RESOLUTION NO. 2013-005

RESOLUTION OF THE BOARD OF DIRECTORS
OF ANAHEIM TRANSPORTATION NETWORK
APPROVING THE PURCHASE OF REAL PROPERTY
AT 1354 SOUTH ANAHEIM BOULEVARD, ANAHEIM, CA 92805

WHEREAS, Anaheim Transportation Network, a California nonprofit public benefit corporation ("Corporation") entered into a conditional purchase and sale agreement on January 31, 2013 for certain real property located at 1354 South Anaheim Boulevard, Anaheim, CA 92805 with the Sellers, Walter J. Furie and Gladys Furie c/o Farmers & Merchants Bank Trust as set forth on Exhibit A ("PSA"); and

WHEREAS, the Corporation has determined that all non-closing conditions in the PSA have been met to the satisfaction of the Board of Directors, staff, and advisors; and

WHEREAS, pursuant to the PSA the Corporation must provide to the Sellers and escrow a resolution approving the purchase no later than April 1, 2013 approving the purchase; and

WHEREAS, the Corporation has analyzed the financing proposals and its own cash on hand in Restricted and Unrestricted accounts, determining that the Corporation has the ability to comply with the terms of the PSA; and

WHEREAS, the Corporation now desires to approve the purchase in total with all of the non-closing contingencies PSA being waived and proceed to close escrow on the real property, subject only to closing contingencies and deliveries;

THEREFORE, THE BOARD OF DIRECTORS OF THE CORPORATION DOES HEREBY RESOLVE, FIND, DETERMINE AND ORDER AS FOLLOWS:

Section 1: The Corporation approves the purchase of the real property set forth above hereby approves all terms and conditions of the PSA set forth in Exhibit A, subject only to closing contingencies and deliveries and waiving all non-closing contingencies; and

Section 2: The Corporation approves the use of up to $680,000 of Restricted Reserve Funds and $12,968 of Unrestricted Reserve Funds, plus the Deposit currently in escrow, to close escrow according to the terms of the PSA set forth in Exhibit A;

Section 3: The Corporation approves the use of financing to close escrow according to the terms of that separate resolution of this same date; and

Section 3: The Executive Director of the Corporation is hereby authorized and empowered on behalf of this Corporation and in its name to (a) use up to $680,000 of Restricted Reserve Funds and $12,968 of Unrestricted Reserve Funds, plus the deposit currently in escrow to close escrow according to the terms of the PSA set forth in Exhibit A, (b) undertake the financing to close escrow according to the terms of that separate resolution of this same date, and (c) execute any other escrow instructions, agreements, or any other instruments or documents, or amendments or supplements thereto, or to do
and to cause to be done any and all other acts and things such Executive Director may in her discretion deem necessary or appropriate to close escrow according to the terms of the PSA set forth in Exhibit A, including the delivery of this resolution to escrow and Sellers in a timely manner and to carry out the purposes of the foregoing resolution.

Adopted, signed and approved this 27th day of March 2013.

[Certification contained on next page.]
Attest:

Diana Kotler, Executive Director

I, Diana Kotler, Executive Director of Anaheim Transportation Network, do hereby certify that the foregoing Resolution No. 2013-005 of the Board of Directors was duly adopted by the Board of Directors of Anaheim Transportation Network, a California nonprofit public benefit corporation, at a regular meeting of the Board on March 27, 2013, and that it was so adopted by the following vote:

YEAS:  11  
NEAS:  0  
ABST:  0  

Diana Kotler, Executive Director
EXHIBIT A

PURCHASE AND SALE AGREEMENT FOR 1354 SOUTH ANAHEIM BOULEVARD, ANAHEIM, CA 92805
BETWEEN CORPORATION AS BUYER AND WALTER J. FURIE AND GLADYS FURIE C/O FARMERS &
MERCHANTS BANK TRUST AS SELLERS DATED JANUARY 31, 2013
STANDARD OFFER, AGREEMENT AND ESCRROW INSTRUCTIONS FOR PURCHASE OF REAL ESTATE
(Non-Residential)
AIR Commercial Real Estate Association

January 30, 2013
(Data for Reference Purposes)

1. Buyer.

1.1 Anaheim Transportation Network, a California nonprofit public benefit corporation, ("Buyer") hereby offers to purchase the real property, hereinafter described, from the owner thereof, ("Sellers") (collectively, the "Parties") or individually, as "Party," through an escrow ("Escrow") to close 90 or 15 days after the waiver or assumption of the Buyer's Contingencies, ("Expected Closing Date") to be held by Farmers & Merchants Bank Escrow (Suzanne Sanchez) ("Escrow Holder") whose address is 302 Pine Avenue, Long Beach, California 90802.

1.2 The term "Date of Agreement" as used herein shall be the date when by execution and delivery (as defined in paragraph 20.2) of this document or a subsequent counteroffer therein, Buyer and Seller have reached agreement in writing whereby Seller agrees to sell, and Buyer agrees to purchase, the Property upon terms accepted by both Parties.

2. Property.

2.1 The real property ("Property") that is the subject of this offer consists of (insert a brief physical description) an approximately +/- 1.88 acre parcel of land that includes two buildings totaling +/- 6,300 square feet, together with all improvements now located on or in such real property and all rights, privileges and easements appurtenant thereto. It is located in the City of Anaheim, County of Orange, State of California, and is commonly known by the street address of 1354 South Anaheim Boulevard.

2.2 If the legal description of the Property is incomplete or inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of Title Company (Mark Hanferring) - Mark@ticors.com ("Title Company"), which shall issue the Title policy hereinafter described.

2.3 The Property includes, at no additional cost to Buyer, the following improvements thereto, including those items which are to be included in the offer price of the property, as well as the following items. If any, owned by Seller and present located on the Property: electrical distribution systems (power panel, bus ducting, conduits, disconnects, lighting fixtures); telephone distribution systems (phone, jacks and connections only); space heaters, heating, ventilating, air conditioning equipment (HVAC); air fins, fire sprinkler systems; security and fire detection systems; carpet; window coverings; wall coverings; and none.

