

# Property Purchase Agreement, Joint Escrow Instructions and Deposit Receipt for Lisbon Vista Heights

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

**THIS DEPOSIT RECEIPT, OFFER TO PURCHASE PROPERTY AND ESCROW INSTRUCTIONS** together with all addenda and exhibits attached hereto (collectively "Property Purchase Agreement") shall, upon acceptance and execution by Seller constitute an agreement by which LISBON VISTA HEIGHTS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY ("Seller") agrees to sell and \_\_\_\_\_ ("Buyer") agrees to purchase that certain real property improved with a Lot located between 7108 and 7112 Lisbon Road, San Diego, CA, 92114 (the "Residence" or the "Property"). The Property is located in the real estate development LVH Development Project known as "LISBON VISTA HEIGHTS" (the "LVH Development Project"). This Agreement also constitutes escrow instructions to First American Title Company, 4380 La Jolla Village Drive, Suite 200, San Diego, CA 92122 Attn: Denise Monceaux ("Escrow Holder" and "Title Company"), with respect to the consummation of the purchase and sale of the Property as specified herein.

**The Terms and Conditions** of this Agreement are as follows:

1. **PROPERTY:** The Property consists of a Lot located in the residential LVH Development Project known as LISBON VISTA HEIGHTS ("LVH Development Project") in the City of San Diego, County of San Diego, State of California described as follows:  
 Lot \_\_\_\_ of LISBON VISTA HEIGHTS, in the City of San Diego, County of San Diego, State of California according to Tentative Map thereof No. \_\_\_\_\_, filed in the Office of the San Diego County Recorder, on \_\_\_\_\_ 2021 as File No. 2021- \_\_\_\_\_ of Official Records.
2. **ASSOCIATION:** Buyer acknowledges that ownership of the Lot includes automatic and inseparable membership privileges and responsibilities in the LISBON VISTA HEIGHTS HOMEOWNERS' ASSOCIATION, a California nonprofit mutual benefit corporation ("Association").
3. **DECLARATION:** By acceptance of the Grant Deed to the Lot, Buyer shall be deemed to have accepted and agreed to comply with the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for LISBON VISTA HEIGHTS as recorded or to be recorded in the Official Records of San Diego County, California, as the same may be amended and/or supplemented from time-to-time ("Declaration").

This Agreement of Purchase and Sale, Deposit Receipt and Joint Escrow Instructions, together with all addenda attached hereto ("Agreement") constitutes both an agreement for the Purchase and sale of the Property and joint escrow instructions of Seller and Buyer to the Escrow Holder. Concurrently with the execution of this Agreement, Buyer shall deliver to Seller the sum of \$ \_\_\_\_\_ as a deposit. ("Cash Deposit") toward the purchase of the Property, which sum shall be deposited by Seller with Escrow Holder (or transferred from any Reservation Agreement Deposit). Prior to the close of Escrow, as described in this Agreement (the Close of Escrow) Buyer shall deposit with Escrow Holder the balance of the Purchase Price as set forth below. In addition, Buyer agrees to deposit into Escrow, prior to the Close of Escrow, those funds necessary to pay the Closing Costs. Seller agrees to sell, and Buyer agrees to purchase the Property on the following terms and conditions:

**PURCHASE PRICE AND ESTIMATED CASH DUE AT CLOSING. Buyer shall pay the following:**

- a. Base Purchase Price \$ \_\_\_\_\_.
- b. Plus: Options/Upgrades (as of execution date) \$ \_\_\_\_\_.
- c. Equals: Total Purchase Price \$ \_\_\_\_\_.
- d. Less Cash Deposit \$ \_\_\_\_\_.
- e. Buyer down payment \$ \_\_\_\_\_.
- f. Less New Loan \$ \_\_\_\_\_.
- g. Note: Total Purchase Price does not include options, upgrades, etc. which parties may later agree upon.
- h. Less: LVH Development Project Lender Credit \$ \_\_\_\_\_.
- i. Equals: Balance due on Purchase Price/Total Estimated Cash required from Buyer at Close of Escrow \$ \_\_\_\_\_.

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

Buyer acknowledges and agrees that certain amounts specified above are estimates only. In addition, Buyer should expect to pay additional sums for loan fees, closing costs, prepaid expenses, and funding of impound accounts. The final terms and amounts may vary from those set forth above and there may be additional amounts payable to Seller which are not listed above. Seller makes no representation or warranty to Buyer as to the actual amount. If the actual amount exceeds the estimate set forth herein, Buyer alone shall be responsible for any such excess.

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Buyer's Initials

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Buyer's Initials

4. Close of Escrow. Escrow shall close ("Closing Date") on or before (select one); (a). *Date*: \_\_\_\_\_ (if the Property is completed on the day this Agreement is signed) or (b). the later of *Date*: \_\_\_\_\_ or (c) three (3) days following the date Buyer is notified by Seller that the Property has been approved for occupancy by the appropriate governmental agency (if the Residence is under construction when this Agreement is signed). The date of recordation of the deed to the Property shall be deemed to be the date of the "Close of Escrow." In accordance with DRE Regulation 2791 (a) if escrow does not close on or before the Closing Date, Seller shall, within fifteen (15) days after the Closing Date, order all of Buyer's deposits refunded to Buyer (except for liquidated damages paid to Seller pursuant to Section 18 hereafter).

4.1 Completion of Residences. If the Residence is not completed on the day this Agreement is signed, Buyer acknowledges that Seller cannot guarantee any specific date of completion of construction of the Residence and Seller is not obligated to complete construction by any such date. As a courtesy to Buyer and not as an obligation, Seller will try to give Buyer notice that the Residence is scheduled for completion within thirty (30) days of the Closing Date so that Buyer has enough time to prepare for the Close of Escrow. The thirty (30) day notice will be an estimated completion date. The failure of Seller to give the thirty (30) day notice does not extend the time period for Buyer to close escrow. When Seller knows the actual completion date for the construction of the Residence, Seller will give Buyer notice of the Closing Date. Any such notices by Seller may be oral or written. Buyer acknowledges that this is an "outside" date and that closing is anticipated to occur before this date. Scheduling of construction is difficult and delays in completion are common. It is understood that Seller makes no representations as to the actual date of completion, and Seller will not be responsible for inconvenience, loss, or expense to Buyer resulting from delays in construction completion. Seller agrees to use reasonable efforts and to proceed with reasonable diligence in the construction of the Residence. Buyer shall have the right to cancel this Agreement if (i) escrow does not close within twelve (12) months following the date of this Agreement or such later date as may be mutually agreed upon in writing by Buyer and Seller, and (ii) Buyer is not in default under this Agreement. Should Buyer request cancellation of this Agreement under those circumstances, Seller shall remit to Buyer all the money deposited with Seller by such non-defaulting Buyer within fifteen (15) days. Thereupon, this Agreement shall terminate and neither party shall have any further obligations to the other. Seller shall have the right to cancel this Agreement if, despite its reasonable efforts and due to circumstances beyond its reasonable control, it is unable to complete the construction of the Residence and/or close the escrow within twelve (12) months following the date of this Agreement. Should Seller cancel the Agreement under those circumstances and Buyer is not in default, Seller shall remit to Buyer all the money deposited with Seller by such non-defaulting Buyer within fifteen (15) days. Thereupon, this Agreement shall terminate, and neither party shall have any further obligations to the other. Without obligating either Buyer or Seller to do so, any otherwise applicable Closing Date provided pursuant to the provisions of this Paragraph 4.2 may be extended upon the mutual written agreement of Buyer and Seller. Buyer shall be obligated to close the escrow even if Seller has not completed all off-site improvements, so long as Seller's obligation to so complete off-site improvements required by any applicable governmental agency is assured pursuant to the requirements of such governmental agency.

4.2 Buyer Delay in Closing. The Closing Date referenced above is critical and time is of the essence with respect to such date. Buyer acknowledges that Seller will be materially harmed if Buyer fails to close escrow on the Closing Date due to additional expenses that will be incurred by Seller as carrying costs incurred by Seller for the Property (which include, but are not limited to loan interest charges, property taxes and insurance costs). Therefore, Buyer agrees that in the event that Buyer is not in a position to close escrow by the Closing Date (for any reason whatsoever except for the default of Seller under this Agreement) Seller shall have the option of either (a) terminating this Agreement, in which case Seller shall have the rights set forth in Paragraph 19 of this Agreement, or (b) extending the Closing Date for such period or periods of time as Seller may choose (Seller may elect a series of extensions if it chooses) (not to exceed a total of six (6) months)(the "Extended Closing Period") and charging Buyer the sum of \$300.00 per day for each day during the Extended Closing Period (which amount shall be considered "liquidated damages" as set forth in Paragraph 19 hereafter). Seller may elect to terminate the Agreement pursuant to subparagraph (a) above at any time during the Extended Closing Period and the imposition of such charges will not constitute a waiver by Seller of any default or breach of this Agreement by Buyer in failing to timely perform its obligations to close the escrow. If Seller elects to terminate this Agreement prior to the expiration of the Extended Closing Period or Buyer has not closed escrow as of the end of any Extended Closing Period, and Seller has not elected to further extend, Seller shall be entitled to the remedies set forth in Paragraph 19 of this Agreement as well as to collect the fee described above then due. Seller's rights under Paragraph 19 shall not be limited

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

by the terms of this Paragraph 4.2 and, similarly, nothing in Paragraph 19 of this Agreement shall limit Seller's rights under this Paragraph 4.2, each of which provides a separate and distinct remedy to Seller. The \$300.00 per day charge is agreed by Buyer and Seller to be a fair and reasonable estimate of the damages Seller would sustain during any Extended Closing Period and shall be payable on demand by Buyer to Seller.

