

**AGREEMENT FOR PURCHASE AND SALE
OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS ("**Agreement**") is made this ___ day of _____, 2019 by and between ORBIS REAL ESTATE PARTNERS, LLC, a California limited liability company ("**Buyer**"), and SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF RIALTO, a public body, corporate and politic ("**Seller**").

RECITALS:

A. Seller is the fee owner of a parcel of unimproved land consisting of approximately 2.84 acres located at the northeast corner of Laurel Avenue and Renaissance Parkway in the City of Rialto ("**City**"), County of San Bernardino, State of California, described as Assessor's Parcel Number 0240-211-21 and more particularly described in Exhibit A, attached hereto and incorporated herein ("**Property**").

B. Seller is the successor agency to the former Redevelopment Agency of the City of Rialto and is required to dispose of the Property pursuant to the Dissolution Act, Part 1.85 of Division 24 of the Health and Safety Code, and specifically Sections 34181 and 34191.5 thereof, and the Long Range Property Management Plan prepared by Seller and approved by the Oversight Board to Seller and the California Department of Finance ("**LRPMP**").

C. Seller, Buyer and City previously executed that certain Exclusive Negotiation Agreement dated August 13, 2019 ("**ENA**").

D. Buyer anticipates developing a warehouse/distribution facility of approximately one hundred seventy thousand (170,000) square feet with parking, landscaping lighting and public street improvements on the Property and adjacent property owned or controlled by Buyer or an affiliate of Buyer ("**Proposed Project**").

E. Seller desires to sell to Buyer and Buyer agrees to buy, the Property upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and incorporating the Recitals, the parties hereto agree as follows:

TERMS AND CONDITIONS:

1.1 PURCHASE AND SALE OF PROPERTY. Pursuant to the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from Seller and Seller agrees to sell to Buyer, the Property in AS-IS condition without representations or warranties.

2. EFFECTIVE DATE; OPENING OF ESCROW.

2.1 Effective Date. This Agreement shall be deemed effective upon execution of the Agreement by Seller after the approval by the Successor Agency Board ("**Effective Date**").

3. Opening of Escrow. Within three (3) days after the Effective Date, the parties shall open an escrow (Escrow) with Fidelity National Title Insurance Company (Escrow Holder) MaryLou Adame at Fidelity National Title Insurance Company, 3237 E. Guasti Road, Suite 105, Ontario, CA 91761 (909) 978-3020 (Direct) Marylou.Adame@fnf.com by causing an executed copy of this Agreement to be deposited with Escrow Holder which Escrow Holder shall sign and accept.

Escrow shall be deemed opened upon the last to occur of (“**Opening of Escrow**”): (i) the executed copy of this Agreement; and (ii) the Deposit (defined in Section 3.2.a). If Escrow is not opened within five (5) days after the Effective Date, Seller shall have the right to terminate this Agreement upon written notice to Buyer and Escrow Holder.

4. PURCHASE PRICE; PAYMENT OF PURCHASE PRICE.

4.1 Purchase Price. The purchase price of the Property is Two Million Seven Hundred Twenty Thousand Dollars (\$2,720,000) (“**Purchase Price**”)

4.2 Payment of Purchase Price.

a. Deposit. Within three (3) days of the Effective Date, Buyer shall deliver to Escrow Holder the sum of One Hundred Thousand Dollars (\$100,000) (“**Deposit**”).

b. Balance of Purchase Price. Buyer shall deposit the balance of the Purchase Price with Escrow Holder in Good Funds (as defined below) at least one (1) business day prior to the Closing Date.

4.3 Good Funds. All funds deposited in Escrow shall be in “**Good Funds**” which means a wire transfer of funds, cashier's or certified check drawn on or issued by the offices of a financial institution located in the State of California.

5. APPROVALS; ENA.

5.1 Approvals. This transaction is contingent upon (“**Approvals**”): (i) approval by the San Bernardino County Oversight Board (“**OB**”); and (ii) approval by the California Department of Finance (“**DOF**”) in accordance with Health & Safety Code Sections 34179 and 34181 and the LRPMP. Seller shall use good faith, commercially reasonable efforts to request OB and DOF approvals as soon as reasonably practical and shall use reasonable efforts to facilitate such approvals. Seller shall promptly notify Buyer of DOF's approval or disapproval (“**Approval Notice**”). If the Approvals are not obtained within six (6) months of the Opening of Escrow, either party may terminate this Agreement by delivery of written notice to the other party prior to the Approval Notice is issued. If the OB or DOF do not approve this Agreement, then this Agreement shall terminate and Buyer shall be entitled to the return of the Deposit (less any cancellation costs).

5.2 ENA. Pursuant to the ENA, Buyer provided a deposit for reimbursement of third-party expenses incurred by Seller and City. Not less than three (3) days prior to Closing, the parties shall mutually reconcile the amounts due under the ENA. If additional amounts are due from Buyer, Buyer shall pay such amount through Escrow. If there is any remaining funds held by Seller, Buyer shall receive a credit for such amount at Closing. The parties shall provide a written statement to Escrow Holder in order for the amounts to be appropriately charged or credited as part of the Closing Statement.