2.4 The fire sprinkler system was installed by Seller and included in the Purchase Price. No lease is owned by Seller and Buyer will need to negotiate a new lease with the fire monitoring company, if any, prior to closing.

2.5 Except as provided in Paragraph 2.3, the Purchase Price does not include Seller's personal property, furniture, and furnishings, and all of which shall be removed by Seller prior to Closing.


3.1 The purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property shall be $2,250,000.00, payable as follows:

(a) (b) 

(b) Amount of "Loan" as defined in paragraph 5.1, if any:

$1,687,500.00

(c) Buyer shall take title to the Property subject to seller's current or future interest to the following existing deeds of trust ("Existing Deeds of Trust") securing the existing promissory notes ("Existing Notes"):

(i) An Existing Note ("First Note") with an unpaid principal balance of $1,687,500.00

Closing of approximately:

$1,687,500.00

Bianca House is payable at $8,333.33 per month.

(ii) An Existing Note ("Second Note") with an unpaid principal balance of $1,687,500.00

Closing of approximately:

$1,687,500.00

Bianca House is payable at $8,333.33 per month.

Total Purchase Price: $2,250,000.00

INITIALS

PAGE 1 OF 8

©2003 - AIR COMMERCIAL REAL ESTATE ASSOCIATION
FORM DFA-7-907E
3.2 If Buyer is taking title to the Property subject to, or assuming, an Existing Deed of Trust and such deed of trust permits the beneficiary to demand payment of fees including, but not limited to, interest, processing fees, and appraisal fees as a condition to the transfer of the Property, Buyer agrees to pay such fees up to a maximum of 5% of the unpaid principal balance of the applicable Existing Note.

4. Deposits.

4.1 ☐ Buyer has delivered to Broker a check in the sum of $ __________, payable to Escrow Holder, to be delivered to Escrow Holder within 2 business days after both Parties have executed this Agreement and the executed Agreement has been delivered to Escrow Holder, or ☐ within __________ business days after both Parties have executed this Agreement and the executed Agreement has been delivered to Escrow Holder Buyer shall deliver to Escrow Holder a check in the sum of $50,000.00. If said check is not received by Escrow Holder within said time period then Seller may elect to unilaterally terminate this transaction by giving written notice of such election to Escrow Holder. Notwithstanding any provision of this Agreement to the contrary, Buyer shall have any further liability in the event Seller does not enter into an agreement for purchase and sale, Buyer's check or funds shall, upon request by Buyer, be promptly returned to Buyer.

4.2 Additional deposits.

☐ At __________ business days after the Date of Agreement, Buyer shall deposit with Escrow Holder the additional sum of $ __________, to be applied to the Purchase Price at the Closing.

5. Financing Contingency.

5.1 This offer is contingent upon Buyer obtaining from an insurance company, financial institution or other lender, a commitment to lend to Buyer a sum equal to at least 75% of the Purchase Price, on terms reasonably acceptable to Buyer. Such loan ("New Loan") shall be secured by a first deed of trust or mortgage on the Property. The New Loan shall be approved by Seller. Buyer shall have 7 days from the date of the commitment letter to notify Seller of the proposed terms of the New Loan to the satisfaction of Seller. Buyer shall have 7 days from the date of approval of the New Loan to close on the New Loan.


6.1 If Seller agrees to sell the Property to Buyer, Buyer shall notify its Broker, Escrow Holder and Seller, in writing within 45 days following the Date of Agreement, that the New Loan has not been obtained. If it is conclusively presumed that Buyer has obtained the New Loan or has waived this New Loan contingency, Buyer shall notify its Broker, Escrow Holder and Seller, in writing, within the time period specified in paragraph 6.2 hereof, that Buyer has not obtained the New Loan, this Agreement shall be terminated, and Seller shall be entitled to the prompt return of the Deposit, plus any interest earned thereon, less only Escrow Holder and Title Company escrow fees and costs, which Buyer shall pay.

7. Real Estate Brokers.

7.1 The following real estate broker(s) ("Brokers") and brokerage relationships exist in this transaction and are consorted by the Parties (check the applicable boxes):

☐ CBRE, Inc. (Mark S. Latimer, Ben Seybold)
☒ Grubb & Ellis Company, dba Newmark Grubb Knight Frank
☐ (Gary Allen and Cheryl Bloodworth)

☒ represents Seller exclusively ("Sellers Broker"); ☐ represents Buyer exclusively ("Buyers Broker"); ☐ represents both Seller and Buyer ("Dual Agency").

The Parties acknowledge that the Brokers are the procuring cause of this Agreement. See paragraph 25 regarding the nature of a real estate agency relationship. Buyer shall use the services of Buyers Broker exclusively in connection with any and all negotiations and offers with respect to the Property for a period of 1 year from the date herein for reference purposes at the top of page 1.

7.2 Buyer and Buyer Broker shall indemnify and hold harmless the other that both shall have had no dealings with any person, firm, broker or lender in connection with the negotiation of this Agreement and the consummation of the purchase and sale contemplated herein, other than the Brokers named above in paragraph 7.1, and no broker, broker or other person, and not materially affected by or solicited by any of the Parties or their Broker.(s), or a broker, firm, or other similar entity, other than intended Brokers by reason of any dealings or act of the indemnifying Party.

8. Escrow and Closing.

8.1 Upon acceptance hereof by Seller, this Agreement, including any counteroffers incorporated herein by the Parties, shall constitute not only the agreement of purchase and sale between Buyer and Seller, but also instructions to Escrow Holder for the consummation of the Agreement through the Escrow Holder shall not require any further escrow instructions requiring or amending the Agreement unless specifically so instructed by the Parties or a Broker herein. Subject to the reasonable approval of the Parties, Escrow Holder may, however, include its standard escrow provision.

