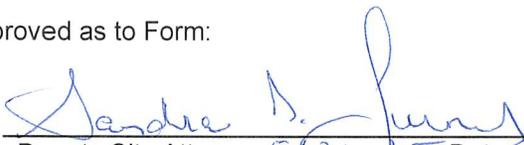
CITY OF LAS VEGAS REDEVELOPMENT AGENCY,  
an agency organized under the laws of the State of  
Nevada

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date of Signature: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
LuAnn D. Holmes, MMC, City Clerk

Approved as to Form:

By:   
Deputy City Attorney 5/21-25 Date

**Sandra D. Turner**  
Deputy City Attorney

RDA/City Council Meeting \_\_\_\_\_  
RDA Item \_\_\_\_\_ City Item \_\_\_\_\_

**ESCROW RECEIPT AND JOINDER**

By its execution below, the Escrow Holder agrees to hold and deliver the Deposit and perform its other duties pursuant to the provisions of this Agreement.

ESCROW HOLDER:

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

FIRST AMERICAN TITLE INSURANCE COMPANY

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

Name: \_\_\_\_\_

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

**EXHIBIT A**

**PROPERTY DESCRIPTION**

The land referred to herein below is situated in the County of Clark, State of Nevada, and described as follows:

LOTS SEVEN (7) AND EIGHT (8) IN BLOCK NINE (9) OF BUCK'S SUBDIVISION, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 1 OF PLATS, PAGE 15, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

## EXHIBIT B

### BILL OF SALE AND GENERAL ASSIGNMENT OF INTANGIBLE PROPERTY

**THIS BILL OF SALE AND GENERAL ASSIGNMENT OF INTANGIBLE PROPERTY** (the "Bill of Sale") is made as of \_\_\_\_\_, 2025, by 401 7<sup>TH</sup> STREET, LLC, a Nevada limited liability company (the "Seller"), in favor of CITY OF LAS VEGAS REDEVELOPMENT AGENCY, an agency organized under the laws of the State of Nevada (the "Buyer"), to be delivered and effective on the "Effective Date" (as defined below).

**WHEREAS**, Seller and Buyer entered into that certain Real Property Purchase and Sale Agreement and Escrow Instructions dated as of \_\_\_\_\_, 2025, (the "Agreement") respecting the sale of certain real property (as defined in the Agreement as the "Property").

**WHEREAS**, under the Agreement, Seller is obligated to transfer to Buyer all of Seller's right, title and interest in and to all right, title, and interest of Seller, if any, in and to all personal property and other tangible property located on the Property, including but not limited to the following, if any: all carpeting and other floor coverings; all heating, lighting, plumbing, electrical, air-conditioning, and humidifying equipment, units, and fixtures; all hot water heaters, furnaces, heating controls, motors, boiler pressure systems and equipment; and all other furniture, fixtures and equipment attached to or located within the Improvements (collectively, "Personal Property").

**WHEREAS**, under the Agreement, Seller is obligated to assign to Buyer any and all of its right, title and interest in and to all of Seller's right, title and interest in and to, and obligations under, all of the following, if any, to the extent assignable: (i) all land use entitlements, governmental permits and allocations, and other governmental approvals held by Seller in connection with the Property ("Entitlements"); (ii) all easements for the benefit of the Property ("Easements"); and (iii) all plans, drawings, specifications, surveys, engineering reports, and other technical information in the possession of Seller, if any, pertaining to the Property ("Plans") (such Entitlements, Easements and Plans are referred to collectively as "Intangible Property Rights"),

**NOW, THEREFORE**, as of the "Closing" (as defined in the Agreement) (the "Effective Date") for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby absolutely and unconditionally give, grant, bargain, sell, transfer, set over, assign, convey, release, confirm and deliver to Buyer all of Seller's right, title and interest in and to the Personal Property and the Intangible Property Rights.

Seller hereby covenants that Seller will, at no cost or liability to Seller, at any time and from time to time upon written request therefor, execute and deliver to Buyer, Buyer's successors, nominees or assigns, such documents as Buyer or they may reasonably request in order to confirm the foregoing transfer to Buyer of all of Seller's right, title and interest in and to all of the Personal Property and the Intangible Property Rights.

Buyer acknowledges that Seller makes no representation or warranty, either express or implied, with respect to the Personal Property, its present condition or its fitness or suitability for any particular purpose; and accordingly, the Personal Property is being purchased by Buyer from Seller in its "as is" "where is" condition, with all faults associated therewith. In this respect, Buyer confirms that except as set forth in the representations, warranties and covenants contained in the Agreement, Buyer is relying solely upon its investigation of the present condition of the Personal Property.

Buyer hereby accepts such assignment of the Intangible Property Rights and agrees to be bound by all obligations of Seller under the Intangible Property Rights, and assumes any and all liabilities and agrees to perform, pay and discharge in full when due all of Seller's liabilities and obligations in connection with such Intangible Property Rights, to the extent accruing on or after the Effective Date.

In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Bill of Sale, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

This Bill of Sale shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, heirs and legatees of Buyer and Seller.

The Bill of Sale shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of Nevada.

This Bill of Sale may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same instrument. This Bill of Sale may be signed electronically, and the delivery by one party of electronic signatures or of a pdf copy of signatures shall be accepted by the other party as the delivery of original signatures.

