

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

SPACE ABOVE THIS LINE FOR RECORDER'S USE

LONG FORM SECURITY (INSTALLMENT) LAND CONTRACT WITH POWER OF SALE  
AND REQUEST FOR NOTICE OF DEFAULT  
(PRIOR LOAN PAYMENTS *NOT* INCLUDED)

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ among  
herein called VENDOR, and

herein called VENDEE, and

FIDELITY NATIONAL TITLE COMPANY, a California corporation, herein called TRUSTEE.

The signature of Vendor and Vendee of this contract shall also constitute their signature of the

REQUEST FOR NOTICE OF DEFAULT

In accordance with California Civil Code section 2924(b), request is hereby made by the undersigned Vendor and Vendee that: (1) a copy of any Notice of Default and a copy of any Notice of Sale under Deed of Trust recorded \_\_\_\_\_, in Book \_\_\_\_\_ Page \_\_\_\_\_, Document No. \_\_\_\_\_ Official \_\_\_\_\_ Records of \_\_\_\_\_ County, California, as affecting the herein described property, executed by \_\_\_\_\_

as Trustor, in which \_\_\_\_\_ is named as Beneficiary, and \_\_\_\_\_ as Trustee, be mailed to Vendor and Vendee at address immediately below; and (2) a copy of any Notice of Default and a copy of any Notice of Sale under Deed of Trust recorded \_\_\_\_\_ in Book \_\_\_\_\_, Page \_\_\_\_\_, Document No. \_\_\_\_\_, Official Records of \_\_\_\_\_ County, California,

as affecting the herein described property, executed by \_\_\_\_\_ as Trustor, in which \_\_\_\_\_ is named as Beneficiary, and \_\_\_\_\_ Trustee, be mailed to Vendor and Vendee at address below.

Vendee

Vendor

Address

Address

To secure the obligations of Vendee herein, Vendor and Vendee hereby grant, transfer and assign to Trustee, in trust, with power of sale, their right, title and interest in the real property situated in the County of \_\_\_\_\_, State of California, and described as follows:

Reserving unto Vendor the power to convey title to the Vendee or the Vendee's successors or assigns upon the performance of Vendee's obligation under this agreement. Any recorded deed executed and acknowledged by the Vendor or his or her successors, to the Vendee or his or her successors of the real property described herein, or any portion thereof, shall be deemed executed pursuant to this power, which deed shall be free and clear of, and terminate, the right, title interest and the powers of the Trustee.

Reserving unto Vendee the right of possession subject, however, to the power of sale herein granted to the Trustee.

**WITNESSETH:**

WHEREAS, Vendor has agreed to sell, and Vendee has agreed to buy said real property upon the terms and conditions set forth herein, and

WHEREAS, Vendee agrees, that if Vendor elects to enforce the Vendor's security interest in the real property by exercising the power of sale, as herein provided, such sale shall discharge and terminate any and all rights of the Vendee arising out of this agreement, whether in the form of restitution, redemption or otherwise.

**NOW, THEREFORE, VENDOR AND VENDEE DO HEREBY AGREE AS FOLLOWS:**

Vendor agrees to sell and Vendee agrees to buy that real property described above for the total purchase price of \$ \_\_\_\_\_, payable as follows:

**1. Payment of purchase price (Loan payment extra).**

A. Vendee shall pay to Vendor forthwith the sum of \$ \_\_\_\_\_ as a down payment.

B. Vendee promises to pay according to the terms thereof, the installments and such impound account requirements of the holders of the note(s) secured by the deed(s) of trust referred to in the Request for Notice set forth on page 1 of this Contract, and Vendor represents that the aggregate principal balance of such note(s) does not exceed \$ \_\_\_\_\_.

C. Vendee promises to pay to Vendor, or order, at \_\_\_\_\_ the sum of \$ \_\_\_\_\_ with interest thereon at the rate of \_\_\_\_\_% per annum, commencing \_\_\_\_\_, principal and interest payable

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This agreement with require \_\_\_\_\_ years and \_\_\_\_\_ months to complete payment in accordance with its terms.