8.2 As soon as practical after the receipt of this Agreement and any relevant counteroffer, Escrow Holder shall ascertain the Date of Agreement as defined in paragraphs 1.3 and 20.2 and advise the Parties and Broker, in writing, of the date ascertained.
8.8 Buyer and Seller shall each pay one-half of the Escrow Holder's charges and Seller shall pay the usual recording fees and any required documentary transfer taxes. Seller shall pay the premium for a standard coverage owner's or joint tenancy policy of title insurance. [See Addendum 40 to Agreement]

8.6 Escrow Holder shall notify Seller that all of Buyer's contingencies have been satisfied or waived prior to Closing. The matters contained in paragraphs 8.1 subparagraphs (a), (c), (d), (e), (f), (g), (j), (m), and (n), and 8.4, 8.5, 12, 13, 14, 16, 18, 20, 21, 22, and 24 are, however, realized of agreement between the Parties only and are not to be considered by Escrow Holder:

8.7 If this transaction is terminated for non-satisfaction and non-waiver of a Buyer's Contingency, as defined in paragraph 9.2, then neither of the Parties shall thereafter have any liability to the other under this Agreement, except to the extent of a breach of any affirmative covenant or warranty in this Agreement. In the event of such termination, Buyer shall promptly refund all funds deposited by Buyer with Escrow Holder, less only Title Company and Escrow Holder cancellation fees and costs, all of which shall be Buyer's obligation. If this transaction is terminated as a result of an Agreement then Seller shall pay the Title Company and Escrow Holder cancellation fees and costs.

8.8 The Closing shall occur on the Expected Closing Date, or as soon thereafter as the Escrow is in condition for Closing; provided, however, that if the Closing does not occur by the Expected Closing Date and said Notice is not then extended by mutual written agreement of the Parties, a Party not then in default under this Agreement may notify the other Party, Escrow Holder, and Strickland, in writing, that unless the Closing occurs within 5 business days following said notice, the Escrow shall be deemed terminated without further notice or instructions.

8.9 Except as otherwise provided herein, the termination of this Escrow shall not relieve or release either Party from any obligation to pay one-half (12) of Escrow Holder's fees and costs or constitute a waiver, release or discharge of any breach or default that has occurred in the performance of the obligations, agreements, warranties or contingencies contained therein.

8.10 If the sale of the Property is not consummated for any reason other than Seller's breach or default, then at Seller's request, and as a condition of payment of the Buyer's contingency deposit, Buyer shall permit Seller to inspect the Property. Seller and/or Buyer's inspection shall be conducted under the direct supervision of a qualified and independent third party, and the results of such inspection shall be binding on both Parties.
(e) Personal Property. In the event that any personal property is included in the Purchase Price, Buyer has 10 or 1 day(s) from the date of the Agreement to satisfy all requirements with regard to the title condition of such personal property. Seller recommends that Buyer obtain a UCC-1 report. Any such report shall be paid for by Buyer. Seller shall provide Buyer copies of any title or encumbrance affecting such personal property that it is aware of within 10 or 1 day(s) from the Date of Agreement.

(d) Construction, Damage or Loss. In the event that there shall not have occurred prior to Closing, a destruction, after or during the Closing, a sale of any personal property, or any pump, attenuator, or damage loss to, the Property or any portion thereof, from any cause whatsoever, which causes the lessee to cease making payments, or any pump, attenuator, or other fixed improvements attached thereto, the contract price shall be reduced by an amount equal to the lesser of (i) the contract price or (ii) the contract price plus the lesser of the fair market value and the contract price.

(c) Material Change. Buyer shall have 10 or 1 days following receipt of written notice of a material change in which to satisfy all requirements with regard to such change. "Material Change" shall mean a substantial adverse change to the use, occupancy, location, title, or condition of the Property that occurs after the date of this offer and prior to the Closing. Unless otherwise notified in writing, Escrow Holder shall assume that no material change has occurred prior to the Closing.

(b) Seller Performance. The delivery of all documents and the due performance by Seller of all and every other agreement to be performed by Seller under this Agreement.

(a) Brokerage Fee. Payment at the Closing of such brokerage fee as is specified in this Agreement or later written instructions to Escrow Holder executed by Seller and Broker ("Brokerage Fee"). It is agreed by the Parties and Escrow Holder that Broker is a third party beneficiary of this Agreement (insofar as the Brokerage Fee is concerned), and that no change shall be made with respect to the payment of the Brokerage Fee specified in this Agreement, without the written consent of Broker.

9.2 All of the contingencies specified in subparagraphs (a) through (m) of paragraph 6.1 are for the benefit of, and may be waived by, Buyer, and may be otherwise waived as to "Buyer's Contingencies." The Parties acknowledge that extensive local, state, and federal legislation establish broad liability upon owners and users of real property for the investigation and remediation of Hazardous Substances. The determination of the existence and nature of Hazardous Substances is important to the condition of the property and Buyer's knowledge of the condition of the property are hereby mutually agreed to be satisfactory to Buyer, and Seller shall not be required to provide Buyer with any further notice under the terms of this Agreement. Buyer's failure to satisfy any of the requirements specified in subparagraphs (a) through (m) of paragraph 6.1 shall result in the termination of this Agreement without liability to any party.

9.3 If any of Buyer's Contingencies or any other matter subject to Buyer's approval is not satisfied as provided herein or unless Buyer agrees in writing to accept such satisfaction, the Agreement will be terminated and neither party shall have any further liability to the other party.

9.4 Any party to this Agreement shall be entitled to specific performance of this Agreement, and in addition to any other remedy to which such party may be entitled, Buyer shall have the right to recover from Seller all sums paid by Buyer in connection with this Agreement and all costs of any proceedings or actions in connection with such sums, plus interest thereon at the rate of 1% per annum from the date of the payment thereof until paid.