5. No Contingency on Sale of Buyer's Home. Unless set forth in an addendum to this Agreement, Buyer understands and agrees that the close of this escrow is not contingent upon either the sale or the refinancing of any property owned by Buyer, including, without limitation, Buyer's current personal residence. Seller shall have the right to unilaterally terminate this Agreement if Buyer or Buyer's lender requires the sale of property owned by Buyer as a condition to Close of Escrow.
6. Escrow. Within three (3) days after acceptance of this Agreement by Seller, Seller shall deliver this fully executed Agreement to Escrow Holder for the purpose of opening escrow to consummate the purchase and sale of the Property as specified herein. Escrow Holder's "General Conditions" are attached hereto as Addendum No. 1 and incorporated herein. Buyer and Seller shall also execute any additional escrow instructions required by Escrow Holder either (a) upon execution of this Agreement or (b) within three (3) days following receipt of same. Should there be any conflict between this Agreement and the General Conditions or any other escrow instructions, or other documents provided by Escrow Holder, the provisions of this Agreement shall control. Buyer agrees (a) to execute and deposit into escrow all documents as required by Escrow Holder within three (3) days of Escrow Holder's request and (b) to deposit with Escrow Holder the balance of funds needed to close escrow, exclusive of any financing to be obtained by Buyer, no later than two (2) business days prior to the Closing Date. Any funds obtained by financing shall be deposited with Escrow Holder no later than one (1) business day prior to the Closing Date. Buyer's failure to immediately deposit the balance of the total purchase price within the time specified above shall constitute a material breach of this Agreement, entitling Seller to unilaterally terminate further performance under this Agreement, cancel the escrow and proceed in accordance with Paragraph 19 below. Any interest with respect to funds held by Escrow Holder shall inure to Buyer.
  - 6.1 Conditions to Close of Escrow. Notwithstanding any provisions of this Agreement to the contrary, and in compliance with the laws of the State of California, this escrow shall not close, funds shall not be paid to Seller, and title shall not be conveyed to Buyer, until the following events have occurred:
    - 6.1.1. Seller shall have posted a maintenance assessment bond in an amount equal to six (6) months regular assessments for all of the Residences in the LVH Development Project in compliance with Regulation 2792.9(A)(2), and a copy of such bond with accompanying Form RE 643 shall have been forwarded to the Department of Real Estate. Said bond shall not be released until such time as eighty percent (80%) of the total Residences in the LVH Development Project have closed escrow.
    - 6.1.2 Any and all blanket encumbrances, as defined in Section 11013.2(a) of Business and Professions Code against any Residences in the LVH Development Project, have been fully released and reconveyed.
    - 6.1.3 Seller has recorded a Notice of Completion, as defined in Section 8182 of the Civil Code, for the construction of all common facilities, improvements, landscaping and other structures in the LVH Development Project, if any.
    - 6.1.4 The Title Company, as a condition of the Close of Escrow, will issue to Buyer the title policy described herein ensuring that each monetary encumbrance immediately of record, including but not limited to deeds of trust and mortgages, encumbering all or any portion of the Property and of the LVH Development Project, will, immediately after closing, be subordinate to the LVH Development Project Declaration.
    - 6.1.5 The statutory period for recordation of any mechanic's liens against the Residence has expired, or alternately Buyer is provided with a policy of title insurance and endorsement, insuring Buyer against unrecorded mechanic's liens; and
7. Title. Fee title to the Property is to be conveyed by Seller to Buyer by grant deed subject to the following: (i) non-delinquent City, County, district, general and special taxes and assessments (including assessments imposed by any special assessment district); (ii) covenants, conditions, restrictions, reservations, easements, rights of way and other matters of record (including the LVH Development Project CC&Rs (as defined in Addendum No. 2 hereof); (iii) encumbrances, if any, evidencing financing to be secured by Buyer; (iv) the exceptions and exclusions (including, but not limited to, printed exceptions and exclusions) contained in the ALTA standard coverage residential title insurance policy to be provided to Buyer pursuant to Paragraph 15 of this Agreement; and (v) supplemental taxes and/or assessments imposed pursuant to California law [(i) through (v) hereof being referred to as "standard exceptions"]. Possession of the Property shall be delivered to Buyer on the Close of Escrow. Seller shall provide Buyer with a preliminary title report on the Property from Title Company, and upon Buyer's receipt of such preliminary title report, Buyer shall have seven (7) days to provide written notice to Seller of Buyer's reasonable disapproval of any matters known thereon (other than standard exceptions). Buyer's failure to provide such notice shall be deemed conclusive approval of such title report. In the event Seller elects not to remove such disapproved items by the Close of Escrow, Buyer shall have the option of (i) terminating this Agreement, in which case all sums paid by Buyer to Seller

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

pursuant to this Agreement shall be refunded to Buyer, or (ii) waiving such objection and proceeding to close escrow without the removal of such disapproved title exception and without any reduction in the Purchase Price. Buyer shall make such election within three (3) days after receipt of a notice from Seller; Buyer's silence shall be conclusively deemed a waiver of any objections raised by Buyer which Seller will not cure and a decision to proceed with the purchase of the Residence. It is expressly agreed that Seller may cure any monetary lien by posting an appropriate bond.

**8. Financing.**

**8.1 Cash Purchase.** In the event Buyer desires to purchase the Property for cash without a loan, Buyer shall provide Seller within five (5) days of Seller's acceptance of this Agreement, evidence satisfactory to Seller that sufficient cash is available to Buyer to complete the purchase. Failure by Buyer to provide such evidence within such five (5) day period shall entitle Seller to terminate this Agreement by written notice thereof to Buyer.

**8.2 Lender Financing.** Buyer's Lender shall be selected by Buyer and approved by Seller in Seller's reasonable discretion. SELLER MAY PROVIDE BUYER WITH A LIST OF POTENTIAL LENDERS; HOWEVER, BUYER IS SOLELY RESPONSIBLE FOR OBTAINING THE FINANCING NECESSARY TO PURCHASE THE PROPERTY. NO GUARANTEE HAS BEEN GIVEN BY THE SELLER, ITS AGENTS, OR SALES REPRESENTATIVES THAT BUYER WILL EITHER QUALIFY FOR FINANCING OR SECURE ANY LOAN, FINANCING, TERMS OR SPECIFIC INTEREST RATES. If Buyer is to obtain financing as noted after Paragraph 3 hereof, Buyer shall use Buyer's best efforts to obtain a loan secured by a first deed of trust from an institutional lender selected by Buyer ("Lender"). Buyer agrees to furnish accurate credit information to Seller and Lender and to promptly submit, perform and do all things necessary or required by the Seller and the Lender in order to obtain the loan contemplated hereunder.

**8.2.1. Buyer's Loan Application.** Buyer shall execute and deliver a loan application and all necessary documents that the Lender may require in connection with the loan application. Buyer shall submit to Seller and Escrow Holder, within fourteen (14) days from the date of Buyer's signature on this Agreement written evidence from the applicable lender of its approval of Buyer's loan and a list of conditions attached to the approval of Buyer's loan. In the event such approval is not delivered within the said time period, Seller shall have the option to terminate this Agreement. Buyer's failure to perform or diligently apply for Buyer's loan, including Buyer's failure to supply necessary funds, documents, or information required of Buyer to obtain the loan, Buyer's fraud or misrepresentation, or any voluntary act of Buyer undertaken for the purpose of preventing Lender approval shall constitute a material breach of this Agreement, entitling Seller to unilaterally terminate further performance under this Agreement and cancel escrow. The loan to be made to Buyer (a) shall bear interest at the Lender's prevailing rate of interest for that classification of loan as specifically determined by Lender in its documentation, (b) shall be for an amount and a term which is customary for such loans, and (c) shall be subject to customary rules and regulations of the Lender. All charges, costs and expenses payable in connection with the loan shall be paid by Buyer.

**8.2.2 Lender Election.** Buyer shall not change the Lender initially selected by Buyer without Seller's prior written consent. Seller's consent to a change in Lender may be denied if Seller determines that such change may reasonably prevent Buyer's timely performance under this Agreement. If Seller agrees to a change in lender and Buyer's loan with such lender is not approved, then nothing contained herein shall impose upon Seller any obligation to pay any loan application or other fees imposed by such lender.

**8.2.3 Sufficient Funds to Close Escrow.** At any time during the term of this escrow, Buyer authorizes Seller to verify with any appropriate party or financial institution that Buyer has sufficient funds to close escrow.

**8.2.4 Loan Terms.** The Deed of Trust and the Note shall be on forms designated by the Lender, and the Note shall provide for payments of principal and interest, the amortization period of the principal, and the rate of interest as specified by the Lender. The terms and conditions of the loan are a matter of concern solely between Buyer and the Lender and shall not in any way affect the rights or obligations of the parties to this Agreement. Buyer acknowledges that Seller makes no representation that the interest rate prevailing at the Close of Escrow will be the rate quoted by the Lender to Buyer at the time of loan approval or that the amounts to be financed as set forth above will be acceptable to Lender. Buyer acknowledges that the sale and purchase of the Property is not contingent upon Buyer's ability to obtain any interest rate quoted at the time of loan application or approval, or to receive financing for any specific percentage of the Purchase Price, and that Buyer will be required to pay the interest rate charged by Lender and make the down payment required by Lender, at the Close of Escrow. Buyer agrees to make any impound payment for real property taxes and assessments, Association dues (if applicable) and life and other hazard insurance premiums as may be required by or as may be negotiated with Lender.

**8.3 Buyer's Compliance.** The provisions set forth in Paragraph 6 herein are intended for Seller's protection against the risks inherent in holding the Property off the market while Buyer is arranging to complete this purchase. If Buyer fails, within the time limits, to provide Seller with evidence satisfactory to Seller of availability of cash and/or prequalification letter and credit report from Lender, loan application and loan approval, then Seller may, at Seller's option, cancel this Agreement and proceed in accordance with Paragraph 19. Thereafter, Seller shall have no further obligations or liability pursuant to this Agreement.

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

Buyer shall concurrently with submittal of Buyer's Credit Application authorize Lender to release its copy of Buyer's Credit Application and for Lender to freely confer with Seller as to the progress of credit review and progress of Buyer's Loan. If Seller determines the loan commitment is conditional or inconsistent with the Purchase Agreement or credit approval, Seller shall have the right to cancel consistent with subparagraph 8.4 below.