6. FUNDS AND DOCUMENTS REQUIRED FROM BUYER AND SELLER.

6.1 Seller. Seller agrees that on or before 12:00 noon at least one (1) business day prior to the Closing Date, Seller will deposit with Escrow Holder such funds and other items and instruments (executed and acknowledged, if appropriate) as may be necessary in order for the Escrow Holder to comply with this Agreement, including without limitation:

- i. Executed and acknowledged Grant Deed in the form of Exhibit B (“**Grant Deed**”).

- ii. A Non-Foreign Affidavit as required by federal law.
- iii. An owner's affidavit and any other document, instrument or agreement necessary to consummate the transactions contemplated herein reasonably requested by Escrow Holder or Title Company.
- iv. Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

6.2 Buyer. Buyer agrees that on or before 12:00 noon at least one (1) business day prior to the Closing Date, Buyer will deposit with Escrow Holder all additional funds and/or documents (executed and acknowledged, if appropriate) which are necessary to comply with the terms of this Agreement, including without limitation:

- i. The balance of the Purchase Price.
- ii. Any remaining amounts due under the ENA to Seller (pursuant to Section 4.2).
- iii. A Preliminary Change of Ownership Statement completed in the manner required in San Bernardino County ("**PCOR**").
- iv. Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

6.3 Recordation, Filing, Completion and Distribution of Document. Escrow Holder shall confirm that any documents signed in counterpart are matching documents and shall combine the signature pages thereof so as to create fully executed documents. Escrow Holder will cause the Grant Deed to be recorded in the Official Records of San Bernardino County so it can issue the Title Policy in accordance with Section 7.2. Promptly following Close of Escrow, Escrow Holder shall distribute Escrow Holder's final closing statement and conformed copies of all recorded documents to the parties.

7. CLOSING DATE; TIME IS OF ESSENCE.

7.1 Closing Date. Escrow shall close upon the later to occur of: (i) thirty (30) days after the Due Diligence Expiration Date (defined in Section 8.2), and (ii) sixty (60) days after issuance of the Entitlements (defined in Section 9.1) and expiration of any appeal period without any legal challenge being filed, BUT, *in no event*, later than twelve (12) months from the Opening of Escrow ("**Closing Date**"). The terms "**Close of Escrow**" and/or "**Closing**" are used herein to mean the time Grant Deed is filed for recording by the Escrow Holder in the Office of the County Recorder of San Bernardino County, California.

7.2 Possession. Upon the Close of Escrow, Seller shall deliver exclusive possession of the Property to Buyer.

7.3 Time is of Essence. Buyer and Seller specifically agree that time is of the essence under this Agreement.

7.4 Executive Director Authority. Seller by its execution of this Agreement agrees that its Executive Director or his/her designee (who has been designated by Executive Director's written notice delivered to Buyer and Escrow Holder) shall have the authority to execute documents on behalf of Seller including, but not limited to, issuing approvals, disapprovals and extensions. Any such approval, disapproval or extension executed by the Executive Director or

his/her designee shall be binding on Seller. Notwithstanding the foregoing, Executive Director or his/her designee may only grant extensions for (i) the Due Diligence Period (defined in Section 8.1) that cumulatively do not exceed one hundred eighty (180) days; (ii) the Entitlement Period (defined in Section 9) that cumulatively do not exceed one hundred eighty (180) days; and/or (ii) the Closing Date that cumulatively do not exceed one hundred eighty (180) days.

8. TITLE POLICY.

8.1 Approval of Title. Promptly upon Opening of Escrow, a preliminary title report shall be issued by Fidelity National Title Insurance Company ("**Title Company**"), describing the state of title of the Property, together with copies of all exceptions listed therein and a map plotting all easements specified therein ("**Preliminary Title Report**"). Within thirty (30) days after Buyer's receipt of the Preliminary Title Report, Buyer shall notify Seller in writing ("**Buyer's Title Notice**") of Buyer's disapproval of any matters contained in the Preliminary Title Report except that Buyer may not disapprove any title exceptions caused by Buyer's entry onto the Property pursuant to Section 7.2 ("**Disapproved Exceptions**"), provided all monetary liens encumbering the Property are hereby disapproved by Buyer and shall be removed and released by Seller through or prior to the Close of Escrow.

In the event Buyer delivers Buyer's Title Notice within said period, Seller shall have a period of ten (10) days after receipt of Buyer's Title Notice in which to notify Buyer of Seller's election to either (i) agree to attempt to remove the Disapproved Exceptions prior to the Close of Escrow; or (ii) decline to remove any such Disapproved Exceptions ("**Seller's Notice**"). If Seller notifies Buyer of its election to decline to remove the Disapproved Exceptions, or if Seller is unable to remove the Disapproved Exceptions, Buyer may elect either to terminate this Agreement and the Escrow or to accept title to the Property subject to the Disapproved Exception(s). Buyer shall exercise such election by delivery of written notice to Seller and Escrow Holder within five (5) days following the earlier of (i) the date of written advice from Seller that such Disapproved Exception(s) cannot be removed; or (ii) the date Seller declines to remove such Disapproved Exception(s).