9.5 If any party to this Agreement shall institute any action in equity or at law to enforce any of the provisions of this Agreement or to compel specific performance of any covenant contained in this Agreement, the party prevailing in such action shall be entitled to recover reasonable attorneys' fees and costs of the action, in addition to any other relief provided by law or equity.

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

9.7 This Agreement may not be amended, modified, or waived except in writing signed by each party thereto.

9.8 This Agreement contains the entire agreement between the parties and supersedes all prior understandings, negotiations, and agreements, whether written or oral, relating to the subject matter hereof.

9.9 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

9.10 This Agreement is a binding agreement on all parties and is enforceable in accordance with its terms.

9.11 Any provision of this Agreement which is held to be invalid, illegal, or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality, or unenforceability without invalidating or impairing the validity, legality, or enforceability of the remaining provisions hereof or affecting the validity, legality, or enforceability of such provision in any other jurisdiction.

9.12 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
11.1 Taxes. Applicable real property taxes and special assessment bonds shall be prorated through Escrow as of the date of the Closing, based on the actual tax bill. Each Party agrees to prorate as of the Closing date, any taxes assessed against the Property by supplemental tax bills issued by reason of events occurring prior to the Closing. Payment of the prorated amount shall be made promptly in cash upon receipt of a copy of any supplemental tax bill.

11.2 Insurance. WARNING: Any insurance which Seller may have maintained will terminate at the Closing. Buyer is advised to obtain appropriate insurance to cover the Property.

11.3 Escalating, interest, and penalties. Scheduled certain, interest on Existing Note(s), utilities, and operating expenses shall be prorated as of the date of Closing. The Parties agree to promptly adjust between themselves outside of Escrow any rents received after the Closing.

11.4 Security Deposit. Security Deposits shall be held by Seller to be given to Buyer as a credit to the cash required of Buyer at the Closing. The deposit shall be refunded or increased by an amount equal to that portion of the Security Deposit that shall be prorated to the Closing.

11.5 Post-Closing. The escrow agent shall be promptly adjusted by the Parties by proper cash payment outside of Escrow when the amount due is determined.

11.6 Variations in Existing Note Balances. In the event that Buyer is purchasing the Property to an Existing Debt (formerly referred to as the applicable Existing Note(s)) interest due to the amount due at the time of the Existing Note Variation. If there is no increase in the amount of the Existing Note Variation, then the amount of the Existing Note, if any, shall be reduced by the amount of such excess.

11.7 Owner's Association Fees. Escrow Holder shall: (i) bring Seller's account with the association current and pay any delinquencies or transfer fees from Seller's proceeds, and (ii) pay up any fees required by the association from Buyer's funds.

12. Representations and Warranties of Seller and Disclaimers

12.1 Seller's warranties and representations shall survive the Closing and delivery of the deed for a period of 90 days (60) from the date hereof, and, are true, and relied upon by Buyer and Broker in all respects. Seller hereby makes the following warranties and representations to Buyer and Broker:

(a) Authority of Seller. Seller is the owner of the Property and has the full right, power and authority to sell, convey and transfer the Property to Buyer as provided herein, and to perform Seller's obligations hereunder.

(b) Title to the Property. Seller has no knowledge, except as otherwise disclosed in paragraph 9.1(c) hereof, that Seller has no knowledge of any interest or condition which is not included in the transfer or rights of Seller to convey the Property, and no right to possession of any part of the Property, except as disclosed by Seller in writing to Buyer.

(c) Mechanical Leaks. There are no unsatisfied mechanical or material/amenities' lien rights concerning the Property.

(d) Personal Property. Seller has no knowledge or notice of any agreements affecting the Property, other than agreements, leases, or instruments affecting the Property.

(e) Notice of Changes. Seller will promptly notify Buyer and Broker of any material changes to the Property described in paragraph 9.3(c) hereof affecting the Property that becomes known to Seller prior to the Closing.

(f) No Tenant Bankruptcy Proceedings. Seller has no knowledge or notice that any tenant of the Property is subject to a bankruptcy or other proceeding.

12.2 Buyer's Right of Inspection. Buyer has no knowledge or notice that any of the representations and warranties contained in this Agreement are false or incorrect, and Buyer hereby acknowledges that, except as otherwise disclosed herein, Buyer is purchasing the Property as is in existing condition and condition at the time of the Closing, and Buyer accepts the Property as is.

13. Posession. Possession of the Property shall be given to Buyer at the Closing date to the rights of tenants under Existing Leases.

14. Buyer's Entry. At any time during the Escrow period, Buyer, and its agents and representatives, shall have the right to enter the Property at reasonable times and upon reasonable notice to Seller and subject to rights of tenants. The parties agree to provide all further information, and to execute and deliver all further documents, reasonably required by Escrow Holder or the Title Company.

15. Attorney's Fees. If any Party or Broker brings an action or proceeding (including arbitration) involving the Property whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal therein, shall be entitled to reasonable attorney's fees. Such fees may be recovered in the same suit or action or a separate suit, whether or not such action is pursued to decision or judgment. The term "Prevailing Party" shall include, without limitation, a Party or Broker substantially obtaining or detaining the relief indemnify, defend, and hold harmless Seller and the Property from and against any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), damages, including those for injury to person or property, arising out of or relating to any such work or materials or the acts or omissions of Seller, its agents or employees in connection therewith.

16. Further Documents and Assurances. The Parties shall each, and in good faith, undertake all actions and procedures reasonably required to place the Escrow in condition for Closing as and when required herein. The Parties agree to provide all further information, and to execute and deliver all further documents, reasonably required by Escrow Holder or the Title Company.