- 8.4 Seller's Right of Cancellation. Notwithstanding anything contained herein to the contrary, including any general instructions hereto, if Buyer fails to obtain Lender approval on the Loan within thirty (30) days of acceptance of this Agreement, Seller shall have the option either to extend the date for loan approval for an additional period of time specified by Seller at that date or terminate this Agreement at said date by written notice to Buyer. If Buyer fails to obtain Lender approval as the result of any reason of the reasons set forth as (i) through (v) below, Seller shall refund Buyer's deposit subject to costs of escrow or options installed, if any. If Buyer fails to obtain Lender approval by the aforesaid date as the result of any of the following: (i) Buyer's fault or misrepresentation, (ii) any voluntary act of Buyer undertaken for the purpose of preventing Lender approval, (iii) any request by Buyer that Lender not approve Buyer's Loan, (iv) failure of the Buyer to furnish all documents and information required by the Lender by the time specified herein, or (v) any other act of Buyer which prevents Lender approval, and in any such event, Buyer's failure to obtain approval by the date specified above shall constitute a default hereunder, and shall terminate this Agreement on the date of such default, and Seller shall be entitled to recover from Buyer all damages sustained by Seller as a result of default, or if Seller and Buyer have initialed Paragraph 19 and Addendum #4 hereto, Seller shall be entitled to the remedies set forth in Paragraph 19 and Addendum #4. Buyer and Seller agree to execute appropriate mutual instructions to Escrow Holder in order to implement the provisions of this Paragraph 8.4.
- 8.5 No Representation by Seller. While Seller may assist Buyer in obtaining such loan, Buyer expressly acknowledges and agrees that Seller has made no representation or warranty to Buyer, express or implied, as to the availability of the loan or Buyer's ability to qualify for such loan; and Seller has no responsibility to provide or otherwise participate in the procurement of such loan.
9. Vesting. Unless otherwise designated in the escrow instructions of Buyer, title shall vest as follows:
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- The manner of vesting is of material importance to Buyer; Seller is providing no advice to Buyer in this regard and Buyer may wish to obtain professional advice from legal counsel regarding the manner of vesting.
10. Construction. Seller reserves the right to make any changes or substitutions Seller deems necessary or desirable in the construction, product type, materials, fixtures, optional selections, and appliances with related items of substantially equal quality or utility. No such change will alter the Purchase Price of the Property. Buyer acknowledges that Seller is not constructing the Residence specifically for the Buyer nor to the precise specifications or design of any other Residence visited by Buyer.
11. Possession and Entry onto Property and Improvements by Buyer. Buyer understands and agrees that possession of the property shall be given only after recordation of the Grant Deed from Seller to Buyer. Buyer shall not enter the Property before Close of Escrow unless specific consent is given by Seller and arrangements are made with Seller. Buyer shall cause no changes or improvements to be made to the Property nor store anything on the Property, and no work of any kind may be performed by Buyer on the Property prior to Close of Escrow. Seller shall have the right to remove any such improvements or items and Buyer shall be liable for all costs incurred thereby. Until Escrow closes, neither Buyer nor Buyer's agents may enter upon the property or the Project for the purpose of showing the Property or the Project to any prospective purchaser or without prior written consent of the Seller. Any entry by Buyer onto the Property prior to the Close of Escrow shall be with Buyer's assumption of the sole risk, liability, and obligation for any injuries to Buyer and to any guests, invitees, licensees and employees of Buyer and Buyer shall indemnify, defend and hold harmless Seller and their respective officers, agents, and employees, from and against any and all costs, expenses (including attorney fees), claims, actions, suits, demands, liabilities, and damages arising out of, or relating in any way directly or indirectly to Buyer's or its guests', invitees, or licensees entry on to the Property or the Project prior to the close of escrow. Buyer shall not place any signs on or near the Property or the Project without the prior written consent of Seller. A violation of the foregoing shall constitute a material breach of this Agreement and a failure of a condition precedent to the Seller's further performance, entitling Seller at its option, to terminate this Agreement and cancel the escrow.
12. Inspections. Buyer shall be entitled to a walk-through of the Residence prior to the Close of Escrow, at a time designated by Seller. Any "punch-list" type items discussed as the walk through need not be completed prior to the Close of Escrow, and the fact that such items have not been completed prior to the Close of Escrow shall not entitle Buyer to extend or delay the Close of Escrow. BUYER'S FAILURE FOR ANY REASON TO ATTEND A WALK-THROUGH OF THE RESIDENCE AS SET FORTH ABOVE SHALL BE DEEMED ACCEPTANCE OF THE CONDITION OF THE RESIDENCE BY BUYER.
13. Utilities. Buyer shall be responsible for the commencement and transfer of any service from a utility company such as telephone, water, electricity, gas, and cable television (as applicable) and for trash pickup.

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14. **Standard And Optional Selections.** Unless already selected or installed by Seller, Buyer agrees to make any standard and optional item selections from the choices provided by Seller (and to the extent permitted by Seller) and to pay any costs of such selections at such times as required by Seller. If Buyer fails to make such selections or pay such costs within the specified time, Seller shall have the right to make such selections and it shall be presumed that Buyer will select no optional items and accept standards. Buyer acknowledges that his or her failure to make optional selections within the specified time or any changes in optional selection made by Buyer may result in additional cost to Buyer and/or unavailability of optional items originally offered by Seller. Buyer understands and acknowledges that Seller may have no control over any increase in the prices of optional items, which may vary until such time as the items have been approved and paid for by Buyer. Once ordered, an optional item or standard selection cannot be rescinded without Seller's approval, in its sole discretion.
15. **Closing Costs and Prorations.** Seller shall pay the real property transfer tax, the premium for the owner's title insurance described below. Buyer shall pay for the cost of preparing and recording the grant deed. Buyer shall pay one-half (½) of Escrow Holder's fees for this transaction and all loan costs, including costs of credit reports, Lender's title insurance policy, escrow fees related to the loan, tax service, appraisal fees, any mortgage insurance fees, all loan recording costs, loan fees, and impounds as may be required by Buyer's lender. Any other expenses or closing costs in connection with this transaction shall be apportioned in the manner customary in San Diego County, California. On the Close of Escrow, Seller shall provide Buyer with an ALTA standard coverage residential title insurance policy insuring title vested in Buyer in the condition described by Paragraph 7 of this Agreement and with coverage in an amount equal to the Purchase Price. Any extra title insurance or endorsements required by Buyer shall be paid by Buyer. Real property taxes, assessments, homeowner's association fee (if any), etc. shall be prorated as of the Close of Escrow based upon a thirty (30) day month and three hundred sixty (360) day year, using the most recent available information. Buyer shall pay any supplemental taxes which are assessed by reason of this sale. Escrow shall prorate unsegregated property taxes.
16. **Hazardous Materials/Toxic Contamination.** Seller makes no warranty or representation as to the existence on, in, under or about the Project or any adjoining Property of any hazardous or toxic substances or petroleum products, except that Seller represents that it has no actual knowledge as of the Close of Escrow of the existence of any Hazardous Materials on, in, under or about the Project or any adjoining properties. Buyer acknowledges that it is assuming the risk of the existence of Hazardous Materials and Buyer waives any claim or cause of action against Seller arising out of the existence of any unknown Hazardous Materials. Buyer is advised to engage qualified experts and inquire of government officials regarding all possible hazards. For the purpose of this provision, the term "actual knowledge" means that the Chief Executive Officer of Seller has received actual notification from the appropriate governmental agency of a hazard described above.
17. **Insurance.** Buyer understands that it is his or her responsibility to obtain any liability or casualty insurance which Buyer desires or Buyer's lender requires and as may be required under the LVH Development Project CC&RS. Buyer acknowledges that the Association has obtained a master insurance policy for the Common Area. Escrow is instructed to reimburse Seller for master insurance policy premiums paid in advance by Seller.
18. **Notices.** All notices pertaining to this Agreement may be personally delivered, sent by Federal Express (or other similar overnight carrier) or delivered by U.S. Mail (certified, return receipt requested) to the addresses set forth in this Agreement. Such notices shall be deemed received upon personal delivery, the next business day after deposit with Federal Express (or other similar overnight carrier) or three (3) days after deposit with the U.S. Mail (Express Priority Mail, certified, return receipt requested).
19. **Default: Liquidated Damages.**

Damages if Buyer Defaults. If Buyer fails to complete the purchase of the Property because of the default of Buyer, Seller shall be released from the obligation to sell the Property to Buyer and may pursue any remedy in law or equity that it may have against Buyer by reason of the default. However, by placing their initials here, Buyer \_\_\_\_\_, Buyer \_\_\_\_\_ and Seller \_\_\_\_\_ agree to the following liquidated damages provisions and procedures:

(a) **Reasons For Liquidated Damages.** If Buyer breaches this Agreement, Seller will be damaged and will be entitled to compensation for these damages, but such actual damages will be extremely difficult and impractical to ascertain, in addition, both Buyer and Seller wish to avoid the costs and lengthy delays which would result if the Seller filed a lawsuit or instituted arbitration to collect its damages for Buyer's breach of this Agreement.

(b) **Liquidated Damages Amount.** Buyer and Seller agree that \$\_\_\_\_\_ an amount not to exceed the money remitted by Buyer under the terms of this Agreement for purchase of the Property ("Purchase Money Deposit") shall constitute liquidated damages, payable to Seller if Buyer fails to complete the purchase of the Property because of the default of Buyer. The Purchase Money Deposit and the liquidated damages amount may be increased by separate agreement of the parties (e.g., should the parties enter into

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an agreement which provides for upgrades or optional items). "Purchase Money Deposit" shall refer to all deposits paid by Buyer under all such writings which provide for the sums paid to be liquidated damages.

(c) Reasonable Estimate of Damages. The liquidated damages amount shall be deemed to constitute a reasonable estimate of Seller's damages under the provisions of Section 1671 et. seq. of the California Civil Code. However, if the total Purchase Money Deposits exceed Three Percent (3%) of the total Purchase Price of the Property and Seller decides to not limit the liquidated damages to 3% of the Purchase Price, then, pursuant to Section 1675(d) of the California Civil Code, it will be Seller's burden of proof to establish that the liquidated damages are reasonable in amount should Buyer dispute the amount of liquidated damages. Seller, in its sole discretion, shall have the right to limit the liquidated damages to be not more than 3% of the Purchase Price of the Property.