Upon the issuance of any amendment or supplement to the Preliminary Title Report which adds additional exceptions, the foregoing right of review and approval shall also apply to said amendment or supplement, provided, however, that Buyer's initial period of review and approval or disapproval of any such additional exceptions shall be limited to five (5) days following receipt of notice of such additional exceptions.

8.2 Title Policy. At the Close of Escrow, Escrow Holder shall furnish Buyer with an ALTA owner's non-extended coverage Policy of Title Insurance insuring title to the Property vested in Buyer with coverage in the amount of the Purchase Price showing (i) title exceptions approved pursuant to Section 7.1; and (ii) any exceptions caused by Buyer including pursuant to Section 8.4 ("**Title Policy**"). The cost of the Title Policy to Buyer shall be paid by Seller but Buyer shall be obligated pay for any endorsements. If Buyer desires to obtain an ALTA extended coverage owner's title policy, Buyer shall deliver an ALTA survey, at Buyer's cost, to Title Company at least thirty (30) days prior to the Closing Date and Buyer shall pay the additional cost for the extended coverage.

9. DUE DILIGENCE.

9.1 Due Diligence. Seller has advised Buyer that it does not have any documents or information in Seller's possession concerning the Property. For a period of one hundred twenty (120) days from the Opening of Escrow ("**Due Diligence Period**"), Buyer shall have the right to obtain at its cost to conduct such engineering, feasibility studies, soils tests, environmental studies

and other investigations as Buyer in its sole discretion may desire, to permit Buyer to determine the suitability of the Property for Buyer's contemplated uses and to conduct such other review and investigation which Buyer deems appropriate to satisfy itself to acquire the Property, including Buyer securing financing and necessary entitlements for Buyer's Proposed Project, in Buyer's sole discretion.

9.2 Disapproval of Due Diligence Matters. Prior to expiration of the Due Diligence Period ("**Due Diligence Expiration Date**"), Buyer may, in its sole discretion, notify Seller in writing (with a copy to Escrow Holder) of (i) its disapproval of the due diligence matters (excluding title matters which are to be approved or disapproved pursuant to Section 7), and (ii) its election to terminate this Agreement and Escrow ("**Disapproval and Termination Notice**"). If Buyer sends the Disapproval and Termination Notice in the time and manner specified above, the parties shall execute any documents required by Escrow Holder and upon receipt of said documents executed by the parties, Escrow Holder shall return the Deposit (less any cancellation charges) to Buyer. If Buyer does not deliver the Disapproval and Termination Notice in the time and manner specified above, Buyer shall conclusively be deemed to have approved due diligence matters. Seller may, in its discretion, agree in writing to extend the Due Diligence Expiration Date.

9.3 Natural Hazard Disclosure Report. Upon Opening of Escrow, Escrow Holder shall order a commercial Natural Hazards Disclosure report for the Property from Disclosure Source ("**NHD Report**") to be delivered to Buyer and Seller.

9.4 Right to Enter the Property. As of the Effective Date, Seller grants Buyer, its agents and employees a limited license to enter upon the Property for the purpose of conducting engineering surveys, soil tests, investigations or other studies reasonably necessary to evaluate the condition of the Property, which studies, surveys, reports, investigations and tests shall be done at Buyer's sole cost and expense.

Prior to entry onto the Property, Buyer shall (i) notify Seller at least three (3) days prior to the date and purpose of each intended entry together with the names and affiliations of the persons entering the Property; (ii) conduct all studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Property during or after such investigation; (iii) comply with all applicable laws and governmental regulations; (iv) allow an employee of Seller to be present at Seller's election; (v) keep the Property free and clear of all materialmen's liens, lis pendens and other liens arising out of the entry and work performed under this provision; (vi) maintain or assure maintenance of workers' compensation insurance (or state approved self-insurance) on all persons entering the Property in the amounts required by the State of California; (vii) provide to Seller prior to initial entry a certificate of insurance evidencing that Buyer has procured and paid premiums for an all-risk public liability insurance policy written on a per occurrence and not claims made basis in a combined single limit of not less than TWO MILLION DOLLARS (\$2,000,000) which insurance names Seller as additional insured; (viii) return the Property to substantially its original condition following Buyer's entry; (ix) provide Seller copies of all studies, surveys, reports, investigations and other tests derived from any with the right to use same ("**Reports**"); and (x) to take the Property at closing subject to any title exceptions caused by Buyer exercising this right to enter.

Buyer agrees to indemnify, and hold Seller free and harmless from and against any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) which Seller may suffer or incur as a consequence of Buyer's exercise of the license granted pursuant to this Section or any act or omission by Buyer, any contractor, subcontractor or material supplier, engineer, architect or other person or entity

acting by or under Buyer (except Seller and its agents) with respect to the Property, excepting any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) arising from the mere discovery by Buyer of any hazardous materials or conditions and excepting to the extent such claims arise out of the negligence or misconduct of Seller. Buyer's obligations under this Section shall survive termination of this Agreement for any reason. The parties agree that breach of any Property entry or restoration conditions in this Section shall constitute a material breach of this Agreement.