17. Amendments. This Agreement supersedes any and all prior agreements between Seller and Buyer regarding the Property.

18. Broker's Rights. If the sale is consummated due to the default of either the Buyer or Seller, the defaulting Party shall be liable to and shall pay to the Broker, a fee of 6% of the sale price of the Property, that Broker reasonably incurred in connection with the sale being consummated. If Buyer is the defaulting party, payment of such brokerage fee is in addition to any obligations with respect to the defaulting party.
18.2 Upon the Closing, Brokers are authorized to publicize the facts of this transaction.

19.1 Whenever any Party, Escrow Holder or Brokers hereinafter shall desire to give or serve any notice, demand, request, approval, disapproval, or other communication, each such communication shall be in writing and shall be delivered personally, by messenger, overnight courier, Express Mail, or by mail, postage prepaid, to the address set forth in this Agreement or by facsimile transmission.

19.2 Service of any such communication shall be deemed made on the date of actual receipt if personally delivered. Any such communication sent by regular mail shall be deemed given 48 hours after the same is mailed. Communication sent by United States Express Mail or overnight courier service that guarantees next day delivery shall be deemed delivered 24 hours after delivery of the same to the Postal Service or courier. Communication sent by telephone shall be deemed delivered upon confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If such communication is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

19.3 Any Party or Escrow Holder may from time to time, by notice in writing, designate a different address to which, or a different person or additional persons to whom, all communications hereunder are to be made.

20. Duration of Offer.  
20.1 If this offer is not accepted by Seller on or before 5:00 P.M., according to the time standard applicable to the city of Anaheim, on the date of Friday February 1, 2013, it shall be deemed automatically revoked.

20.2 The acceptance of this offer, or of any subsequent counteroffer hereinafter, that creates an agreement between the Parties as described in paragraph 19.1, shall be deemed made upon delivery to the other Party or to the Broker herein of a duly executed writing unconditionally accepting the last outstanding offer or counteroffer.

21. Liquidated Damages. (This Liquidated Damages paragraph is applicable only if initiated by both Parties). The PARTIES AGREE THAT IT WOULD BE IMPOSSIBLE OR EXTREMELY DIFFICULT TO FIX, PRIOR TO SIGNING THIS AGREEMENT, THE ACTUAL DAMAGES WHICH WOULD BE SUFFERED BY SELLER IF BUYER FAILS TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT. THEREFORE, IF, AFTER THE SATISFACTION OR WAIVER OF ALL CONTINGENCIES PROVIDED FOR THE BUYER’S BENEFIT, BUYER BREACHES THIS AGREEMENT, SELLER SHALL BE ENTITLED TO LIQUIDATED DAMAGES IN THE AMOUNT OF $100,000.00 UPON PAYMENT OF SAID SUM TO SELLER, BUYER SHALL BE RELEASED FROM ANY FURTHER LIABILITY TO SELLER, AND ANY ESCRROW CANCELLATION FEES AND TITLE-COMPANY CHARGES SHALL BE PAID BY SELLER.

22. Arbitration of Disputes. (The Arbitration of Disputes paragraph is applicable only if initiated by both Parties.)  
22.1 Any controversy as to whether Seller is entitled to the Liquidated Damages and/or Buyer is entitled to the return of deposit money shall be determined by binding arbitration by and under the commercial rules of the American Arbitration Association (Commercial Rules). Arbitration hearings shall be held in the county where the property is located. Any such controversy shall be arbitrated by 3 arbitrators, who shall be impartial real estate brokers with at least 6 years of full-time experience in the area where the property is located and the type of real estate that is the subject of this Agreement. They shall be appointed under the commercial rules of the arbitrators shall as expressed in this Agreement and any amendments thereto, and upon the evidences presented at an arbitration hearing. Arbitration discovery shall be permitted in accordance with the commercial rules or state law applicable to arbitration proceedings. The award shall be binding on both parties at least 2 of the 3 arbitrators. Be rendered within 30 days after the conclusion of the hearing. An attorney's fees and costs to the prevailing party per paragraph 14 hereof. Judgment may be entered on the award in any court of competent jurisdiction notwithstanding the failure of a party duly notified of the arbitration hearing to appear thereat.

22.2 Buyer's Acceptance or Participation in any such arbitration proceedings shall not bar suit in a court of competent jurisdiction. The Buyer for Damages and/or Specific Performance unless such award shall act as a bar against any action by Buyer for damages and/or specific performance.

22.3 Notice: By initialing in the space below, you are agreeing to have any dispute arising out of the matters included in the arbitration of disputes provision decided by neutral arbitration as provided and appeal, unless such rights are specifically included in the arbitration of disputes provision. If you refuse to submit to arbitration after agreeing to this provision, you may be compelled to arbitrate under the authority of the California court of civil procedure. Your agreement to this arbitration provision is voluntary.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE ARBITRATION OF DISPUTES PROVISION TO NEUTRAL ARBITRATION.

23. Miscellaneous.  
23.1 Binding Effect. This Agreement shall be binding on the Parties without regard to whether or not paragraphs 21 and 22 are initiated by both of the Parties. Paragraphs 21 and 22 are incorporated into this Agreement only if initiated by both Parties at the time that the Agreement is executed.

23.2 Applicable Law. This Agreement shall be governed by, and paragraph 22.3 is amended to refer to, the laws of the state in which the Property is located.

23.3 Title of Escrow. Title of the Escrow shall be governed by, and paragraph 22.3 is amended to refer to, the laws of the state in which the Property is located.

23.4 Counterparts. This Agreement may be executed by Buyer and Seller in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Escrow Holder, after verifying that the counterparts are identical except for the signatures, is authorized and instructed to combine the signed signature pages on one of the counterparts, which shall then constitute the Agreement.

23.5 Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THEIR PROPERTY OR ARISING OUT OF THIS AGREEMENT.