**2. TITLE INSURANCE**

Upon recordation of this security land contract, FIDELITY NATIONAL TITLE INSURANCE COMPANY, shall issue a joint protection policy of title insurance (lender's - owner's) insuring the Vendor's (lendor's) and Vendee's (owner's) interest herein.

### **3. POSSESSION**

- (a) Vendor grants to Vendee the possession of said real property, for the term of this agreement, or until the earlier termination of this agreement.
- (b) Vendor hereby reserves the right, power and authority to collect the rents, issues and profits of said real property. However, Vendor assigns to Vendee the right, prior to any default by Vendee in payment of any indebtedness secured hereby, or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Vendor may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his or her own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Vendor may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof, as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

### **4. RISK OF LOSS**

- (a) Vendee assumes all hazards of damage to or destruction of any improvements now or hereafter placed upon said real property and of taking of such real property or any part thereof for public use, and agrees that no such damage, destruction or taking shall constitute a failure of consideration under this contract.
- (b) Any award of damages from any taking for public use, or from any damage to said real property or any part thereof is assigned to Vendor with the right to apply or release such monies in the same manner and effect as provided for disposition of proceeds of fire insurance.
- (c) Vendee does hereby indemnify Vendor and Trustee against any and all claims by third parties for personal injury or property damage, and agrees to provide public liability insurance on the premises in an amount not less than \$\_\_\_\_\_ naming Vendor as an additional insured.

### **5. TO PROTECT VENDOR'S SECURITY INTEREST, VENDEE AGREES:**

- (a) To keep said property in good condition and repair, preserve thereon the buildings, complete construction begun, restore damage or destruction, and pay the cost thereof; to commit or permit no waste, no violation of laws or covenants or conditions relating to use, alterations or improvements; to cultivate, irrigate, fertilize, fumigate, prune, and do all other acts which the character and use of said property and the estate or interest in said property secured by this agreement may require to preserve this security.
- (b) To provide, maintain and deliver to Vendor fire insurance satisfactory to and with loss payable to Vendor. The amount collected under any fire or other insurance policy may be applied by Vendor upon any indebtedness secured hereby and in such order as Vendor may determine, or Vendor may release all or any part thereof to Vendee. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
- (c) To appear in and defend any action or proceeding purporting to affect the security hereof, or the rights or powers of Vendor or Trustee, and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceedings in which Vendor or Trustee may appear.
- (d) To pay, at least ten days before delinquent, all taxes and assessments affecting said property, including assessments on appurtenant water stock when due, as well as all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto, except as agreed to be paid by Vendor, all costs, fees and expenses of this agreement.

Should Vendee fail to make any payment, or to do any act as herein provided, then Vendor, but without obligation to do so and without notice to or demand upon Vendee and without releasing Vendee from any obligation hereof, may make or do the same in such manner and to such extent as Vendor may deem necessary to protect the security hereof. Vendor is authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Vendor or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

(e) To pay immediately and without demand all sums so expended by Vendor, with interest from date of expenditure, at ten percent per annum.

## **6. VENDOR AGREES:**

(a) Upon the performance in full by the Vendee, to execute and have acknowledged a Grant Deed, in recordable form, of the real property described in this agreement, vesting the fee title in Vendee, or the Vendee's successors or assigns, subject only to the liens to be paid by the Vendee and such other encumbrances accepted, made by or suffered by the Vendee, and to deliver such deed as directed by the Vendee, or his or her successors or assigns.

(b) To pay Vendee any transfer tax required by law.

(c) During the existence of this contract, and upon the written demand of the Vendee or his or her authorized agent made at any time before or within two months after the recording of a notice of default under this contract, or thirty days prior to the entry of a judgment for the enforcement of this contract, and upon the payment not to exceed sixty dollars (\$60.00) therefor, to cause to have prepared and delivered to the person demanding it within twenty-one (21) days of the receipt of the demand, a written statement materially setting forth the information required to be supplied by a mortgage or beneficiary by California Civil Code section 2943.

(d) To keep current all payments due the underlying Deed(s) of Trust.