**IN WITNESS WHEREOF**, Buyer and Seller have executed this Bill of Sale as of the Effective Date.

SELLER

401 7<sup>TH</sup> STREET, LLC,  
a Nevada limited liability company

By: DTP MGMT, LLC,  
a Nevada limited liability company,  
its Manager

By: \_\_\_\_\_  
Name: Richard Hsieh  
Title: Manager  
Date of Signature: \_\_\_\_\_

BUYER

CITY OF LAS VEGAS REDEVELOPMENT AGENCY,  
an agency organized under the laws of the State of Nevada

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date of Signature: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
LuAnn D. Holmes, MMC, City Clerk

Approved as to Form:

By: \_\_\_\_\_  
Deputy City Attorney \_\_\_\_\_ Date

EXHIBIT C

INTENTIONALLY OMITTED

EXHIBIT D

INTENTIONALLY OMITTED

EXHIBIT E  
INTENTIONALLY OMITTED

**EXHIBIT F**  
**FORM OF OWNER'S AFFIDAVIT**

**CERTIFICATE AS TO TITLE**

The undersigned ("**Owner**") hereby certifies to First American Title Insurance Company ("**Title Company**") that, to Owner's knowledge:

1. Owner is the owner of that certain property described on Attachment "A" (the "**Subject Property**"). Owner understands that Title Company has issued that certain preliminary title commitment issued under Order No. NCS-1125927-HHLV (the "**Title Report**") with respect to the Subject Property and has requested this certificate in connection therewith.

2. Except as set forth on Attachment "B" attached hereto (the "**Work**"), (i) there is no work at the Subject Property currently being performed by Owner, and (ii) payment for any labor, services or materials incurred by Owner in connection with the construction or repair of any buildings or improvements on the Subject Property performed within the last 120 days has been made or will be made in the ordinary course of business.

3. The only permitted occupants of the Subject Property are tenants under leases or other occupancy agreements (and their subtenants) with rights of possession only, as identified on Attachment "C" and any person or entity identified on Schedule "B" to the Title Report. Owner has not entered into any options to purchase the Subject Property or rights of first refusal regarding the Subject Property either pursuant to written leases or by separate agreements, except as otherwise disclosed in the Title Report.

4. Owner has received no written notice of violations of any effective covenants, conditions or restrictions set forth in the Title Report (the "**CC&Rs**") which remain uncured, and any charge or assessment provided for in any of the CC&Rs has been or will be duly paid in the ordinary course.

Between the date hereof and the date of recording of the Quitclaim Deed, but in no event later than fourteen (14) days from the date hereof (the "**Gap Period**"), Owner has not voluntarily encumbered and will not voluntarily encumber the Subject Property during the Gap Period.

Owner makes these statements for the purpose of inducing the Title Company to issue owner's insurance policies covering the Subject Property to CITY OF LAS VEGAS REDEVELOPMENT AGENCY, an agency organized under the laws of the State of Nevada.

This Certificate is not intended to give any benefits, rights, privileges, actions or remedies to any person, partnership, firm, corporation or other entity, other than the Title Company, as a third party beneficiary or otherwise under any theory of law. Further, this Certificate shall not be disclosed, released or quoted to or relied upon by any other person.

Any statement "to Owner's knowledge" (or similar phrase) shall mean that Owner has no knowledge that such statement is untrue (and, for this purpose, Owner's knowledge shall mean the present actual knowledge (excluding constructive or imputed knowledge) of [Mark Carlson] of Owner, the person who is knowledgeable regarding the Subject Property, but such individual shall not have any personal liability in connection therewith). Notwithstanding anything to the contrary herein, (1) any cause of action for a breach of this Certificate shall survive until 6 months after the date hereof, at which time the provisions hereof (and any obligation or liability of or claims against Owner under this Certificate other than any obligation or potential liability resulting from a potential breach by Owner of this Certificate for which Title Company has provided Owner written notice of prior to the expiration of said 6 months, in which case, this Certificate shall continue until said matter has been resolved) shall terminate; and (2) to the extent the Title Company shall have present actual knowledge (excluding constructive and imputed knowledge) as of the date hereof that any of the statements contained herein is false or inaccurate, then

Owner shall have no liability with respect to the same. Without limitation on item (2) above, the Title Company shall be deemed to have knowledge of any matters of record.

No present or future direct or indirect partner, member, advisor, trustee, director, officer, employee, beneficiary, shareholder, participant or agent of Owner, nor any affiliate thereof, shall have any personal liability, directly or indirectly, under or in connection with this Certificate; and the Title Company and its successors and assigns, and, without limitation, all other persons and entities, shall look solely to Owner for the payment of any claim or for any performance with respect to this certificate; and the Title Company hereby waives any and all such personal liability. The limitations of liability provided in this paragraph are in addition to, and not in limitation of, any limitation on liability provided by applicable law or by any other contract, agreement or instrument.

This Certificate is executed as of the \_\_\_\_ day of \_\_\_\_\_, 2025.

(Signature appears on the following page)

OWNER:

401 7<sup>TH</sup> STREET, LLC,  
a Nevada limited liability company

By: DTP MGMT, LLC,  
a Nevada limited liability company,  
its Manager

By: \_\_\_\_\_  
Name: Richard Hsieh  
Title: Manager

**ATTACHMENT "A"**

LEGAL DESCRIPTION

The land referred to herein below is situated in the County of Clark, State of Nevada, and described as follows:

LOTS SEVEN (7) AND EIGHT (8) IN BLOCK NINE (9) OF BUCK'S SUBDIVISION, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 1 OF PLATS, PAGE 15, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

**ATTACHMENT "B"**

WORK

*[To be completed with any relevant work as of the Closing]*

**ATTACHMENT "C"**

TENANCIES

None.