10. **ENTITLEMENT PROCESS**

10.1 Commencement. As soon as possible after the Effective Date, Buyer shall promptly apply for all discretionary governmental permits and approvals for the Proposed Project and diligently prosecute same including, but not limited to, promptly responding to requests and modifications, payment of all necessary fees, etc. ("**Entitlements**"). The Entitlements shall include, without limitation, specific site plan approval, a tentative parcel map, a specific plan amendment and CEQA compliance. Buyer shall diligently prosecute and pursue all applications and permits including providing prompt responses to the City for any additional requests and Seller shall cooperate with Buyer's process, including executing all applications, authorizations and submittals required to process the Entitlements. Buyer shall pay all applicable fees to secure all entitlements for the Proposed Project.

10.2 Buyer Approvals. Upon issuance of *final* conditions for any Entitlement, Buyer shall have the right to disapprove same by issuing a written notice to Seller within twenty (20) days which shall also include Buyer's election to terminate this Agreement and the Escrow ("**Termination Notice**"). Conditions of approval for the Proposed Project required by the Planning Commission may be appealed to the City Council. Upon the City's final determination, Buyer shall have twenty (20) days to issue the Termination Notice to Seller for any Entitlement. If Buyer delivers a Termination Notice in the time and manner specified for an Entitlement, this Agreement shall be terminated, Escrow shall be cancelled and the Deposit (less cancellation charges) shall be returned to Buyer. If Buyer fails to deliver the Termination Notice for an Entitlement in the time and manner specified, Buyer shall be deemed to have approved all conditions to such Entitlement.

10.3 Entitlement Period. Buyer shall use commercially reasonable efforts to obtain all Entitlements within nine (9) months of the Effective Date ("**Entitlement Period**"). Provided Buyer has been diligently pursuing the Entitlements, Buyer shall have the right to extend the Entitlement Period for two (2) months by providing written notice to Seller at least twenty (20) days prior to the expiration of the Entitlement Period which notice summarizes in reasonable detail the reason for the extension.

10.4 Notice. Buyer is aware that Seller is a separate legal entity from the City and does not have legal authority to issue any approvals on behalf of City and nothing herein is to be construed to imply any approval by the City.

11. **CONDITIONS PRECEDENT TO CLOSE OF ESCROW.**

11.1 Conditions to Buyer's Obligations. The obligations of Buyer under this Agreement are subject to the satisfaction or written waiver, in whole or in part, by Buyer of each of the following conditions precedent ("**Buyer's Conditions Precedent**"):

- i. The Approvals have been obtained as specified in Section 4.

- ii. Title Company will issue the Title Policy as specified in Section 7.2.
- iii. Escrow Holder holds and will deliver to Buyer the instruments and funds, if any, accruing to Buyer pursuant to this Agreement.
- iv. Buyer has secured the Entitlements within the Entitlement Period (as may be extended pursuant to Section 9.3), not issued a Termination Notice (pursuant to Section 9.2) and the appeal period for the Entitlements has expired without legal challenges.
- v. Seller is not in default of its obligations under this Agreement.

11.2 Conditions to Seller's Obligations. The obligations of Seller under this Agreement are subject to the satisfaction or written waiver, in whole or in part, by Seller of the following conditions precedent:

- i. The Approvals have been obtained as specified in Section 4.
- ii. Buyer has delivered the balance of the Purchase Price to Escrow Holder.
- iii. Buyer has secured the Entitlements within the Entitlement Period (as may be extended pursuant to Section 9.3), not issued a Termination Notice (pursuant to Section 9.2), and the appeal period has expired without legal challenges.
- iv. Title Company will issue the Title Policy as specified in Section 7.2.
- v. Escrow Holder holds and will deliver to Seller the instruments and funds accruing to Seller pursuant to this Agreement.
- vi. Buyer is not in default of its obligations under this Agreement.

12. LIQUIDATED DAMAGES. IF BUYER SHOULD DEFAULT UNDER THIS AGREEMENT, THEN BUYER AND SELLER AGREE THAT SELLER WILL INCUR DAMAGES BY REASON OF SUCH DEFAULT BY BUYER OR FAILURE OF ESCROW TO CLOSE ON OR BEFORE THE CLOSING DATE, WHICH DAMAGES SHALL BE IMPRACTICAL AND EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO ASCERTAIN. BUYER AND SELLER, IN A REASONABLE EFFORT TO ASCERTAIN WHAT SELLER'S DAMAGES WOULD BE IN THE EVENT OF SUCH DEFAULT BY BUYER HAVE AGREED BY PLACING THEIR INITIALS BELOW THAT THE DEPOSIT SHALL BE DEEMED TO CONSTITUTE A REASONABLE ESTIMATE OF SELLER'S DAMAGES UNDER THE PROVISIONS OF SECTION 1671 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. IN THE EVENT OF AND FOR SUCH DEFAULT BY BUYER, THE DEPOSIT SHALL BE SELLER'S SOLE MONETARY REMEDY THEREFOR, UNLESS BUYER WRONGFULLY REFUSES TO CAUSE ESCROW HOLDER TO CANCEL THE ESCROW, IN WHICH INSTANCE SELLER SHALL ALSO BE ENTITLED TO ALL ACTUAL THIRD-PARTY COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED BY SELLER WHICH MAY RESULT FROM BUYER'S WRONGFUL FAILURE TO CANCEL THE ESCROW AND THIS AGREEMENT. THE FOREGOING LIMITATION OF DAMAGES SHALL NOT APPLY TO BUYER'S INDEMNITY OBLIGATIONS NOR THE OBLIGATIONS OF BUYER TO DELIVER THE DOCUMENTS PURSUANT TO SECTION 8.4.