## **7. DEFAULT AND ACCELERATION**

Time is of the essence in the payments agreed to be paid Vendor, and the performance of the agreements made for the protection of the Vendor's security, and should Vendee fail to make such payment or tender such performance when due, such failure shall constitute a default. Upon the occurrence of any such default, Vendor may declare all sums secured unto Vendor by this agreement immediately due and payable.

## **8. ELECTION TO SELL**

Upon the election by Vendor to proceed by Trustee's Sale, Vendor may elect to declare all sums immediately due and payable by delivering to the Trustee a written declaration of default and demand for sale; Vendor's copy of this agreement; and all documents evidencing expenditures by Vendor, secured by this agreement.

## **9. NOTICE OF DEFAULT**

Vendor shall further deliver to Trustee a written Notice of Default and Election to Sell, which notice shall identify the contract by stating the names of the Vendor and Vendee, and the date of recording, and the recording reference and shall contain a description of the real property. Such notice shall also contain a statement that a breach of the obligations secured by such agreement has occurred, and shall set forth the nature of such breach and the election by the Vendor to sell or cause such property to be sold to satisfy the obligations secured by this agreement. If the default is curable under the provisions for reinstatement, set forth in this agreement, such Notice of Default shall further contain a statement substantially in the form set forth in California Civil Code section 2924c(b)(1).

## **10. POWER OF SALE**

The only power the Trustee has under this agreement is to exercise the power of sale in the event of a default by the Vendee. The Trustee shall have no power to convey Vendor's interest to Vendee upon fulfillment of Vendee's obligations hereunder.

## **11. PROCEDURE FOR SALE**

- (a) Trustee shall cause to be filed for record in the office of the Recorder of each county wherein the real property, or some part or parcel thereof, is situated an executed copy of the Notice of Default.
- (b) Any person desiring a copy of any Notice of Default and of any Notice of Sale under this contract may, at any time subsequent to recordation of this contract and prior to recordation of Notice of Default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the Notice of Default and of Sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the contract by stating the names of the parties thereto, the date of recordation thereof, and the book and page where the contract is recorded or the recorder's number, and shall be in substantially the form set forth in California Civil Code section 2924b(a).

The Vendor, Trustee, or other person authorized to record the Notice of Default shall do each of the following:

- (i) Within 10 business days following recordation of the Notice of Default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice with the recording date shown thereon, addressed to each person including Vendee, whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each person including Vendee at his or her last known address if different than the address specified in the contract.
- (ii) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to Vendee at his or her last known address if different than the address specified in the contract.
- (iii) As used in paragraphs (i) and (ii) above, the "last known address" of the Vendee means the last business or residence address actually known by the Vendor, Trustee, or other person authorized to record the Notice of Default. The Vendor shall inform the Trustee of the Vendee's last address actually known by the Vendor. However, the Trustee shall incur no liability for failing to send any notice to the last address unless the Trustee has actual knowledge of it.

The Vendor, Trustee, or other person authorized to record the Notice of Default shall also do the following:

- (i) Within one month following recordation of the Notice of Default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice with the recording date shown thereon, addressed to each person set forth in paragraph (ii) below, provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of the estate or interest in the land or portion thereof which is subject to the contract, and provided the instrument is recorded in the office of the county recorder so as to impart that constructive notice prior to the recording date of the Notice of Default and provided the instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of the instrument after recording, and which address shall be the address used for the purposes of mailing notices under this paragraph.
- (ii) The persons to whom notice shall be mailed under paragraph (i) above are:
- (A) The successor in interest, as of the recording date of the Notice of Default, of the estate or interest or any portion thereof of the Vendee.
- (B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the contract, or recorded prior to or concurrently with the contract but subject to a recorded agreement or a recorded statement of subordination to the contract.

(C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B), as of the recording date of the Notice of Default.

(D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the contract, or recorded prior to or concurrently with the contract but subject to a recorded agreement or statement of subordination to the contract,

(E) The successor in interest to the vendee or lessee described in subparagraph (D), as of the recording date of the Notice of Default.

(F) The Office of the Controller, Sacramento, California, where, as of the recording date of the Notice of Default, a "Notice of Lien for Postponed Property Taxes" has been recorded against the real property to which the Notice of Default applies.