(d) Procedures for Payment of Liquidated Damages. In the event of default by Buyer, Buyer and Seller agree Seller may instruct Escrow Holder to retain out of Buyer's deposit in escrow in accordance with DRE Regulation 2791 (c) liquidated damages payable to Seller out of Buyer's Purchase Money Deposit according to the following procedures:

(1) The Seller shall give written notice ("Seller's notice and demand") by registered or certified mail or personal delivery, or by any other means authorized for service by Code of Civil Procedure Section 116.340, to escrow holder and to Buyer of Seller's determination that Buyer is in default under the terms of this Agreement and that Seller is demanding that escrow holder remit \$\_\_\_\_\_ from the Purchase Money Deposit to Seller as liquidated damages unless, within 20 days, Buyer gives escrow holder Buyer's written objection to disbursement of Purchase Money as liquidated damages ("Buyers objection").

(2) If Buyer fails to give escrow holder Buyer's objection within the 20-day period: (A) escrow holder shall promptly remit the amount demanded by Seller; and (B) Seller is released from any obligation to sell the property to Buyer.

(3) If Buyers gives escrow holder Buyer's objection within the 20-day period, then the determination as to whether Seller is entitled to the disbursement of Purchase Money as liquidated damages, and every other cause of action, that has arisen between Buyer and Seller under the Agreement shall be submitted to binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association subject to each of the following:

(i) Any fee to initiate the arbitration shall be paid by the Seller, provided that the arbitration costs and fees, including any initiation fee, ultimately shall be borne as determined by the arbitrator.

(ii) The venue of the arbitration proceedings shall be in the county in which the property is located unless the parties agree to a different location.

(iii) The arbitrator shall be appointed within 60 days of the administrator's receipt of a written request to arbitrate the dispute. In selecting the arbitrator, the provisions of Section 1297.121 of the Code of Civil Procedure shall apply. The arbitrator may be challenged for any of the grounds listed therein or in Section 1297.124.

(iv) The arbitrator shall be authorized to provide all recognized remedies in law or equity for any cause that is the basis of the arbitration.

(v) A judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

(e) Exclusive Remedy. The payment of the liquidated damages amount to Seller shall constitute the exclusive remedy of Seller on account of a default of Buyer in failing to complete the purchase of the Property.

(f) Seller to Remit Deposits to Escrow Pending Resolution. This sub-paragraph (f) applies to any deposits paid by Buyer directly to Seller outside of Escrow under authorization of the Department of Real Estate, pursuant to Subdivision (b) or (c) of Section 11013.2 or Subdivision (b) or (c) of Section 11013.4 of the California Business and Professions Code. If Buyer delivers an Objection Notice to Escrow Holder within the twenty (20) day period referred above, Seller shall remit to Escrow Holder funds equal to all deposits paid by Buyer to Seller outside of Escrow less that portion of the deposits which have been disbursed to third parties provided in this Agreement. Such funds shall be held by Escrow Holder pending a resolution of Buyer and Seller's dispute regarding such Purchase Money Deposit.

- 20.** Arbitration of Disputes. Any dispute or claim in law or equity arising out of this Agreement or any resulting transaction (except under any note carried back by Seller or Deed of Trust securing the same) whether arising prior to or after the Close of Escrow, including, without limitation, any and all disputes regarding liquidated damages, cancellation of Escrow, representations by Buyer or Seller, specific performance, the existence and extent of any defects in the Property, manufacturer warranty, and the extent of any damages sustained, shall be decided by neutral binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, and not by court action except as provided by California law for

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

judicial review of arbitration proceedings. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. In the event there is a disagreement as to the selection of an arbitrator, the American Arbitration Association shall select the arbitrator. The obligation to arbitrate set forth herein shall survive the Close of Escrow and the delivery of Seller's Grant Deed. If the determination as to whether Seller is entitled to disbursement of Purchase Money as liquidated damages is referred to arbitration, any fee to initiate arbitration shall be paid by Seller, but the cost of arbitration shall ultimately be borne as determined by the arbitrator.

**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 CALIFORNIA LAW 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 THOSE 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 CODE 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.**

**Buyer Initials \_\_\_\_\_**

**Buyer Initials \_\_\_\_\_**

**Seller Initials \_\_\_\_\_**

- 21. Required actions of Buyer and Seller. Buyer and Seller agree to execute all such instruments and documents, and to take all actions (including the deposit of funds in addition to such funds as may be specifically provided for herein) as may be required in order to consummate the transactions contemplated by this Agreement and shall use their best efforts to accomplish the Close of Escrow in accordance with the terms of this Agreement. All funds required of Buyer under the terms of this Agreement shall be paid in the form of bank cashier's, wire transfer, or certified checks paid through a licensed California financial institution. Buyer is responsible for providing all hazard insurance for the Property and for complying with its lender's insurance requirements. Buyer is also responsible for requesting the installation of utilities, service for telephone, electricity, gas, water and cable or satellite television, as applicable, prior to closing or occupancy at Buyer's expense.
- 22. Death or Disability of Buyer. If Buyer dies, or if a conservator or guardian of the estate of the Buyer is appointed before the escrow closes, Seller shall have the option to terminate this Agreement at said date, or at a later date by giving ten (10) days' notice to Buyer's personal representative, conservator, guardian or other responsible party by registered or certified mail. If Seller chooses to terminate this Agreement, Seller shall refund all sums paid by Buyer to Seller, subject to cancellation of Escrow. If the Property is being purchased by multiple parties, the Seller shall have the option to allow the remaining party to go forward with this Agreement, contingent upon said party meeting all requirements for the purchase of the property and the party going forward not waiving all rights in writing to this Agreement.
- 23. Buyer's Acknowledgment and Effectiveness of Agreement. Buyer acknowledges that Buyer has read and understands each and every term of this Agreement. Execution of this Agreement by Buyer and by Seller's sales representative shall constitute only an offer to purchase which shall not be binding unless accepted by Seller, by the execution by an authorized officer of Seller. Seller reserves the right to refuse to accept such offer for any reason whatsoever. Seller's sales representative is not an officer of Seller and is not authorized to accept this offer. Receipt and deposit of Buyer's funds by Seller's sales representative shall not constitute an acceptance of this offer by Seller.
- 24. No Other Agreements. This Agreement constitutes the sole Agreement between the parties. There are no understandings, representations, or agreements other than those contained in this Agreement. No salesperson, employee, agent of the Seller or independent broker has any authority to modify the terms hereof or to make any agreements, representations or promises unless the same are contained herein or added by addendum as described below duly executed by the Buyer and an authorized officer of Seller. Buyer is solely responsible for obtaining the financing necessary to purchase the Property and no agreement or representation has been made by the Seller, its agents or sales representatives to obtain any loan for the Buyer or to guarantee that Buyer will secure any loan.
- 25. General. This Agreement may not be changed, altered, or modified, except in writing and signed by Buyer and Seller. Time is of the essence of this Agreement. This Agreement shall be construed in accordance with and governed by California law. Seller's waiver of any term of this Agreement shall not be construed as a waiver of any other or subsequent term, If any term of this Agreement shall be declared invalid or unenforceable, the remaining terms shall not be affected thereby, Buyer represents and warrants to Seller

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

that he or she has not engaged or dealt with anyone who might claim a broker's commission, finder's fee or other compensation in connection with this transaction (except as specifically identified in writing by Buyer and agreed to by Seller at the time this Agreement is executed) and agrees to indemnify, defend, protect and hold Seller harmless from any such obligations. If Buyer is more than one person or entity, then each such person or party shall be jointly and severally responsible for the obligations and liabilities of Buyer hereunder. Buyer and Seller are notified that California Revenue and Taxation Code Sections 18662 (e) and 18668 require a buyer of real property to cause to be withheld California income taxes from escrow funds due to a Seller. It is understood between all parties that Seller holds title in the form of a limited liability company and therefore is exempt from withholding pursuant to California Revenue and Taxation Code 18622 (e)(1). Buyer hereby instructs Escrow Holder to obtain Form 590 completed by Seller, declaring that Seller is a limited liability company, and further instructs Escrow Holder not to withhold Seller's funds at the Close of Escrow. Escrow Holder is further authorized and instructed to forward a copy of the completed Form 590 at the Close of Escrow to Buyer for Buyer's files.

- 26.** Lender Consent. Seller's obligation to sell the Property to Buyer is expressly conditioned upon the consent of Seller's lender to the transaction and to reconvey its encumbrance on the Property at the Close of Escrow; provided, however, that in the event of a failure to obtain such consent, Seller shall be entitled to terminate this Agreement and the escrow and return the Deposit to Buyer and shall have no further liability.
- 27.** Addenda. Buyer acknowledges that he or she has received, read, and approved the following addenda incorporated herein and attached hereto:
- Addendum No. 1 (Escrow Holder's General Conditions)  
 Addendum No. 2 (Common Interest Subdivision)  
 Addendum No. 3 (Disclosures)  
 Addendum No. 4 (Dispute Resolution Procedure)  
 Additional Addenda (if any) \_\_\_\_\_
- Buyer Initials \_\_\_\_\_ Buyer Initials \_\_\_\_\_
- 28.** No Assignment or Recordation. Buyer's rights under this Agreement may not be assigned without Seller's prior written consent which may be given or withheld in Seller's sole discretion. Subject to the foregoing, the terms, covenants, and conditions of this Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, and permitted assigns of the respective parties hereto. In addition, prior to the Close of Escrow, Buyer may not (a) transfer its interest in or right to purchase the Property, (b) list the Property for sale or advertise or otherwise offer the Property for sale, or (c) enter into an escrow or other agreement to resell the Property. Any attempted assignment, transfer, or sale in violation of the terms of this paragraph shall at Seller's election, constitute a default under this Agreement. Neither this Agreement nor notice of this Agreement shall be recorded with any County Recorder.
- 29.** Severability. If any provision of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal, or unenforceable, such portion shall be deemed severed from this Agreement, and the remaining parts of this Agreement shall remain in full force and effect, as fully as though such portion had never been part of this Agreement.
- 30.** No waiver. The waiver by the Seller of any term of this Agreement shall not be construed as a waiver of any other or subsequent term of this Agreement. Any waiver by Seller to be effective, must be in writing and signed by the Chief Executive Officer of Seller.
- 31.** Successors and Assigns. In view of the credit qualifications, processing and other matters considered personal herein, this Agreement and the rights of Buyer may not be assigned, sold, transferred, or hypothecated by Buyer voluntarily, involuntarily, or by operation of law without first obtaining Seller's written consent, which consent may be withheld in Seller's sole and absolute discretion. Any assignment by Buyer in violation of this Paragraph 30 shall be null and void. In the event Buyer attempts to assign this Agreement in violation of this Paragraph 30, Seller shall have the right to terminate this Agreement, which termination shall be deemed a termination for cause. This Agreement and the rights, duties and obligations of the Parties shall be binding upon and shall inure to the benefit of the successors and assigns of the Seller, and subject to the preceding sentence, to the heirs, executors, administrators, successors and assigns of the Buyer. Seller has the right to freely assign this Agreement. An approved assignment shall not relieve the Buyer of liability under this Agreement.
- 32.** Counterparts. This Agreement will be deemed to be equally drafted by both Parties and shall not be interpreted against one party over the other. This Agreement is not to be recorded.
- 33.** Time. Time is of the essence of this Agreement, it being understood that each date set forth herein, particularly the Closing Date, and the obligations of the parties to be satisfied by certain dates are material. Such timely performances are an important part of the consideration of Seller's entering into this Agreement.
- 34.** Addresses/Notices. All notices pursuant to this Agreement shall be effective as set forth in Paragraph 18 addressed to the respective parties as follows:

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

To Buyer:

Address: \_\_\_\_\_  
 City, ST \_\_\_\_\_  
 Zip \_\_\_\_\_  
 Home # \_\_\_\_\_  
 Work # \_\_\_\_\_  
 Work # \_\_\_\_\_  
 To Lisbon Vista Village, LLC  
 Seller: 140 N. Escondido Blvd.  
 Escondido, CA 92025  
 760-781-1398

or at such other address as the parties may from time to time designate in writing in accordance with the provisions of Paragraph 16.

- 35. Acceptance by Seller. Unless this Agreement is accepted by Seller (in its sole and absolute discretion), it shall constitute only an offer by Buyer to purchase the Property. It is agreed that Seller shall have fifteen (15) days from the date of Buyer's execution hereof within which to accept this offer by executing this Agreement below. If Seller does not accept this Agreement within such fifteen (15) days, then this offer shall no longer be binding upon Buyer; and upon request of Buyer, any Deposit made by Buyer shall be promptly returned. THE SIGNATURE OF SELLER'S SALESMAN OR BROKER HEREUNDER INDICATES ONLY RECEIPT OF THE DEPOSIT AND DOES NOT BIND SELLER.
- 36. Assumption of Risk and Indemnification. Buyer realizes and acknowledges that a construction site is a very dangerous place to visit and that entry upon the LVH Development Project, including the Property, during construction is dangerous and that hazards may exist which are not observable. Buyer's entry shall be solely at Buyer's own risk. Buyer hereby waives any and all claims against Seller for injury or loss to person or property arising out of or in connection with such entry by Buyer or any other person accompanying him or her or entering at his or her direction, and Buyer shall indemnify, defend and hold Seller harmless from and against any injury, loss, damage or expense to persons or property arising out of or in connection with any such entry.
- 37. Survival. All applicable terms and provisions, representations and warranties contained herein shall survive the Close of Escrow.
- 38. Warranties. Except for the Seller's limited warranty which shall be provided to Buyer prior to the Close of Escrow, Buyer is not relying upon any warranties, promises, guarantees or representations made by the Seller or anyone acting or claiming to act on behalf of Seller. Buyer expressly agrees that the limited warranty, the form of which Buyer shall receive at the Close of Escrow, is expressly conditioned upon Seller's receipt of notice from Buyer of the existence and extent of any defect described in such warranty and Seller, or its authorized agent, being granted a reasonable opportunity to repair, replace or otherwise cure such alleged defect. Buyer agrees that Seller, or its authorized agents, and not Buyer, shall determine the materials and methods to be used in effecting such repair, replacement or cure. However, correction of such defects shall be accomplished in a workmanlike manner with materials of an equal or higher quality used in the original construction. In accordance, Buyer agrees to provide Seller, or its authorized agents, a reasonable opportunity to repair or replace any defective material or workmanship upon Buyer's discovery of the same. Buyer agrees, absent a reasonable opportunity to cure, that Seller shall not be liable to Buyer for any general, special or consequential damage, cost, diminution in value or other loss resulting from any defect in the Property, whether structural, in workmanship, in material or otherwise.
- 39. Financial Code Section 17403. 4. All written escrow instructions and all escrow instructions transmitted electronically over the Internet executed by a buyer or seller, whether prepared by a person subject to this division or by a person exempt from this division under Section 17006, shall contain a statement in not less than 10-point type which shall include the license name and the name of the department issuing the license or authority under which the person is operating. This section shall not apply to supplemental escrow instructions or modifications to escrow instructions.
- 40. RE 621 Procedure. Enforcement of Certain Bonded Obligations.

Consideration by Board of Directors.

If (1) the Association Property Improvements are not completed prior to the issuance of a Final Subdivision Public Report by the DRE for the sale of Lots in the Property, and (2) the Association is obligee under a bond or other arrangement ("Bond") required by the DRE to secure performance of the commitment of Declarant to complete such Improvements, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond, with respect to any such Improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that Improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Association Property Improvement, the Board shall be directed to consider

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

and vote on the aforesaid question if a Notice of Completion has not been filed, within thirty (30) days after the expiration of the extension.

Consideration by the Members.

A special meeting of Members, for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question, shall be held no fewer than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing five percent (5%) of the total voting power of the Association. A vote of a majority of the voting power of the Association residing in Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

- 41. Purchase Money/Conditional Public Report. All purchase money received under the authority of a conditional public report must be placed in a neutral depository per Section 11013.2a or 11013.4a.
- 42. Real Estate Broker. Seller advises Buyer that Seller is a licensed real estate broker, licensed by the California Department of Real Estate (DRE). Buyer hereby represents to Seller that Buyer has not employed or dealt with any broker or finder in connection with this transaction.

**I/We agree to purchase the Property on the terms and conditions set forth above. I/We have read, and I/we understand this Agreement; and I/we offer to purchase the Property subject to the terms and conditions contained herein. I/We understand this offer is not a binding Agreement until accepted by Seller. Buyer further acknowledges and represents that Buyer is not relying on any statement, promise, condition, or stipulation not specifically set forth in this Agreement. Buyer understands that Seller is relying on Buyer's acknowledgment and representations and that Seller would not agree to sell the Property to Buyer without Buyer's acknowledgment and representations. Seller or Seller's authorized agent may hold Buyer's deposit until Seller accepts this Agreement. Seller reserves the right to refuse to accept this offer for any reason. If Seller declines to accept the offer Seller shall return to Buyer any funds deposited with the Seller in Payment of the purchase price. Upon acceptance by Seller and receipt of the fully executed Agreement along with any deposit, Escrow Holder shall promptly deliver a copy of the acknowledged Agreement to Buyer and Escrow shall be deemed to be opened with this Agreement to be binding upon both Buyer and Seller.**

Buyer: \_\_\_\_\_ Buyer: \_\_\_\_\_

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

**Receipt of the deposit specified above is hereby acknowledged and presentation of this offer to Seller is being made by:**

Sales Agent: \_\_\_\_\_

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

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

Sales Office Phone (\_\_\_\_\_) \_\_\_\_\_

**This Agreement shall not constitute a binding agreement of purchase until signed by Seller and a fully executed copy is delivered to Buyer. Seller Hereby Accepts the Offer of Buyer Set Forth Above.**

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

LISBON VISTA HEIGHTS, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY

Lisbon Vista Heights, LLC

By: \_\_\_\_\_  
Cheryl R. Lee

Its: CEO

“Seller”

Buyer(s) Initials \_\_\_\_\_ Seller’s Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

**Addendum No. 1 to Property Purchase Agreement, Joint Escrow Instructions and Deposit Receipt for Lisbon Vista Heights**

**Escrow Holder's General Escrow Conditions**

Unless otherwise designated in writing through subsequent escrow instructions of Buyer, Buyer instructs title to be vested as follows: \_\_\_\_\_ (NOTE to Buyer: The manner of taking title may have significant legal and tax consequences. Buyer should consult with a professional regarding such consequences. Neither Seller nor its agents have provided nor will provide any advice to Buyer as to vesting. Buyer is and will remain solely liable for the selection of any vesting.)

1. Escrow Conditions. Paragraphs 3 through 7 of the Property Purchase Agreement entitled "General Escrow Instructions" are incorporated by this reference and shall constitute Buyer's and Seller's instructions to Escrow Holder. Escrow Holder shall not be concerned with the contents of any other portions of this Agreement or any other matters relating to construction, warranties, or other agreements made between Buyer and Seller over which Escrow Holder has no control and/or which agreements may survive the Close of Escrow. To the extent that any provisions of Addendum "No. 1" conflict with any terms of this Agreement as between Buyer and Seller, the terms of this Agreement shall prevail.

2. Escrow: Opening, closing conditions.

(a) Opening and Closing of Escrow. Upon execution of this Agreement by both Parties, Seller shall cause this Agreement together with any deposit hereunder to be delivered to Escrow Holder and upon receipt of same by Escrow Holder, the Escrow shall be deemed opened. Escrow Holder shall deliver a copy of the fully executed and receipted Agreement to Buyer upon the opening of Escrow.

(b) Close of Escrow. The Escrow contemplated by this Agreement shall close on the latest to occur of the following (the "Closing Date"): (i) on \_\_\_\_\_ or ten ( 10) calendar days after the Property is completed and ready for occupancy and Seller has filed a Notice of Completion: provided, however, that the Close of Escrow may be extended one day for each day of delay or stoppage in the work of building of the dwelling unit on the Property through acts of God , inability to obtain labor or materials or reasonable substitutes, governmental regulations or controls, or matters of causes beyond reasonable control of Seller. If Escrow does not close on or before the date specified above due to the default of Seller, or a later closing date mutually agreed upon by Seller and Buyer, then within fifteen (15) calendar days after the above mentioned date, or within fifteen (15) calendar days of such extended closing date as has been mutually agreed to by the Parties, or, in any case, within one (1) year or the date of this Agreement, Seller shall order all of the money remitted by Buyer under the terms of this Agreement for the purchase of the Property to be refunded to Buyer. The foregoing refund shall be the sole recourse and remedy to Buyer. To the fullest extent allowed by law, Buyer hereby waives any and all damages and remedies (including, but not limited to, an action for specific performance or right to file a lis pendens on the Property) related to the foregoing. Buyer's initials directly below signifies Buyer's understanding and agreement to this provision.