Seller's Initials

Buyer's Initials

12. CONDITION OF THE PROPERTY.

12.1. Disclaimer of Warranties. Upon the Close of Escrow, Buyer shall acquire the Property in its "AS-IS" condition without any representations and warranties and Buyer shall be responsible for any defects in the Property, whether patent or latent, including, without limitation, the physical, environmental and geotechnical condition of the Property, and the existence of any contamination, Hazardous Materials, vaults, debris, pipelines, or other structures located on, under or about the Property, and Seller makes no other representation or warranty concerning the physical, environmental, geotechnical or other condition of the Property, and Seller specifically disclaims all representations or warranties of any nature concerning the Property made by it. The foregoing disclaimer includes, without limitation, topography, climate, air, water rights, utilities, soil, subsoil, existence of Hazardous Materials or similar substances, the purpose for which the Property is suited, or drainage.

12.2. Hazardous Materials. Buyer understands and agrees that, in the event Buyer incurs any loss or liability concerning Hazardous Materials (as hereinafter defined) and/or underground storage tanks whether attributable to events occurring prior to or following the Closing, then Buyer may look to current or prior owners of the Property, but in no event shall Buyer look to Seller for any liability or indemnification regarding Hazardous Materials and/or underground storage tanks. Buyer, from and after the Closing, hereby waives, releases, remises, acquits and forever discharges Seller, and each of the entities constituting Seller, if any, of and from any and all Environmental Claims, Environmental Cleanup Liability and Environmental Compliance Costs, as those terms are defined below, and from any and all actions, suits, legal or administrative orders or proceedings, demands, actual damages, punitive damages, loss, costs, liabilities and expenses, which concern or in any way relate to the physical or environmental conditions of the Property, the existence of any Hazardous Material thereon, or the release or threatened release of Hazardous Materials there from, whether existing prior to, at or after the Closing. It is the intention of the parties pursuant to this release that any and all responsibilities and obligations of Seller, and any and all rights, claims, rights of action, causes of action, demands or legal rights of any kind of Buyer, its successors, assigns or any affiliated entity of Buyer, against the Seller, arising by virtue of the physical or environmental condition of the Property, the existence of any Hazardous Materials thereon, or any release or threatened release of Hazardous Material there from, whether existing prior to, at or after the Closing, are by this release provision declared null and void and of no present or future force and effect as to the parties; provided, however, that no parties other than the Indemnified Parties (defined below) shall be deemed third party beneficiaries of such release.

In connection therewith, Buyer and each of the entities constituting Buyer, expressly agree to waive any and all rights which said party may have with respect to such released claims under Section 1542 of the California Civil Code which provides as follows:

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

Buyer Initials _____

Seller Initials _____

Buyer and each of the entities constituting Buyer, shall, from and after the Closing, defend, indemnify and hold harmless Seller and each of the entities constituting Seller (collectively, the "**Indemnified Parties**") from and against any and all Environmental Claims, Environmental Cleanup Liability, Environmental Compliance Costs, and any other claims, actions, suits, legal or administrative orders or proceedings, demands or other liabilities resulting at any time from the physical and/or environmental conditions of the Property whether before or after the Closing or from the existence of any Hazardous Materials or the release or threatened release of any

Hazardous Materials of any kind whatsoever, in, on or under the Property occurring at any time whether before or after the Closing, including, but not limited to, all foreseeable and unforeseeable damages, fees, costs, losses and expenses, including any and reasonable attorneys' fees and environmental consultant fees and investigation costs and expenses, directly or indirectly arising there from, and including fines and penalties of any nature whatsoever, assessed, levied or asserted against any Indemnified Parties to the extent that the fines and/or penalties are the result of a violation or an alleged violation of any Environmental Law. Buyer further agrees that in the event Buyer obtains, from former or present owners of the Property or any other persons or entities, releases from liability, indemnities, or other forms of hold harmless relating to the subject matter of this Section, Buyer shall use its diligent efforts to obtain for Seller the same releases, indemnities and other comparable provisions.