(iii) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the Notice of Default is to be mailed as provided in paragraphs (i) and (ii) above, and addressed to the office of any state taxing agency, Sacramento, California, which has recorded a notice of tax lien prior to the recording date of the Notice of Default against the real property to which the Notice of default applies.

(iv) The mailing of notices in the manner set forth in paragraph (i) above shall not impose upon any licensed attorney, agent, or employee of any person entitled to received notices as herein set forth any duty to communicate the notice to the entitled person from the fact that the mailing address used by the county recorder is the address of the attorney, agent, or employee.

(v) Any person required to mail a copy of a Notice of Default or Notice of Sale to the Vendor pursuant to this paragraph (b) by registered or certified mail shall simultaneously cause to be deposited in the United States mail, with postage prepaid and mailed by first-class mail, an envelope containing an additional copy of the required notice addressed to the Vendee at the same address to which the notice is sent by registered or certified mail pursuant to paragraph (b). The person shall execute and retain an affidavit identifying the notice mailed, showing the name and residence or business address of that person, that he or she is over the age of 18 years, the date of deposit in the mail, the name and address of the Vendee to whom sent, and that the envelope was sealed and deposited in the mail with postage fully prepaid. In the absence of fraud, the affidavit required by this subdivision shall establish a conclusive presumption of mailing.

(c)(i) Whenever all or a portion of the principal sum of any obligation secured by this contract has, prior to the maturity date fixed in that obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of Vendee to pay in accordance with the terms of that obligation or of the contract, taxes, assessments, premiums for insurance, or advances made by Vendor in

accordance with the terms of that obligation or of the contract, the Vendee or his or her successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within the period specified in Civil Code section 2924(c)(e), if the power of sale herein is to be exercised, may pay to the Vendor or their successors in interest respectively, the entire amount due, at the time payment is tendered, with respect to (A) all amounts of principal, interest, taxes, assessments, insurance premiums, or advances actually known by the vendor to be, and that are, in default and shown in the Notice of Default, under the terms of the contract and the obligation secured thereby, (B) all amounts in default on recurring obligations not shown in the Notice of Default, and (C) all reasonable costs and expenses, subject to paragraph (e) below, which are actually incurred in enforcing the terms of the obligation or contract, and Trustee's or attorney's fees, subject to paragraph (f) below, other than the portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and contract shall be reinstated and shall be and remain in force and effect, the same as if the acceleration had not occurred. For the purposes of this paragraph, the term "recurring obligation" means all amounts of principal and interest on the loan, or rents, subject to the contract in default due after the Notice of Default is recorded; all amounts of principal and interest or rents advanced on senior liens or leaseholds which are advanced after the recordation of the Notice of Default; and payments of

taxes, assessments, and hazard insurance advanced after recordation of the Notice of Default. Where the Vendor has made no advances on defaults which would constitute recurring obligations, the Vendor may require

the Vendee to provide reliable written evidence that the amounts have been paid prior to reinstatement.

(ii) It the Vendee or other person authorized to cure the default pursuant to this paragraph (c) does cure the default, the Vendor or the agent for the Vendor shall, within 21 days following the reinstatement, execute and deliver to the Trustee a Notice of Rescission which rescinds the Vendor's declaration of default and demand for sale and advises Trustee of the date of reinstatement. The Trustee shall cause the Notice of Rescission to be recorded within 30 days of receipt of the Notice of Rescission and of all allowable fees and costs.

No charge, except for the recording fee, shall be made against the Vendee for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(d)(i) The notice, of any default described in paragraph (c) above recorded pursuant to Civil Code section 2924, and mailed to any person pursuant to Civil Code section 2924b, shall begin with the following statement, printed or typed thereon: " IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed].

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expense within the time permitted by law for reinstatement of your account, which is normally five business day prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

That amount is \_\_\_\_\_ as of \_\_\_\_\_(Date), and will increase until your account becomes current.

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your contract. If you fail to make future payments on the contract, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the contract, the Vendor may insist that you do so in order to reinstate your account in good standing. In addition, the Vendor may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon written request, the Vendor will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of the account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your Vendor may mutually agree in writing prior to the time the Notice of Sale is posted (which may not be earlier than the end of the three month period stated above), to, among other things, ( 1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule for payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your Vendor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your Vendor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

\_\_\_\_\_(Name of Vendor)  
\_\_\_\_\_(Mailing address)  
\_\_\_\_\_(Telephone)

If you have any questions, you should contact a lawyer.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided that the sale is concluded prior to the conclusion of the foreclosure.