**Buyer Initials \_\_\_\_\_ Buyer Initials \_\_\_\_\_**

(c) This Escrow shall not close, until a Certificate of Occupancy (or like document) has been issued and the following conditions have been met.

- (1) Any and all blanket encumbrances have been released.
- (2) A Notice of Completion as defined in Section 3093 of the California Civil Code has been recorded on the residence located on the Property and the statutory period for recordation of all mechanic's lien claims has expired, OR Buyer is provided a Policy of Title Insurance with a form of endorsement insuring the Buyer against any unrecorded mechanic lien claims.
- (3) Any trust deeds of record prior to the recording of the Declaration have been subordinated to the Declaration.
- (4) Seller has posted security in accordance with, and pursuant to, Department of Real Estate Regulations 2792.9 and 2792.10 to insure payment of any and all assessments required on unsold lots within the phase of the Project of which the Property is a part or has obtained a waiver thereof. Security shall remain in effect until such, time as the lots within said phase of the Project have been closed; and (b) Escrow Holder has received written assurance from the Association that Seller is current in payment of assessments for which Seller is obligated.
- (5) Buyer has satisfied any and all other conditions contained in any Addenda to this Agreement.
- (6) All common area improvements have been completed and a Notice of Completion as defined in Section 3093 of the California Civil Code covering all of the improvements, has been recorded, or Seller has

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

posted a bond or otherwise assured completion of said common area improvements in accordance with the regulations of the California Department of Real Estate and California Business and Professions Code Section 11018.5(a)(2); and

(7) Title to common area Lots # \_\_\_\_\_ has been conveyed to the Association.

(d) If, as a result of a default by Buyer, Escrow is not in a position to close on the Closing Date, Seller may terminate this Agreement, cancel escrow and proceed in accordance with Paragraph 19 and Addendum #4 or, at the sole option of Seller, extend the Closing Date to a date selected by Seller in which case Buyer shall pay to Seller the "Extension Fee" of Three Hundred Dollars, (\$300.00) per day from the original Closing Date to the actual Close of Escrow or to the date of Seller's agreed extension, whichever occurs first. The imposition of such Extension Fee will not constitute an agreement by Seller to any additional extension period or to a waiver by Seller of any default or breach of this Agreement by Buyer. Seller reserves its rights under this Agreement with respect to any such default or breach including, without limitation its rights to terminate this Agreement and be entitled to the remedies set forth in Paragraph 19 and Addendum #4. The extension fee shall not be applicable to the purchase price.

(e) In compliance with Section 11018.12.(e)(3) of the California Business and Professions Code, the Escrow is being opened under the authority of a Conditional Public Report. Escrow shall not close, and funds shall not be released until Buyer is given a copy of the Final Subdivision Public Report. If Buyer does not receive a Final Subdivision Public Report prior to expiration of the Conditional Public Report or If the Final Subdivision Public Report provided to Buyer contains a material change, pursuant to Section 11012 of the Business and Professions Code, from the Conditional Public Report previously provided to Buyer, Buyer shall have the right to terminate this Agreement by delivering written notice of such termination to Seller and Escrow Holder within five (5) days of either (a) the expiration of the Conditional Public Report, or (b) receipt of the Final Subdivision Public Report which contains the material change, in which case this Agreement will terminate, Escrow Holder shall return to Buyer Buyer's Deposit, plus any earned interest, and the parties shall have no further obligations to one another. The foregoing provision shall not apply if Seller has obtained a Final Subdivision Public Report prior to the opening of Escrow and the Conditional Public Report has been superseded.

3. Conditions of Title and Grant Deed. Fee simple title to the Property shall be conveyed to Buyer at Close of Escrow by grant deed ("Grant Deed"), which Seller shall deposit with Escrow Holder prior to Close of Escrow, and will be subject to:

- (a) Real property taxes and assessments not then delinquent and any supplemental taxes or special assessments levied subsequent to Close of Escrow.
- (b) Covenants, conditions, restrictions, reservations, easements, rights, rights-of-way, and all other matters of title, of record or apparent, if any.
- (c) Matters affecting the condition of title suffered or created by or with written consent of Buyer.
- (d) That certain Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Lisbon Vista Heights, recorded in the official records of San Diego County, California, together with any amendments thereto.

4. Closing Costs and Prorations. Buyer's and Seller's costs generally include but not be limited to the following:

(a) Buyer shall pay all normal purchaser's closing costs, including but not limited to costs of credit reports, ALTA Lender's title insurance policy, one-half the escrow fee, tax service, all recording costs, loan fees, impounds and any other fee required by Lender, prorations and advance payments of Assessments for the Association (as defined in the Declaration) and Escrow Holder's Escrow fee.

(b) At Close of Escrow Seller shall provide Buyer a CLTA standard coverage title insurance policy insuring title vested in Buyer in the condition described above and with liability equal to the Purchase Price. Seller shall pay documentary transfer for the recordation of the Grant deed, one-half of the escrow fee, recording charges for any reconveyance instrument for release of any existing encumbrances, any taxes, liens, which must be satisfied to deliver title to Buyer in the condition as set forth herein and such other fees or costs properly chargeable to or authorized by Seller.

(c) Each party shall separately be responsible for payment of any messenger fees, release recordation fees, attorney's fees, consultant's charges or any other charges or requested by or required on their behalf.

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

(d) Real property taxes and assessments and installments for homeowner assessments shall be prorated as of the Close of Escrow based upon a thirty (30) day month using the most recent ascertainable information available. In the event any such bill covers real property owned by Seller in addition to the Property, the property taxes and assessments allocable to the Property for proration purposes shall be provided by Seller, and further approval of Buyer will not be required.

(e) As a result of the passage of Chapter 498, Statutes of 1983 of the State of California, all parties are aware that the subject Property may be reassessed following Close of Escrow for real property tax purposes, and a supplemental tax bill may be issued following Close of Escrow. Any supplemental bill effective on or after Close of Escrow shall be the responsibility of Buyer.

5. Disbursements and Other Actions by Escrow Holder. Upon Close of Escrow, Escrow Holder shall promptly undertake all of the following actions:

- (a) Cause the Grant Deed to be properly recorded.
- (b) Disburse all funds deposited with Escrow Holder by Buyer in payment of the Purchase Price of the Property as follows:
  - (1) Deduct from such funds all items chargeable to the account of Seller pursuant to Paragraph 7.
  - (2) The remaining balance of funds due Seller shall be disbursed to Seller or to Seller's order promptly upon Close of Escrow.

LISBON VISTA HEIGHTS, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY

Lisbon Vista Heights, LLC

By: \_\_\_\_\_  
Cheryl R. Lee, CEO

Its: CEO "Seller"

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_



person or entity responsible for paying such deductible in the event of loss and whether or not the insurance coverage extends to the Residences;

3.4.5 A summary of the liability coverage policy for directors and officers of the LVH Development Project Association which sets forth the name of the insurer and the limits of the insurance;

LISBON VISTA HEIGHTS, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY

Lisbon Vista Heights, LLC

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

Cheryl R. Lee, CEO

Its: CEO "Seller"

- 3.4.6 A statement setting forth the amount of the LVH Development Project Association's current regular and special assessments and fees, as well as any assessments levied upon the Residence which are unpaid as of the date of this statement, including information on late charges, interest, and costs of collection which, as of the date of such statement are or may become a lien on the Residence; and
- 3.4.7 A statement setting forth any change in the LVH Development Project Association's current regular and special assessments and fees which have been approved by the LVH Development Project Association's Board of Directors but have not yet become due and payable as of the date of such statement;

Alternatively, if Buyer is purchasing before or shortly after the Association commences assessments and the Association has not yet prepared the documentation set forth above, Buyer shall be provided only with the estimated budget for the Association; and

3.5 A copy of the Final Subdivision Public Report covering the above referenced Residence.

**4. Association Approvals.** Buyer understands that the LVH Development Project Association's approval may be required in certain instances relating to Buyer's use of the Property. Buyer has reviewed the items specified in Paragraph 3 thoroughly in this regard.

I/We agree to the additional terms and conditions set forth above.

Buyer: \_\_\_\_\_

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

Buyer: \_\_\_\_\_

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

LISBON VISTA HEIGHTS, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY

Lisbon Vista Heights, LLC

By: \_\_\_\_\_  
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Its: CEO "Seller"

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

# Addendum No. 3 to Property Purchase Agreement, Joint Escrow Instructions and Deposit Receipt for Lisbon Vista Heights

## Disclosures

This Addendum No. 3 to Deposit Receipt, Offer to Purchase Property and Escrow Instructions is attached to and forms a part of the Deposit Receipt, Offer to Purchase Property and Escrow Instructions executed between the undersigned Buyer and Seller (the "Agreement"). The disclosures set forth herein are in addition to any disclosures set forth in the Agreement. Please carefully review the following disclosure items relating to the Residence and the LVH Development Project.

\_\_\_\_\_  
Buyer(s) Initials  
**No Promises Regarding Loan Availability and Interest Rates.** Buyer acknowledges that Seller has given Buyer no assurances that Buyer will qualify for financing of the Residence. Furthermore, Buyer is aware that the loan interest rate will be at the prevailing rate of interest at the Close of Escrow. Buyer specifically acknowledges that Seller has not guaranteed that Buyer will be receiving any specific rate of interest nor has Seller made any representations regarding any other terms of Buyer's loan.

\_\_\_\_\_  
Buyer(s) Initials  
**Move-In Date Subject to Change.** Buyer acknowledges that the LVH Development Projected move-in dates may not be met due to construction or other delays. Buyer shall take possible delays into consideration and make appropriate decisions and plans to protect Buyer's interests.