For purposes of this Agreement, the following terms shall have the following meanings:

"Environmental Claim" means any claim for personal injury, death and/or property damage made, asserted or prosecuted by or on behalf of any third party, including, without limitation, any governmental entity, relating to the Property or its operations and arising or alleged to arise under any Environmental Law.

"Environmental Cleanup Liability" means any cost or expense of any nature whatsoever incurred to contain, remove, remedy, clean up, or abate any contamination or any Hazardous Materials on or under all or any part of the Property, including the ground water hereunder, including, without limitation, (i) any direct costs or expenses for investigation, study, assessment, legal representation, cost recovery by governmental agencies, or ongoing monitoring in connection therewith and (ii) any cost, expense, loss or damage incurred with respect to the Property or its operation as a result of actions or measures necessary to implement or effectuate any such containment, removal, remediation, treatment, cleanup or abatement.

"Environmental Compliance Cost" means any cost or expense of any nature whatsoever necessary to enable the Property to comply with all applicable Environmental Laws in effect. "Environmental Compliance Cost" shall include all costs necessary to demonstrate that the Property is capable of such compliance.

"Environmental Law" means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (i) pollution or protection of the environment, including natural resources, (ii) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities, or (iv) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

"Hazardous Material" is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is: (i) petroleum or oil or gas or any direct or derivative product or byproduct thereof; (ii) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code; (iii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code; (iv) defined as a "hazardous material," "hazardous

substance,” or “hazardous waste” under Sections 25501(o) and (p) and 25501.1 of the California Health and Safety Code (Hazardous Materials Release Response Plans and Inventory); (v) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code (Underground Storage of Hazardous Substances); (vi) “used oil” as defined under Section 25250.1 of the California Health and Safety Code; (vii) asbestos; (viii) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 1 of Title 22 of the California Code of Regulations, Division 4, Chapter 30; (ix) defined as “waste” or a “hazardous substance” pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (x) designated as a “toxic pollutant” pursuant to the Federal Water Pollution Control Act, 33 U.S.C. §1317; (xi) defined as a “hazardous waste” pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq. (42 U.S.C. §6903); (xii) defined as a “hazardous substance” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq. (42 U.S.C. §9601); (xiii) defined as “Hazardous Material” or a “Hazardous Substance” pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; or (xiv) defined as such or regulated by any “Superfund” or “Superlien” law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials, oil wells, underground storage tanks, and/or pipelines, as now, or at any time hereafter, in effect.

Notwithstanding any other provision of this Agreement, Buyer’s release and indemnification as set forth in the provisions of this Section, as well as all other provisions of this Section, shall survive the termination of this Agreement and shall continue in perpetuity.

13. ESCROW PROVISIONS.

13.1 Escrow Instructions. Sections 1 through 3, 5 through 7, 10, 13, 15 & 16 constitute the escrow instructions to Escrow Holder. If required by Escrow Holder, Buyer and Seller agree to execute Escrow Holder’s standard escrow instructions, provided that the same are consistent with and do not conflict with the provisions of this Agreement. In the event of any such conflict, the provisions of this Agreement shall prevail. The terms and conditions in sections of this Agreement not specifically referenced above are additional matters for information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder’s general provisions directly from Escrow Holder and will execute such provision upon Escrow Holder’s request. To the extent that the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller agree to execute additional instructions, documents and forms provide by Escrow Holder that are reasonably necessary to close Escrow.

13.2 General Escrow Provisions. Escrow Holder shall deliver the Title Policy to the Buyer and instruct the San Bernardino County Recorder to mail the Grant Deed to Buyer at the address set forth in Section 15 after recordation. All funds received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Holder with any bank doing business in Southern California, and may be disbursed to any other general escrow account or accounts. All disbursements shall be according to that party’s instructions.

13.3 Proration of Real Property Taxes. As a public agency, Seller is not subject to real property taxes. According, Buyer shall take the Property subject to all taxes accruing from and after the Closing.

13.4 Payment of Costs.

- a. **Cost Allocation.** Seller shall pay the costs for the Title Policy (non-extended ALTA owner's policy), documentary transfer taxes, the cost of the NHD Report, and one-half (1/2) of the escrow costs ("**Seller's Charges**"). Buyer shall pay the cost of any additional endorsements to the Title Policy requested by Buyer or for any ALTA extended coverage owner's policy (as provided in Section 7.2), one-half (1/2) of the escrow fees, the recording charges for the Grant Deed and any charges incurred by Buyer's acts ("**Buyer's Charges**"). In addition to the charges specified above, the amounts due pursuant to Section 4.2 shall also be charged or credited in the closing statement. All other costs of Escrow not otherwise specifically allocated by this Agreement shall be apportioned between the parties in a manner consistent with the custom and usage of Escrow Holder.
- b. **Closing Statement.** At least two (2) business days prior to the Closing Date, Escrow Holder shall furnish Buyer and Seller with a preliminary Escrow closing statement which shall include each party's respective shares of costs. The preliminary closing statement shall be approved in writing by the parties. As soon as reasonably possible following the Close of Escrow, Escrow Holder shall deliver a copy of the final Escrow closing statement to each party.