Remember, **YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.** [14-point boldface type if printed or in capital letters if typed].”

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

(ii) Any failure to comply with the provisions of this paragraph (d) shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(e) Costs and expenses which may be charged pursuant to Civil Code sections 2924 to 2941, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by sections 2924 to 2924i, inclusive, and a fee for a Trustee's Sale Guarantee.

(f) Trustee's or attorney's fees which may be charged pursuant to paragraph (c) above, or until the Notice of Sale is deposited in the mail to the Vendee, are hereby authorized to be in an amount which does not exceed two hundred forty dollars (\$240) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars (\$50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars (\$50,000) up to and including one hundred fifty thousand dollars (\$150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars (\$150,000) up to and including five hundred thousand dollars (\$500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars (\$500,000). Any charge for Trustee's or attorney's fees authorized by this paragraph shall be conclusively presumed to be lawful and valid where the charge does not exceed the amounts authorized herein.

(g) Reinstatement of a monetary default under the contract may be made at any time within the period commencing with the date of recordation of the Notice of Default until five business days prior to the date of sale set forth in the initial recorded Notice of Sale.

In the event the sale does not take place on the date set forth in the initial recorded Notice of Sale or a subsequent recorded Notice of Sale is required to be given, the right of reinstatement shall be revived as of the date of recordation of the subsequent Notice of Sale, and shall continue from that date until five business days prior to the date of sale set forth in the subsequently recorded Notice of Sale.

In the event the date of sale is postponed on the date of sale set forth in either an initial or any subsequent Notice of Sale, or is postponed on the date declared for sale at an immediately preceding postponement of sale, and, the postponement is for a period which exceeds five business days from the date set forth in the Notice of Sale, or declared at the time of postponement, then the right of reinstatement is revived as of the date of postponement and shall continue from that date until five business days prior to the date of sale declared at the time of the postponement.

Nothing contained herein shall give rise to a right of reinstatement during the period of five business days prior to the date of sale, whether the date of sale is noticed in a Notice of Sale or declared at a postponement of sale.

Pursuant to the terms of this paragraph (g), no Vendor, Trustee, or their agents or successors shall be liable in any manner to a Vendee, their agents or successors for the failure to allow a reinstatement of the obligation secured by the Contract during the period of five business days prior to the sale of the security property, and no such right of reinstatement during this period is created by this paragraph. Any right of reinstatement created by this paragraph (g) terminated five business days prior to the date of sale set forth in the initial Notice of Sale, and is revived only as prescribed herein and only as of the date set forth herein.

As used in this paragraph, the term "business day" has the same meaning as specified in Civil Code section 9.

(h) (i) Commencing with the date that the Notice of Sale is deposited in the mail, as provided in Civil Code section 2924b, and until the property is sold pursuant to the power of sale contained in the Contract, the Vendor, Trustee, or his or her agent or successor in interest, may demand and receive from the Vendee, or his or her agent or successor in interest, or any beneficiary under a subordinate deed of trust, or any other person having a subordinate lien or encumbrance of record those reasonable costs and expenses, to the extent allowed by Civil Code section 2924c(c), which are actually incurred in enforcing the terms of the obligation and Trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three



hundred fifty dollars (\$350) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars (\$50,000) or less, plus 1 percent of any portion of the unpaid principal sum secured exceeding fifty thousand dollars (\$50,000) up to and including one hundred fifty thousand dollars (\$150,000), plus one-half of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars (\$150,000) up to and including five hundred thousand dollars (\$500,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars (\$500,000). Any charge for Trustee's or attorney's fees authorized by this paragraph shall be conclusively presumed to be lawful and valid where that charge does not exceed the amounts authorized herein. Any charge for Trustee's or attorney's fees made pursuant to the provisions of this paragraph shall be in lieu of and not in addition to those charges authorized by Civil Code section 2924c(d).