\_\_\_\_\_  
Buyer(s) Initials  
**No Promise of Future Value.** Buyer agrees that no representations have been made to Buyer regarding future prices or values. Seller reserves the right to adjust prices and terms according to market conditions. Buyer has been informed that Seller makes no representation with respect to either the appreciation of Buyer's Residence or any return on Buyer's investment.

\_\_\_\_\_  
Buyer(s) Initials  
**Supplemental Taxes.** Buyer is aware that the Residence Buyer is purchasing will be reassessed by the Tax Assessor immediately after the close of escrow, and Buyer may receive a supplemental tax bill. Seller shall have no obligation to pay supplemental taxes.

\_\_\_\_\_  
Buyer(s) Initials  
**No Promise Regarding Adjacent Views.** Buyer acknowledges that no representation has been made by Seller regarding any "view" from Buyer's Property or the LVH Development Project or that any existing "view" will exist and not be obstructed in the future. Buyer is aware that any existing "view" may be obstructed by future development, landscape growth or other public or private development and that this may have an impact on the value of the Property. Buyer further acknowledges that any view from the Property is not intended as part of the value of the Property.

\_\_\_\_\_  
Buyer(s) Initials  
**No Promise Regarding Adjacent Property.** Seller has not made any representation as to the traffic conditions or any future use or development of adjacent properties. Should Buyer desire any further information regarding the use or development of adjacent properties, Seller urges Buyer to contact the owners of adjacent property or the City of San Diego.

\_\_\_\_\_  
Buyer(s) Initials  
**Drainage.** Buyer agrees not to change the established drainage of the Property. Any such change may cause severe damage from water intrusion to the home being purchased, or neighboring homes or damage to slopes. Buyer shall be responsible for any such damage which occurs should Buyer change the established drainage to the Property except as otherwise permitted by the LVH Development Project Association pursuant to the LVH Development Project CC&R's and so long as the change is properly engineered.

\_\_\_\_\_  
Buyer(s) Initials  
**No Improvements or Storage Before Close of Escrow.** Buyer is aware that the Buyer may not begin construction activity, place personal property in or on the Property, or cause any floor or window covering to be installed prior to close of escrow without prior written approval from the Seller.

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

\_\_\_\_\_  
Buyer(s) Initials  
**Shrinkage Cracks in Concrete and Stucco; Stucco Staining.** Buyer is aware that, due to soil conditions and expansion, Agreement, and shrinkage of concrete, cracks will appear in concrete walkways, driveways, and slabs. Buyer is also aware that the Residence is wood frame and stucco. Because of the drying process and due to expansion and Agreement, cracks will also form in the stucco. In addition, staining of the stucco may occur over time from water run-off.

\_\_\_\_\_  
Buyer(s) Initials  
**Variations In Finishes and Construction.** Buyer is aware that, due to the nature of wood, variations in color, grains and texture will exist in cabinets. Buyer is aware that the color to be used in Buyer's Residence may vary from the colors provided in other Residences and that all lacquers and wood tend to yellow over time, especially when exposed to direct sunlight. Buyer is aware that both tile and grout may vary in consistency and that Seller is not warranting the consistency of the color. Buyer further acknowledges that grout may crack or change color due to numerous factors including sun, temperature, food or chemical reactions.

\_\_\_\_\_  
Buyer(s) Initials  
**Review of Association Documents.** Buyer has received and read the materials provided to Buyer under Paragraph 3 of Addendum No. 2 (Common Interest Subdivision).

\_\_\_\_\_  
Buyer(s) Initials  
**Parking Space Clearance.** Buyer has been informed of the parking provided with Buyer's Residence. Buyer acknowledges that it is Buyer's responsibility to verify that the standard height and depth of the Garage will provide adequate clearance and room for Buyer's vehicles.

\_\_\_\_\_  
Buyer(s) Initials  
**Moisture.** Buyer is aware that during severe weather conditions Buyer may experience minor leaks around the sliding glass doors, windows, and roof vents. Buyer is aware that moisture may result from landscape irrigation, heavy rain and/or soil placed against the foundation. Buyer acknowledges that such conditions may result during times of excessive moisture exposure.

\_\_\_\_\_  
Buyer(s) Initials  
**Easements and Title.** Buyer is aware that the LVH Development Project may be affected by easements located on the LVH Development Project. For example, these easements may include easements for electrical, cable television, telephone, gas, water and sewer, and other services and equipment. Such easements may be relocated or subject to change. Title to Buyer's Property shall be subject to all items of record as set forth in a title report which will be delivered to Buyer through escrow.

\_\_\_\_\_  
Buyer(s) Initials  
**Seller Has Not Given Legal or Tax Advice.** Buyer acknowledges that neither Seller nor any agent or employee of Seller has given Buyer any representation or advice concerning the legal consequences or tax consequences of entering into this Agreement or acquiring a Residence. Buyer shall contact Buyer's own legal and/or tax consultant for any such advice, including, but not limited to, whether and to what extent interest, taxes, special taxes or assessments may or may not be deductible expenses.

\_\_\_\_\_  
Buyer(s) Initials  
**Limited Warranty.** Buyer acknowledges and agrees to be bound by the Seller's limited warranty provided to Buyer as described in Section 14 of the Agreement.

\_\_\_\_\_ **Earthquake Potential.** Buyer is advised that this LVH Development Project is in Southern California which is prone to earthquakes. The Buyer is advised this LVH Development Project is not located in a "Earthquake Fault or Hazard Zone".

Buyer(s) Initials \_\_\_\_\_ Buyer is responsible to conduct Buyer's own investigation regarding the potential for earthquakes. Buyer may wish to obtain earthquake insurance or earthquake insurance may be required by Buyer's lender. Buyer is aware that Seller is not certain whether earthquake insurance is or will be available at reasonable cost or at all, whether it will be provided by a rated insurance company and whether the insurance will cover all damage which may result from an earthquake.

\_\_\_\_\_ **Insurance.** You must carry insurance covering all of your Residence; such insurance will not be carried by the LVH Development Project Association. Make sure that your insurance broker understands this and that you obtain personal contents coverage for your Residence and deck.

Buyer(s) Initials \_\_\_\_\_ **Schools.** The various school districts within which the LVH Development Project is located are described in your Final Subdivision Public Report. You are responsible for investigating all issues concerning schools.

Buyer(s) Initials \_\_\_\_\_ **Buyer's Sole Remedy Regarding Disclosures.** Buyer acknowledges and agrees that disclosures, representations, and other information about the LVH Development Project and vicinity may, in good faith, be properly provided by Seller after acceptance of Buyer's offer herein. Furthermore, Buyer acknowledges and agrees that Seller may, in good faith, supplement or modify its disclosures, representations, and other information to Buyer to correct, modify, or supplement Seller's previous disclosures, representations, and other information to Buyer. Buyer and Seller agree that, if Buyer timely disapproves, or is dissatisfied with, any good faith disclosure, representation, or other information provided by Seller, and if such correction, modification, or supplementation is objectively material to Buyer's decision to purchase, Buyer's sole remedy shall be to seek, prior to Close of Escrow and within three (3) days after receipt, of such original or revised disclosure(s), representation (s), or other information, the termination of this Agreement and the return of Buyer's Deposit. Buyer acknowledges that Seller's agreement to sell the Property is made in reliance upon Buyer's election and representation that Buyer will pursue no other claim, action, or remedy (e.g., a lawsuit for negligent misrepresentation or negligent failure to disclose) against Seller arising out of such good faith disclosures, provision of information, or representations. Should Buyer decide to close escrow, doing so shall conclusively evidence that Buyer did not deem the additional disclosure, representation, or other information to be material to Buyer, and that Buyer has waived any claim against Seller regarding such additional or corrected disclosure or representation.

\_\_\_\_\_ **No salesperson, employee or agent of Seller has the authority to make any representation to Buyer which contradicts or is inconsistent with the Information contained in the Agreement or this Addendum. Buyer certifies that Buyer has read, reviewed, fully understands, approves**

Buyer(s) Initials \_\_\_\_\_ **and accepts as a precondition to Buyer's purchase the information and disclosures contained in this Addendum. Buyer acknowledges that the facts disclosed in this Addendum are important but do not constitute a complete list of all facts which should be considered by Buyer. All other provisions of the Agreement shall remain in force and effect, and this Addendum is incorporated into and made part of the Agreement. This disclosure contains information which has a legal impact on your purchase of the Property. You are advised to have it reviewed by an attorney.**

I/We agree to the additional terms and conditions set forth above in this Property Purchase Agreement Joint Escrow Instructions and Deposit Receipt of Lisbon Vista Heights Addendum #3.

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

Buyer: \_\_\_\_\_

Buyer: \_\_\_\_\_

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

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

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

LISBON VISTA HEIGHTS, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY

Lisbon Vista Heights, LLC

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

Cheryl R. Lee, CEO

Its: CEO

“Seller”

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

## **Addendum No. 4 to Property Purchase Agreement, Joint Escrow Instructions and Deposit Receipt for Lisbon Vista Heights**

### **ARTICLE XIX ARBITRATION OF DISPUTES WITH DECLARANT**

**Section 19.1 Definitions.** For purposes of this **ARTICLE XIX**, the following terms shall have the following meanings:

- (a) **"Affiliated Agreementor"** shall mean and refer to each general Agreementor and Agreementor who, as of the time of sale of the portion of the Property that is the subject of a Dispute: (i) is in the business of building, developing, or constructing the Property for public purchase; and (ii) is a partner, member of, subsidiary of, or otherwise similarly affiliated with Declarant.
- (b) **"Claimant"** shall mean and refer to any party (including any Owner or the Association) who initiates a claim against a Development Party.
- (c) **"Development Party"** shall mean and refer to Declarant or any director, officer, partner, employee, subAgreementor or agent of Declarant or any Affiliated Agreementor.
- (d) **"Dispute"** shall mean and refer to a dispute or disagreement between a Claimant and a Development Party concerning the Property.