23.6 Conflicts. Any conflict between the printed provisions of this Agreement and any typewritten or handwritten provisions shall be controlled by the typed portion or handwritten provisions.  
23.7 1031 Exchange. Both Buyer and Seller agree to cooperate with each other in the event that either or both wish to participate in a 1031 exchange. Any party initiating an exchange shall bear all costs of such exchange.
23. Days. Unless otherwise specifically indicated to the contrary, the word "days" as used in this Agreement shall mean and refer to calendar days. If a party's performance or obligation to deliver notice occurs or falls on a Saturday, Sunday or holiday, the party shall have until the next business day to perform the obligation or deliver notice.

24. Disclosures Regarding The Nature of a Real Estate Agency Relationship

24.1 The Parties and Brokers agree that their relationship(s) shall be governed by the principles set forth in the applicable sections of the California Civil Code, as summarized in paragraph 24.2.

24.2 When entering into a discussion with a real estate agent regarding a real estate transaction, a Buyer or Seller should not discuss with the agent anything private in nature without the prior written consent of the other. This includes but is not limited to financial information, personal information, and any other information that the agent may consider to be confidential. Such consent should be in writing and signed by both parties.

25. Confidential Information.

25.1 Confidential Information: Buyer and Seller agree to identify to Brokers as Confidential any communication or information given Brokers that is considered by such Party to be confidential.

26. Construction of Agreement. In construing this Agreement, all headings and titles are for the convenience of the Parties only and shall not be considered a part of the Agreement. Whenever required by the context, the singular shall include the plural and vice versa. Unless otherwise specifically indicated to the contrary, the word "days" as used in this Agreement shall mean and refer to calendar days. This Agreement shall not be construed to be prepared by one of the Parties, but rather according to its fair meaning as a whole, as both Parties have agreed.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS AGREEMENT OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS AGREEMENT.


WARNING: IF THE PROPERTY IS LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THIS AGREEMENT MAY NEED TO BE REVIEWED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED.
The undersigned Buyer offers and agrees to buy the Property on the terms and conditions stated and acknowledges receipt of a copy hereof.

**BROKER:**

Grubb & Ellis Company

da/b Grubb Knight Frake

Alex Gary Allen / Cheryl Bloodworth

Title: Senior Vice President/Vice President

Address: (optional)

Telephone: (optional)

Fax/ID: (optional)

Email: (optional)

cbbloodworth@gkf.com

**BUYER:**

Anaheim Transportation Network

By: (Signature)

Date: (optional)

Name Printed: Diana Kovlar

Title: Executive Director

Address: (optional)

Telephone: (optional)

Fax/ID: (optional)

Email: (optional)

**27. Acceptance.**

27.1 Seller accepts the foregoing offer to purchase the Property and hereby agrees to sell the Property to Buyer on the terms and conditions therein specified.

27.2 Seller acknowledges that Brokers have been retained to locate a Buyer and are the procuring cause of the purchase and sale of the Property set forth in this Agreement. In consideration of real estate brokerage service rendered by Brokers, Seller agrees to pay Brokers a real estate Brokerage Fee in a sum equal to 2 % of the Purchase Price to be divided equally between Seller's Broker and Buyer's Broker. This Agreement shall serve as an irrevocable instruction to Escrow Holder to pay such Brokerage Fee to Brokers out of the proceeds accruing to the account of Seller at the Closing.

27.3 Seller acknowledges receipt of a copy hereof and authorizes Brokers to deliver a signed copy to Buyer.

**NOTE:** A PROPERTY INFORMATION SHEET IS REQUIRED TO BE DELIVERED TO BUYER BY SELLER UNDER THIS AGREEMENT.

**SELLER:**

CBRE, Inc.

Alex: Mark S. Latimer

Title: Senior Vice President

Address: 10350 Heritage Park Drive, Suite 100

San Diego, California 92121

Telephone: (optional)

Fax/ID: (optional)

Email: mark.latimer@cbre.com

**FARMERS & MERCHANTS TRUST COMPANY OF LONG BEACH, TRUSTEE U/A/ GLADYS CANNON PURSE TRUST A, B, & C FROM AMENDED TRUST DATED 4/15/77, & WALTER J. PURSE TRUST A, B, & C FROM WALTER PURSE AMENDED TRUST AGREEMENT DATED 6/5/77**

By: (Signature)

Date: (optional)

Name Printed: Sean Minsky

Title: Chief Investment Officer

Address: 210 Pine Avenue, Second Floor

Long Beach, California 90802

Telephone: (optional)

Fax/ID: (optional)

Email: (optional)

**NOTICE:** These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form. AIR Commercial Real Estate Association, 800 W 8th Street, Suite 800, Los Angeles, CA 90017. Telephone No: (213) 631-6777. Fax No: (213) 631-6618.

© Copyright 2003 By AIR Commercial Real Estate Association.

All rights reserved.

No part of these works may be reproduced in any form without permission in writing.

**INITIALS**

PAGE 8 OF 8

©2003 - AIR COMMERCIAL REAL ESTATE ASSOCIATION

FORM OCA 7-60470
ADDENDUM

27. Seller’s Knowledge.

For purposes of this Agreement and any document delivered at Closing, whenever the phrase to Seller’s “knowledge” or words of similar import are used in this Agreement, they shall be deemed to mean and are limited to the current actual knowledge only of Sean Miller, Senior Vice-President, Chief Investment Officer of Farmers & Merchants Trust Company of Long Beach, Trustee of Seller, at the times indicated only, and not any implied, imputed or constructive knowledge of such individual or of Seller or any other person, and without any independent investigation or inquiry having been made or any implied duty to investigate, make any inquiries or review documents or other materials. Furthermore, it is understood and agreed that such individual shall have no personal liability in any manner whatsoever hereunder or otherwise related to the transactions contemplated hereby.