(ii) Upon the sale of the property pursuant to the power of sale, the Trustee, or his or her agent or successor in interest, may demand and receive from the Vendor, or his or her agent or successor in interest, or may deduct from the proceeds of the sale, those reasonable costs and expenses, to the extent allowed by Civil Code section 2924(c) (d) which are actually incurred in enforcing the terms of the obligation and Trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three hundred fifty dollars (\$350) or one percent of the unpaid principal sum secured, whichever is greater. Any charge for Trustee's or attorney's fees authorized by this paragraph (h) shall be conclusively presumed to be lawful and valid where that charge does not exceed the amount authorized herein. Any charges for Trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by Civil Code sections 2924d(a) and 2924c(d).

(iii) The Trustee may pay or offer to pay a fee to an agent or subagent of the Trustee for work performed by the agent or subagent in discharging the Trustee's obligations under the terms of the Contract. Any payment of a fee by the Trustee to an agent or subagent of the Trustee for work performed by the agent or subagent in discharging the Trustee's obligations under the terms of the Contract shall be conclusively presumed to be lawful and valid if the fee, when combined with other fees of the Trustee, does not exceed in the aggregate the Trustee's fee authorized by Civil Code sections 2924c(d), 2924d(a) or 2924d(b).

(iv) Before any sale of the property can be made under the power of sale contained in the Contract, or any resale resulting from a rescission for a failure of consideration pursuant to Civil Code section 2924h(c), notice of sale thereof shall be given by posting a written notice of the time of sale and of the street address and specific place at the street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy once a week for the same period, in a newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in a newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper at of general circulation is published in the city or judicial district or county, as the case may be, in a newspaper of general circulation published in the county in this state that (A) is contiguous to the county in which the property or some part thereof is situated and (B) has, by comparison with all similarly contiguous counties, the highest population based upon total county population as determined by the most recent federal decennial census published by the Bureau of the Census. A copy of the Notice of Sale shall also be posted in a conspicuous place on the property to be sold at least 20 days before the date of sale, where possible and where not restricted for any reason. If the property is a single-family residence, the posting shall be on a door of the residence, but, if not possible or restricted, then the notice shall be posted in a conspicuous place on the property; however, if access is denied because a common entrance to the property is restricted by a guard gate or similar impediment, the property may be posted at that guard gate or similar impediment to any development community. Additionally, the Notice of Sale shall conform to the minimum requirements of California Government Code section 6043 and be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The Notice of Sale shall contain the name, street address, and telephone number of the Trustee or other person conducting the sale, and the name of the original Vendee. In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any,

and a county assessor's parcel number; but if the property has no street address or other common designation, the notice shall contain a legal description of the property, the name and address of the Vendor at whose request the sale is to be conducted, and a statement that directions may be obtained pursuant to a written request submitted to the Vendor within 10 days from the first publication of the notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description or a county assessor's parcel number and either a street address or another common designation of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the Vendor, or directions obtained therefrom are omitted. The term "newspaper of general circulation," as used in this paragraph has the same meaning as defined in Government Code section 6000.

The Notice of Sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, advances at the time of the initial publication of the Notice of Sale, and, if republished pursuant to a cancellation of a cash equivalent pursuant to Civil Code section 2924h(d), a reference of that fact; provided, that the Trustee shall incur no liability for any good faith error in stating the proper amount. An inaccurate statement of this amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the Notice of Sale on a door as provided in this paragraph (i) affect the validity of any sale to a bona fide purchaser for value.

(j)(i) All sales of property under the power of sale contained in the Contract shall be held in the county where the property or some part thereof is situated, and shall be made at auction, to the highest bidder, between the hours of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

The sale shall commence at the time and location specified in the Notice of Sale. Any postponement shall be announced at the time and location specified in the Notice of Sale for commencement of the sale or pursuant to Civil Code section 2924g(c)(1).

If the sale of more than one parcel of real property has been scheduled for the same time and location by the Trustee, (1) any postponement of any of the sales shall be announced at the time published in the Notice of Sale, (2) the first sale shall commence at the time published in the Notice of Sale or immediately after the announcement of any postponement, and (3) each subsequent sale shall take place as soon as possible after the preceding sale has been completed.