13.5 Accounting under ENA. Pursuant to Section 4.2 and upon receipt of the accounting under the ENA, Escrow Holder shall show the appropriate adjustment consistent with the accounting.

13.6 Termination and Cancellation of Escrow. If Escrow fails to close due to a failure of a condition precedent, then the party in whose favor the condition precedent runs may elect to cancel this Escrow upon written notice to the other party and Escrow Holder. Upon cancellation, Escrow Holder is instructed to return (i) the funds in accordance with the foregoing provisions of this Agreement, and (ii) all documents then in Escrow to the respective depositor of the same with Escrow Holder. Cancellation of Escrow, as provided herein, shall be without prejudice to whatever legal rights Buyer or Seller may have against each other arising from the Escrow or this Agreement.

13.7 Information Report. Escrow Holder shall file and Buyer and Seller agree to cooperate with Escrow Holder and with each other in completing any report ("**Information Report**") and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045I regarding the real estate sales transaction contemplated by this Agreement, including without limitation, Internal Revenue Service Form 1099-B as such may be hereinafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereinafter promulgated by the Treasury Department with respect thereto. Buyer and Seller also agree that Buyer and Seller, their respective employees and attorneys, and escrow Holder and its employees, may disclose to the Internal Revenue Service, whether pursuant to such Information Report or otherwise, any information regarding this Agreement or the transactions contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045I, and further agree that neither Buyer nor Seller shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information.

13.8 No Withholding as Foreign Seller. Seller represents and warrants to Buyer that Seller is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 or an out-of-state seller under California Revenue and Tax

Code Section 18805 and that it will deliver to Buyer on or before the Close of Escrow a non-foreign affidavit on Escrow Holder's standard form pursuant to Internal Revenue Code Section 1445(b)(2) and the Regulations promulgated thereunder and a California Form 590-RE.

13.9 Brokerage Commissions. Buyer is represented by William Heim, Principal of Lee & Associates, 3535 Inland Empire Blvd., Ontario, CA 91764 ("**Buyer's Broker**"). Buyer shall be solely responsible for payment of any commission to Buyer's Broker. Seller shall not be responsible in any way for payment of any commission or other amounts to Buyer's Broker or any other broker or consultant representing Buyer. Except for Buyer's Broker, Seller and Buyer each represent and warrant to the other that no third party is entitled to a broker's commission and/or finder's fee with respect to the transaction contemplated by this Agreement. Buyer and Seller each agree to indemnify and hold the other parties harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee and specifically Buyer shall indemnify Seller for any amounts due to Buyer's Broker. The obligations under this provision shall survive Closing.

14. NON-COLLUSION. No official, officer, or employee of the Seller has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of the Seller participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interest found to be "remote" or "non interest" pursuant to California Government Code Sections 1091 and 1091.5. Seller warrants and represents that (s)he/it has not paid or given, and will not pay or give, to any third party including, but not limited to, and Seller official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded this Agreement. Seller further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any Seller official, officer, or employee, as a result or consequence of obtaining or being awarded any agreement. Seller is aware of and understands that any such act(s), omission(s) or other conduct resulting in the payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

15. NOTICES. Any notice which either party may desire to give to the other party or to the Escrow Holder must be in writing and may be given by (i) personal delivery which will be deemed received the following day; (ii) by national overnight delivery service which will be deemed received the following business day; or (iii) by mailing the same by registered or certified mail, return receipt requested which will be deemed delivered three (3) days after depositing same in the mail, addressed to the party to whom the notice is directed as set forth below, or such other address and to such other persons as the parties may hereafter designate:

To Seller: City of Rialto
150 S. Palm Avenue
Rialto, CA 92376
Attention: Executive Director

With a Copy to: Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612

Attention: Fred Galante, City Attorney

To Buyer: Orbis Real Estate Partners, LLC
280 Newport Center Drive Suite 240
Newport Beach, CA 92660
Attn: Grant Ross

With a Copy to: Rutan & Tucker LLP
611 Anton Blvd., Suite 1400
Costa Mesa, CA 92626
Attn: Kim D. Thompson

To Escrow Holder: Fidelity National Title Insurance Company
3237 E. Guasti Road, Suite 105
Ontario, CA 91761
Mary Lou Adame, Escrow Officer

16. **GENERAL PROVISIONS.**

16.1 Assignment. Buyer has no right to assign this Agreement without the prior written consent of Seller in its sole and absolute discretion as Seller is relying upon the integrity and expertise of Buyer. Notwithstanding the foregoing, Buyer shall have the right to assign this agreement to an SPE entity formed and wholly owned by Buyer to acquire and develop the Proposed Project; provided Buyer provides written notice and documentation to Seller and Buyer and assignee execute an assignment and assumption agreement in a form acceptable to Seller. This Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, personal representatives, successors and assigns.

16.2 Attorney's Fees. In any action between the parties hereto, seeking enforcement of any of the terms and provisions of this Agreement or the Escrow, or in connection with the Property, the prevailing party in such action shall be entitled, to have and to recover from the other party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding, in addition to its recoverable court costs.