28. Buyer’s Remedy.

Notwithstanding anything to the contrary contained herein, after the Closing: (a) the maximum aggregate liability of Seller, and the maximum aggregate amount which may be awarded to and collected by Buyer (including, without limitation, for any breach of any representation, warranty and/or covenant by Seller) under this Agreement or any documents executed pursuant hereto or in connection herewith, including, without limitation, the grant deed conveying title to the Property to Buyer, Bill of Sale, if any and any other document delivered or caused to be delivered by Buyer to Seller (collectively, the “Other Documents”), shall under no circumstances whatsoever exceed the amount equal to three percent (3%) of the Purchase Price; and (b) no claim by Buyer alleging a breach by Seller of any representation, warranty and/or covenant of Seller contained herein or in any of the Other Documents may be made later than six (6) months after the Closing or such claim shall be forever barred, and Seller shall not be liable for any judgment in any action based upon any such claim, unless and until such claim, either alone or together with any other claims by Buyer alleging a breach by Seller of this Agreement, related matter or any such representation, warranty and/or covenant is for an aggregate amount in excess of twenty-five thousand dollars ($25,000) (the “Floor Amount”), in which event Seller’s liability respecting any final judgment concerning such claim or claims shall be for the entire amount thereof, subject to the limitation set forth in clause (a) above; provided, however, that if any such final judgment is for an amount that is less than or equal to the Floor Amount, then Seller shall have no liability with respect thereto.

Buyer acknowledges that the Property was formerly used as a used car and service facility; that there are presently in-ground and above ground hydraulic lifts and a "potential clarifier" on the Property; and that TCE exists in the ground water beneath the Property.

Seller in 2005 retained Hayden Environmental to prepare a Phase 1 Environmental Site Assessment for the Property ("ESI"). The ESI, inter alia, disclosed a purported underground storage tank on the Property. Buyer hereby acknowledges receipt of the ESI.

Seller in 2012 retained Environ International Corporation ("Environ") to conduct a further historical review of the environmental condition of the Property. The results of the Environ review are set forth in a letter to Seller dated June 4, 2012 ("Report"). The Report concluded, inter alia, that the underground storage tank referenced in the ESI was in fact not located on the Property, and that TCE, as disclosed by the "Second Offsite Groundwater Investigation – 1240 and 1244 South Claudina Street, Anaheim, California," prepared by Kennedy/Jenks Consultants, Engineers & Scientist, and dated June 30, 2011, (described in the Report) is present in the ground water beneath the Property. Buyer hereby acknowledges receipt of the Report.

Based upon the information set forth in the ESI and the Report, Buyer requested that Seller retain Professional Service Industries, Inc. ("PSI") to conduct a Phase II Site Assessment of the Property ("Phase II"). PSI subsequently conducted the Phase II and reported the results of the Phase II in its letter dated November 21, 2012 to Brad L. Ritter of Farmers and Merchants Trust Company ("Phase II Report"). Buyer hereby acknowledges receipt of the Phase II Report.

Upon the Close of Escrow Buyer will be deemed to have acknowledged and agreed that it has been given a full opportunity to review the ESI, the Report, and the Phase II Report and to inspect and investigate each and every aspect of the Property, either independently or through agents of Buyer’s choosing, including, without limitation:

(a) All matters relating to title and survey, together with all governmental and other legal requirements such as taxes, assessments, zoning, use permit requirements and building codes.

(b) The physical condition and aspects of the Property, including, without limitation, the interior, the exterior, the square footage within the improvements on the Property, utilities, and all other physical and functional aspects of the Property. Such examination of the physical condition of the Property shall include an examination for the presence or absence of Hazardous Substances.

(c) Any easements and/or access rights affecting the Property.

(d) All other matters of material significance affecting the Property.
Except as expressly stated in this Agreement, Seller makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information delivered by Seller to Buyer in connection with the transaction contemplated hereby including the ESI, the Report and the Phase II Report. Buyer acknowledges and agrees that all materials, data and information delivered by Seller to Buyer in connection with the transaction contemplated hereby are provided to Buyer as a convenience only and that any reliance on or use of such materials, data or information by Buyer shall be at the sole risk of Buyer. Without limiting the generality of the foregoing provisions, Buyer acknowledges and agrees that (i) any environmental or other report, including the ESI and the Report and Phase II Report, with respect to the Property which is delivered by Seller to Buyer shall be for general informational purposes only, (ii) Buyer shall not have any right to rely on any such report, including the ESI, the Report and Phase II Report, delivered by Seller to Buyer, but rather will rely on its own inspections and investigations of the Property and any reports commissioned by Buyer with respect thereto, and (iii) neither Seller, any affiliate of Seller nor the person or entity which prepared any such report delivered by Seller to Buyer shall have any liability to Buyer for any inaccuracy in or omission from any such report. The provisions of this paragraph are intended to comply with the notice requirements of California Health and Safety Code Section 25359.7.

BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY ON AN “AS IS WITH ALL FAULTS” BASIS AND THAT BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER, ANY SELLER RELATED PARTIES, OR THEIR AGENTS OR BROKERS, OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER, AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING, WITHOUT LIMITATION:

(i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, and utility systems, facilities and appliances, the square footage within the improvements on the Property, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property’s use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Substances on, under or about the Property or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the Real Property, (ix) the condition of title to the Property, (x) any service contracts, or other documents or agreements affecting the Property, (xi) the value, economics of the operation or income potential of the Property, or (xii) any other fact or condition which may affect the Property.
Without limiting the above, and subject to the representations and warranties of Seller contained in Paragraph 12.1, effective as of the Closing, Buyer on behalf of itself and its successors and assigns waives its right to recover from, and forever releases and discharges, Seller, Seller’s affiliates, Seller’s investment advisor, the partners, trustees, beneficiaries, shareholders, members, managers, directors, officers, employees and agents and representatives of each of them, and their respective heirs, successors, personal representatives and assigns (collectively, “Seller Related Parties”), from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, court costs and attorneys’ fees and disbursements), whether direct or indirect, known or unknown, suspected or unsuspected, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the physical condition of the Property, including, without limitation, all structural and seismic elements, all mechanical, electrical, plumbing, sewage, heating, ventilating, air conditioning and other systems, the environmental condition of the Property and the presence of Hazardous Substances on, under or about the Property, or (ii) any law or regulation applicable to the Property, including, without limitation, any federal, state or local law relating to the environmental condition of the Property.