**Section 19.2 Agreement to Method of Resolving Disputes; Waiver of Right to Jury Trial.**

**DECLARANT, THE ASSOCIATION AND EACH OWNER (COLLECTIVELY THE "PARTIES") AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS ARTICLE XIX TO RESOLVE ALL DISPUTES AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES COVERED IN THIS ARTICLE XIX IN ANY OTHER MANNER. THE PARTIES ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS ARTICLE XIX, THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES TRIED BEFORE A JUDGE OR JURY, PURSUANT TO THE FEDERAL ARBITRATION ACT.**

**Section 19.3 Agreement to Arbitrate.** The Parties agree to resolve all Disputes that may arise between a Claimant and a Development Party exclusively through binding arbitration in the county in which the Property is located. This arbitration provision shall apply to Disputes of any kind or nature regardless of when the Dispute first arose or the nature of the relief sought; provided, however, the Parties may elect to resolve such Disputes through a small claims court proceeding.

**Section 19.4 No Trial by Judge or Jury.** By agreeing to resolve all Disputes through binding arbitration, the Parties each give up the right to have their respective claims and defenses decided by a judge or a jury. Instead, all claims and disputes will be decided by the Arbitrator.

**Section 19.5 Rules Applicable to All Cases.** The arbitration will be conducted in accordance with the commercial arbitration rules of the American Arbitration Association ("**AAA Rules**") then applicable to the claims presented, as supplemented by this **ARTICLE XIX**. The following supplemental rules shall apply to all arbitration proceedings respecting Disputes and shall govern in the event of a conflict between the rules set forth below and the AAA Rules.

- (a) **Qualifications of Arbitrators.** The arbitrator shall be neutral and impartial and either a retired judge or a member or former member of the California State Bar with at least 15 years' experience as a practicing lawyer.

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(b) Appointment of Arbitrator. The arbitrator to preside over the Dispute shall be selected in accordance with the AAA Rules, but no later than sixty (60) days after a notice of claim is filed.

(c) Expenses. All fees charged by the arbitrator shall be advanced by the Development Party. If the Development Party is the prevailing party in the arbitration, the arbitrator may, in his or her discretion and only to the extent permitted by law, direct the Claimant to reimburse the Development Party all or part of the arbitrator's fee advanced by such Development Party.

(d) Preliminary Procedures. If state or federal law requires the Parties to take steps or procedures before commencing an action in court, then the Parties must take such steps or follow such procedures, before commencing the arbitration. For example, any claims or disputes pursuant to California CIVIL CODE Sections 895 et. seq. as hereafter amended may be subject to the non-adversarial procedures set forth in California CIVIL CODE Sections 910 through 938, inclusive, prior to the initiation of any arbitration or small claims court proceeding.

(e) Participation by Other Parties. A Claimant and a Development Party, to the extent any such party is defending a claim in the arbitration, may, if it chooses, have all necessary and appropriate parties included as parties to the arbitration.

(f) Rules of Law. The arbitrator must follow California substantive law (including statutes of limitations) but strict conformity with the rules of evidence is not required, except that the arbitrator shall apply applicable law relating to privilege and work product. The arbitrator shall be authorized to provide all recognized remedies available at law or equity for any cause of action.

(g) Attorneys' Fees and Costs. Each party shall bear its own attorneys' fees and costs (including expert witness costs) in the arbitration.

**Section 19.6 Additional Rules Applicable to Certain Cases**. In any arbitration in which a claim of a Claimant or a Development Party exceeds \$250,000 in value, the following additional rules will supplement the AAA Rules and govern in the event of a conflict between the following rules and the rules set forth above, the AAA Rules, or both.

(a) Qualifications of Arbitrator. In addition to the requirements of Section 19.5(a), the arbitrator shall be a retired judge of the California Superior Court, a California Court of Appeal, or the California Supreme Court.

(b) Rules of Law. The California EVIDENCE CODE shall apply.

(c) Written Decision. Within thirty (30) days after the hearing is closed, the arbitrator must issue a written decision. If a party requests it, the arbitrator must issue a reasoned award.

**Section 19.7 Federal Arbitration Act**. The Parties acknowledge that because many of the materials and products incorporated into the home are manufactured in other states, the purchase of a Unit evidences a transaction involving interstate commerce and the Federal Arbitration Act (9 U.S.C. Sections 1, et seq.) now in effect and as it may be hereafter amended will govern the interpretation and enforcement of the arbitration provisions in this **ARTICLE XIX**.

**Section 19.8 AGREEMENT TO ARBITRATE DISPUTES AND WAIVER OF JURY TRIAL. THE PARTIES AGREE TO HAVE ANY DISPUTES DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT, AND THE**

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

**PARTIES ARE GIVING UP ANY RIGHTS A PARTY MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. FURTHERMORE, THE PARTIES ARE GIVING UP THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THIS ARTICLE XIX. IF**

**A PARTY REFUSES TO SUBMIT TO ARBITRATION, A PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT.**

**Section 19.9 Final and Binding Award.** The decision of the arbitrator shall be final and binding. A petition to confirm, vacate, modify, or correct an award may be filed in any court of competent jurisdiction in the county in which the Property is located, but the award may be vacated, modified, or corrected only as permitted by the Federal Arbitration Act.

**Section 19.10 Severability.** If the arbitrator or any court determines that any provision of this **ARTICLE XIX** is unenforceable for any reason, that provision shall be severed, and proceedings agreed to in this **ARTICLE XIX** shall be conducted under the remaining enforceable terms of this **ARTICLE XIX**.

**Section 19.11 Application; Conflicts.** This **ARTICLE XIX** shall apply only with respect to Disputes in which either: (a) Declarant or any director, officer, partner, employee, subAgreementor or agent of Declarant or an Affiliated Agreementor is a party, or (b) the Association or any director, officer, partner, employee, subAgreementor, or agent of the Association is a party. In the event of a conflict between this **ARTICLE XIX** and any other alternative dispute resolution procedures, this **ARTICLE XIX** shall prevail.

**Section 19.12 Third-Party Beneficiary; Affiliated Agreementor.** The Parties intend and agree that any entity that falls within the definition of "Affiliated Agreementor" is an intended third-party beneficiary of the provisions of this **ARTICLE XIX**.

**Section 19.13 Limitation on Amendment.** No amendment may be made to this **ARTICLE XIX** without the written approval of each Development Party and Claimant attached to the instrument of amendment.

**Section 19.14. Compliance with Section 2791.8 Dispute Resolution.** (a) In accordance with Section 2791.8 Dispute Resolution of Title 10 of the California Administrative Code, for resolution of a dispute of claim between a homeowners association and a subdivider shall, at a minimum, provide that the dispute or claim resolution process, proceeding, hearing or trial to be conducted in accordance with the following rules:

- (1) For the subdivider to advance the fees necessary to initiate the dispute or claim resolution process, with the costs and fees, including ongoing costs and fees, if any, to be paid as agreed by the parties and if they can't agree then the costs and fees are to be paid as determined by the person or persons presiding at the dispute or claim resolution process.
- (2) For a neutral or impartial person(s) to administer and preside over the claim or dispute resolution process.
- (3) For the appointment, or selection, as designation, or assignment of the person(s) to administer and preside over the claim or dispute resolution process within a specific period of time, which in no event shall be more than sixty (60) days from initiation of the claim or dispute resolution process or hearing. The person(s) appointed, selected, designated, or assigned to preside may be challenged for bias.
- (4) For the venue of the claim or dispute resolution process to be in the county where the subdivision is located unless the parties agree to some other location.

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

- (5) For the prompt and timely commencement of the claim or dispute resolution process. When the Agreement provisions provide for a specific type of claim or dispute resolution process, the process shall be deemed to be promptly and timely commenced if it is to be commenced in accordance with the rules applicable to that process, or if the rules don't specify a date by which the proceeding or hearing must commence, then to a date agreed upon by the parties, and if they cannot agree, a date determined by the person(s) presiding over the dispute resolution process.
  - (6) For the claim or dispute resolution process to be conducted in accordance with rules and procedures that are reasonable and fair to the parties.
  - (7) For the prompt and timely conclusion of the claim or dispute resolution process, including the issuance of any decision or ruling following the proceeding or hearing.
  - (8) For the person(s) presiding at the claim or dispute resolution process to be authorized to provide all recognized remedies available in law or equity for any cause of action that is the basis of the proceeding or hearing. The parties may authorize the limitation or prohibition of punitive damages.
- (b) A copy of the rules applicable to the claim or dispute resolution process shall be submitted as part of the application for a public report.
  - (c) If the claim or dispute resolution process provides or allows for a judicial remedy in accordance with the laws of this state, it shall be presumed that the proceeding or hearing satisfies the provisions of paragraph (a).

Date \_\_\_\_\_

**PROSPECTIVE BUYERS SIGNATURE**

**PROSPECTIVE BUYERS SIGNATURE**

LISBON VISTA HEIGHTS, LLC,  
A CALIFORNIA LIMITED LIABILITY COMPANY

Lisbon Vista Heights, LLC

By: \_\_\_\_\_  
Cheryl R. Lee, CEO

Its: CEO "Seller"

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_

**ACCEPTANCE BY ESCROW HOLDER**

The undersigned hereby agrees to (i) accept the instructions contained in the foregoing Deposit Receipt, Offer to Purchase and Escrow Instructions, (ii) act as the Escrow Holder under the Deposit Receipt, Offer to Purchase and Escrow Instructions for the fees therein described, and (iii) be bound by said instructions in the performance of its duties as Escrow Holder. The undersigned shall have no obligation, liability, or responsibility under any amendment to the Deposit Receipt, Offer to Purchase and Escrow Instructions unless and until the same shall be accepted by the undersigned in writing. This Agreement and Escrow Instructions are further supplemented by Escrow Holder's **"General Instructions"** attached hereto.

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

Escrow Holder: First American Title Company  
7676 Hazard Center Drive  
Suite 1100  
San Diego, CA 92108  
Telephone: 858.410.1304  
Facsimile: 866.351.6446  
E-Mail: acorral@firstam.com

By: \_\_\_\_\_  
Denise Monceaux Title:  
Certified Escrow Officer

California Financial Code Section 17403.4 Information:

Escrow License Name \_\_\_\_\_  
Name of Department \_\_\_\_\_  
issuing License or  
Authority under which  
Escrow Holder is operating \_\_\_\_\_

Buyer(s) Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_ Sales Initials \_\_\_\_\_