16.3 Interpretation; Governing Law; Venue. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. The venue for any dispute shall be San Bernardino County.

16.4 No Waiver. No delay or omission by either party in exercising any right or power accruing upon the compliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

16.5 Amendments. Any amendment or modification to this Agreement must be in writing and executed by both parties.

16.6 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provisions, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16.7 Merger. This Agreement and other documents incorporated herein by reference contain the entire understanding between the parties relating to the transaction contemplated hereby and all prior to contemporaneous agreements, understandings, representations and statements, oral or written are merged herein and shall be of no further force or effect except the ENA which obligations as to reimbursement and indemnity shall remain in full force and effect.

16.8 Construction. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, no uncertainty or ambiguity shall be construed or resolved against a party under any rule of construction, including the party primarily responsible for the drafting and preparation of this Agreement. Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

16.9 Qualification and Authority. Each individual executing this Agreement on behalf of Buyer represents, warrants and covenants to the Authority that (a) such person is duly authorized to execute and deliver this Agreement on behalf of Buyer in accordance with authority granted under the organizational documents of such entity, and (b) Buyer is bound under the terms of this Agreement.

16.10 No Third Party Beneficiaries. This Agreement is only between the parties, and is not intended to be nor shall it be construed as being for the benefit of any third party.

16.11 Execution in Counterparts. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

16.12 Exhibits. Exhibits A and B attached hereto are incorporated herein by reference.

[SIGNATURES ON FOLLOWING PAGE]

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

NOTE: Parties must initial Sections 11 and 12.2

BUYER:

ORBIS REAL ESTATE PARTNERS, LLC,
a California limited liability company

By: _____
Grant Ross, Managing Member

ESCROW HOLDER ACCEPTANCE:

Fidelity National Title Insurance Company

By: _____
MaryLou Adame, Escrow Officer

Dated: _____, 2019

SELLER:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF RIALTO, a public body, corporate
and politic

By: _____
Deborah Robertson, Chair

ATTEST:

Barbara A. McGee, Secretary

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Fred Galante, Agency Counsel

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

That certain real property in the City of Rialto, County of San Bernardino, State of California, legally described as follows:

THAT PORTION OF THE WEST ½ OF THE WEST ½ OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, LYING NORTH OF THE HIGHWAY AS GRANTED TO THE STATE OF CALIFORNIA BY DEED RECORDED AUGUST 28, 1963, IN BOOK 5977, PAGE 798, OFFICIAL RECORDS.

EXCEPTING THEREFROM A STRIP OF LAND 32 FEET WIDE OFF THE WEST SIDE THEREOF AS DEEDED TO THE CITY OF RIALTO BY DOCUMENT RECORDED DECEMBER 10, 1985 AS INSTRUMENT NO. 85-313348, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE STATE OF CALIFORNIA BY THE DEED RECORDED DECEMBER 19, 2002 AS INSTRUMENT NO. 2002-691976, OFFICIAL RECORDS.

EXHIBIT B
GRANT DEED

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Orbis Real Estate Partners LLC
280 Newport Center Drive, Suite 240
Newport Beach, CA 92660
Attention: Grant Ross

APN 0240-211-21
THE UNDERSIGNED DECLARES that the documentary
transfer tax (computer on full value) is \$_____

(Space Above This Line for Recorder's Office Use Only)

GRANT DEED

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF RIALTO, a public body, corporate and politic ("**Grantor**"), hereby grants to the ORBIS REAL ESTATE PARTNERS, LLC, a California limited liability company ("**Grantee**"), all of its respective rights, title, and interest in the real property in the City of Rialto, County of San Bernardino, State of California, as more particularly described in Schedule 1 attached hereto and incorporated herein by this reference ("**Property**").

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on its behalf as of the date written below.

GRANTOR:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF RIALTO, a public body, corporate and
politic

Dated: _____, 20__

By: _____
_____, Chair

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

ATTEST:

Barbara A. McGee, Secretary

By: _____
Fred Galante, Agency Counsel

SCHEDULE 1 TO GRANT DEED

LEGAL DESCRIPTION OF THE LAND

That certain real property located in the City of Rialto, County of San Bernardino, State of California, and is described as follows:

THAT PORTION OF THE WEST ½ OF THE WEST ½ OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, LYING NORTH OF THE HIGHWAY AS GRANTED TO THE STATE OF CALIFORNIA BY DEED RECORDED AUGUST 28, 1963, IN BOOK 5977, PAGE 798, OFFICIAL RECORDS.

EXCEPTING THEREFROM A STRIP OF LAND 32 FEET WIDE OFF THE WEST SIDE THEREOF AS DEEDED TO THE CITY OF RIALTO BY DOCUMENT RECORDED DECEMBER 10, 1985 AS INSTRUMENT NO. 85-313348, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE STATE OF CALIFORNIA BY THE DEED RECORDED DECEMBER 19, 2002 AS INSTRUMENT NO. 2002-691976, OFFICIAL RECORDS.