(ii) When the property consists of several known lots or parcels they shall be sold separately upon request of the Vendee if present at the sale or any lien creditors with liens junior to Vendor. When a portion of the property is claimed by a third person, who requires it to be sold separately, the portion subject to the claim may be thus sold. The Vendor may, if present at the sale, direct the order in which property shall be sold, when the property consists of several known lots or parcels which may be sold to advantage separately, and the Trustee shall follow that direction. After sufficient property has been sold to satisfy the obligation, no more can be sold.

If the property under power of sale is in two or more counties, the public auction sale of all of the property under the power of sale may take place in any one of the counties where the property or a portion thereof is located.

(iii)(A) There may be a postponement of the sale proceedings at any time prior to the completion of the sale at the discretion of the Trustee, or upon instruction by the Vendor to the Trustee that the sale proceedings be postponed.

There may be a maximum of three postponements of the sale proceedings pursuant to this paragraph. In the event that the sale proceedings are postponed three times, the scheduling of any further sale proceedings shall be proceeded by the giving of a new Notice of Sale in the manner prescribed by Civil Code section 2924f.

(B) The Trustee shall postpone the sale upon the order of any court of competent jurisdiction, or where stayed by operation of the law or by the mutual agreement, whether oral or in writing, of the Vendee and the Vendor. Any postponement pursuant to this paragraph shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to paragraph (iii)(A) above, nor shall a postponement resulting from the prohibition upon a sale within seven days from the expiration of an injunction, restraining order, or stay as provided in Civil Code section 2924g(d) be deemed a postponement for purposes of

this paragraph. In addition, one postponement by the Trustee based upon a reasonable belief that a petition for bankruptcy has been filed shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to paragraph (iii)(A).

(iv) The notice of each postponement and the reason therefor shall be given by public declaration by the Trustee at the time and place last appointed for sale. A public declaration of postponement shall also set forth the new date, time, and place of sale and the place of sale shall be the same place as originally fixed by the Trustee for the sale. No other notice of postponement need be given. However, the sale shall be conducted no sooner than seven days after the earlier of (1) dismissal of the action or (2) expiration or termination of the injunction, restraining order, or stay (which required postponement of the sale), whether by entry of an order by a court of competent jurisdiction, operation of law, or otherwise, unless the injunction, restraining order, or subsequent order expressly directs the conduct of the sale within that seven-day period. If the sale had been scheduled to occur, but this paragraph precludes its conduct during that seven-day period, a new notice of postponement shall be given if the sale had been scheduled to occur during that seven-day period. The Trustee shall maintain records of each postponement and the reason therefor.

(k)(i) Each and every bid made by a bidder at a Trustee's sale under a power of sale contained in the Contract shall be deemed to be an irrevocable offer by that bidder to purchase the property being sold by the Trustee under the power of sale for the amount of the bid. Any second or subsequent bid by the same bidder or any other bidder for a higher amount shall be a cancellation of the prior bid.

(ii) At the Trustee's sale, the Trustee shall have the right (1) to require every bidder to show evidence of the bidder's ability to deposit with the Trustee the full amount of his or her final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the Notice of Sale as acceptable to the Trustee prior to, and as a condition to the recognizing of the bid, and to conditionally accept and hold these amounts for the duration of the sale, and (2) to require the last and highest bidder to deposit, if not deposited previously, the full amount of the bidder's final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the Notice of Sale as acceptable to the Trustee, immediately prior to the completion of the sale, the completion of the sale being so announced by the fall of the hammer or in other customary manner. The present Vendor of the Contract under foreclosure shall have the right to offset his or her bid(s) only to the extent of the total amount due the Vendor including the Trustee's fees and expenses.

(iii) In the event the Trustee accepts a check drawn by a credit union or a savings and loan association pursuant to paragraph (ii) above or a cash equivalent designated in the Notice of Sale, the Trustee may withhold the issuance of the Trustee's Deed to the successful bidder submitting the check drawn by a state or federal credit union or savings and loan association or the cash equivalent until funds become available to the payee or endorsee as a matter of right.