In connection with the above provisions of this Paragraph, Buyer expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.” BUYER ACKNOWLEDGES AND AGREES THAT IT HAS BEEN REPRESENTED BY LEGAL COUNSEL OF ITS CHOICE IN CONNECTION WITH THIS AGREEMENT, AND THAT SUCH COUNSEL HAS EXPLAINED TO BUYER THE PROVISIONS OF THIS PARAGRAPH. BY INITIALING BELOW, BUYER CONFIRMS IT HAS AGREED TO THE PROVISIONS OF THIS PARAGRAPH.

BUYER’S INITIALS: 


30. **Indemnity.** Buyer hereby agrees upon the Closing to indemnify, hold harmless and defend Seller and each of the Seller Related Parties from and against any and all costs, damages, claims, and liabilities, including reasonable attorney fees, foreseeable or unforeseeable, directly or indirectly arising from any release, treatment, use, generation, storage, or disposal of Hazardous Substances in the soil, soil vapor or ground water on, under, or from the Property at any time before or after the Close of Escrow, including, without limitation, the cost of any required or necessary remediation or removal of such Hazardous Substances, and any costs of repair of improvements on the Property or surrounding properties caused or necessitated by such remediation or removal and costs of any testing, sampling, or other required plans undertaken prior to such remediation or removal. The provisions of this paragraph shall survive the Closing and delivery of the deed.

31. **Arbitration of Disputes.** ANY PARTY HERETO MAY REQUIRE THE ARBITRATION OF ANY DISPUTE, CLAIM OR CONTROVERSY ARISING UNDER, RELATING TO OR IN CONNECTION WITH THIS AGREEMENT. SUCH PARTY MAY INITIATE AND REQUIRE ARBITRATION BY GIVING WRITTEN NOTICE TO THE OTHER PARTY SPECIFYING THE MATTER TO BE ARBITRATED. IF LEGAL ACTION IS ALREADY PENDING ON ANY MATTER CONCERNING WHICH THE NOTICE IS GIVEN, THE NOTICE SHALL NOT BE EFFECTIVE UNLESS GIVEN BY THE DEFENDANT THEREIN AND GIVEN BEFORE THE EXPIRATION OF TWENTY (20) DAYS AFTER SERVICE OF PROCESS ON THE PERSON GIVING THE NOTICE. THE ARBITRATION SHALL BE ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION ("AAA"). ALL PARTIES HERETO AGREE TO BE BOUND BY, ABIDE BY AND PERFORM ANY AWARD RENDERED BY THE ARBITRATOR(S) (WHICH SHALL BE FINAL AND NON-APPEALABLE), AND ALSO AGREE THAT A JUDGMENT OF A COURT OF COMPETENT JURISDICTION MAY BE ENTERED ON THE AWARD. THE ARBITRATION SHALL BE CONDUCTED PURSUANT TO THE RULES OF THE AAA THEN IN EFFECT, EXCEPT THAT THE FOLLOWING SHALL SUPERCEDE ANY CONFLICTING RULES OF THE AAA: (1) EACH PARTY SHALL ADVANCE ONE-HALF (1/2) AAA'S CHARGES FOR CONDUCTING THE ARBITRATION, INCLUDING THE ARBITRATOR (S)' FEES, BUT ANY SUCH ARBITRATION FEES ADVANCED BY THE PARTY WHO IS THE PREVAILING PARTY IN THE ARBITRATION SHALL BE AWARDED BY THE ARBITRATOR (S) TO SUCH PREVAILING PARTY AS PART OF THE ARBITRATION AWARD; (2) THE ARBITRATOR(S) SHALL AWARD THE PREVAILING PARTY ATTORNEYS' FEES AND COSTS RELATING TO THE ARBITRATION AS PROVIDED IN PARAGRAPH 23 BELOW; (3) ANY ARBITRATOR(S) SELECTED SHALL BE NEUTRAL AND FAMILIAR WITH THE PRINCIPAL SUBJECT MATTER OF THE ISSUES TO BE ARBITRATED, SUCH AS,
BY WAY OF EXAMPLE, REAL ESTATE DEVELOPMENT, OR REAL ESTATE MANAGEMENT, OR SUCH OTHER SUBJECT MATTER AS MAY BE AT ISSUE; (4) THE TESTIMONY OF WITNESSES AT THE ARBITRATION SHALL BE GIVEN UNDER OATH; AND (5) DEPOSITIONS AND ANY OTHER DISCOVERY ALLOWABLE IN AN UNLIMITED CIVIL ACTION UNDER THE CALIFORNIA LAW SHALL BE ALLOWED.

NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY THE RULES OF THE AAA AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE BY ANY OTHER PARTY TO THIS AGREEMENT. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTOOD THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION.

SELLER'S INITIALS

BUYER'S INITIALS

32. **Broker's Commissions.** Seller shall only be liable to pay a brokerage commission to CBRE, Inc. and Grubb & Ellis dba Newmark Grubb Knight Frank in connection with this transaction and any such commission shall only be earned upon the close of the purchase and sale transaction contemplated by this Agreement.

33. **Buyer's Board Approval Contingency.** As a contingency to the Closing, Buyer shall have sixty (60) days from the Date of Agreement for Buyer's Board of Directors to approve the terms and conditions of this Agreement and Buyer's purchase of the Property pursuant to the terms and conditions of this Agreement, by resolution of the Board. Buyer's Board's failure to timely adopt such a resolution shall be deemed Buyer's disapproval of this condition to Closing and Buyer's election to terminate this Agreement. If this Agreement is terminated as provided in this Paragraph, the Deposit will be returned to Buyer and Buyer will pay all Escrow termination fees and costs.