For the purposes of this paragraph (k), the Trustee's sale shall be deemed final upon the acceptance of the last and highest bid, and shall be deemed perfected as of 8 a.m. on the actual date of sale if the Trustee's Deed is recorded within 15 calendar days of the sale. However, the sale is subject to an automatic rescission for a failure of consideration in the event the funds are not "available for withdrawal" as defined in section 12413.1 of the Insurance Code. The Trustee shall send a Notice of Rescission for a failure of consideration to the last and highest bidder submitting the check or alternative instrument, if the address of the last and highest bidder is known to the Trustee. If a sale results in an automatic right of rescission for failure of consideration pursuant to this paragraph, the interest of any lienholder shall be reinstated in the same priority as if the previous sale had not occurred.

(iv) If the Trustee has not required the last and highest bidder to deposit the cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state or a cash equivalent which has been designated in the Notice of

Sale as acceptable to the Trustee in the manner set forth in paragraph (ii) above, the Trustee shall complete the sale. If the last and highest bidder fails to deliver to the Trustee, when demanded, the amount of his or her final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the Notice of Sale as acceptable to the Trustee, that bidder shall be liable to the Trustee for all damages which the Trustee may sustain by the refusal to deliver to the Trustee the amount of the final bid, including any court costs and reasonable attorney's fees.

If the last and highest bidder willfully fails to deliver to the Trustee the amount of his or her final bid in cash, a cashier's check drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state, or a cash equivalent which has been designated in the Notice of Sale as acceptable to the Trustee, or if the last and highest bidder cancels an instrument submitted to the Trustee as a cash equivalent, that bidder shall be guilty of a misdemeanor punishable by a fine of not more than two thousand five hundred dollars (\$2,500).

In the event the last and highest bidder cancels an instrument submitted to the Trustee as a cash equivalent, the Trustee shall provide a new Notice of Sale in the manner set forth in Civil Code section 2924f and shall be entitled to recover the costs of the new Notice of Sale as provided in Civil Code section 2924c.

- (v) Any postponement or discontinuance of the sale proceedings shall be a cancellation of the last bid.
- (vi) Any person, including the Vendor, Trustee and Vendee may purchase at such sale.
- (vii) Trustee shall deliver to such purchaser its Trustee's Deed conveying the real property so sold but without any covenant or warranty, expressed or implied. The recitals in such Deed of any matters or facts shall be conclusive proof of the truthfulness thereof.

## **12. SUBSTITUTION OF TRUSTEES**

Vendor, or any successor in ownership of any indebtedness secured hereby, may from time to time, by written instrument, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Vendor and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor trustee or trustees, who shall, without conveyance from the predecessor Trustee, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Vendee, Trustee and Vendor, hereunder, the book and page or Document No. where this Security Land Contract is recorded and the name and address of the new Trustee.

## **13. BINDING EFFECT**

This Contract binds the parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns, and may be executed in duplicate.

## **14. CONSTRUCTION**

All words used in this Contract including the words "Vendor" and "Vendee" shall be construed to include the plural as well as the singular number, and words used herewith in the present tense shall include the future as well as the present, and words used in the masculine gender shall include the feminine and neuter gender.

## **15. ATTORNEY'S FEES**

If any party to this Contract or any assignee of any party hereunder shall bring an action in any court of competent jurisdiction to enforce any covenant of the Contract, including any action to collect any payment required hereunder, or to quiet his or her title against the other party to this Contract, it is hereby mutually agreed that the prevailing party shall be entitled to reasonable attorney's fees and all costs and expenses in connection with said action, which sums shall be included in any judgment or decree entered in such action in favor of the prevailing party.

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

Vendor(s)

Vendee(s)

NOTE:THE PARTIES HERETO ARE CAUTIONED THAT BY COMPLETING AND EXECUTING THIS AGREEMENT, LEGAL RIGHTS AND DUTIES ARE CREATED. THEY ARE ADVISED TO SEEK INDEPENDENT LEGAL COUNSEL AS TO ALL MATTERS CONTAINED IN THIS DOCUMENT.

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

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

STATE OF CALIFORNIA, )  
COUNTY OF \_\_\_\_\_)

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)