

TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Cosentino Signature Enterprises Ltd. LLC		12/28/2010	LIMITED LIABILITY COMPANY: DELAWARE

**RECEIVING PARTY DATA**

<b>Name:</b>	Vintage Wine Estates, Inc.
<b>Street Address:</b>	205 Concourse Blvd.
<b>City:</b>	Santa Rosa
<b>State/Country:</b>	CALIFORNIA
<b>Postal Code:</b>	95403
<b>Entity Type:</b>	CORPORATION: CALIFORNIA

**PROPERTY NUMBERS Total: 20**

Property Type	Number	Word Mark
Registration Number:	3217153	THE SCULPTOR
Registration Number:	3176534	M.COSENTINO
Registration Number:	3176533	M.COSENTINO
Registration Number:	3183185	OL' RED
Registration Number:	3132914	CRYSTAL VALLEY CELLARS
Registration Number:	3129891	EDIE
Registration Number:	3217127	M.COZ
Registration Number:	3129862	THE NOVELIST
Registration Number:	3180090	COSENTINO WINERY
Registration Number:	3138790	CIGARZIN
Registration Number:	3616067	LEGENDS
Registration Number:	3215036	FRANCESCA D'AMORE
Serial Number:	78565822	THE LEGENDS
Serial Number:	78830698	TENERO ROSA

OP \$515.00 3217153

**TRADEMARK**

Serial Number:	78830694	SCULPTOR
Serial Number:	78830680	FRANCESCA D'AMORE
Serial Number:	78716787	CE2V
Serial Number:	78715051	THE POET
Serial Number:	78710095	M. RED
Serial Number:	78295916	MED RED

**CORRESPONDENCE DATA**

Fax Number: (316)832-1264  
Phone: 316-847-4886  
Email: angie.gregory@lrco.com  
*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.*  
Correspondent Name: Angie Gregory  
Address Line 1: 2416 E. 37th St. N.  
Address Line 4: Wichita, KANSAS 67219

NAME OF SUBMITTER:	Angie Gregory
Signature:	/Angie Gregory/
Date:	01/18/2012

Total Attachments: 39  
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**PURCHASE AND SALE AGREEMENT**  
**AND JOINT ESCROW INSTRUCTIONS**

TO: **First American Title Insurance Company**  
**National Commercial Services**  
**777 S. Figueroa Street, 4th Floor**  
**Los Angeles, California 90017**  
**Attention: Barbara Laffer, Escrow Officer**  
**Telephone: (213) 271-1700**  
**Fax: (877) 805-5021**  
**Email: [blaffer@firstam.com](mailto:blaffer@firstam.com)**

DATE: **December 28, 2010**

ESCROW NO.: **NCS-466005-BL**

**MEMORANDUM OF TERMS**

Deposit delivered by Buyer to Seller Outside of Escrow .....	\$500,000.00
Cash Balance of Purchase Price to be Deposited in Escrow by Buyer.....	\$2,150,000.00
Balance of Purchase Price to be Evidenced by Buyer's Promissory Note \$6,900,000.00.....	\$6,900,000.00
TOTAL CONSIDERATION \$9,550,000.00 .....	\$9,550,000.00

**PURCHASE AND SALE AGREEMENT**  
**AND JOINT ESCROW INSTRUCTIONS**

This Purchase and Sale Agreement and Joint Escrow Instructions (the "Instructions" or the "Agreement"), dated as of December 28, 2010 (the "Effective Date"), are made by and between (1) PRICALCO, LLC, a New York limited liability company ("Seller"); and (2) Vintage Wine Estates, Inc., a California corporation ("Buyer"). When executed by Buyer and Seller (referred to collectively as the "Parties" and individually as a "Party"), these Instructions shall constitute a binding agreement between Buyer and Seller for the purchase and sale of the real property, improvements, and personal property described below (referred to collectively as the "Property") and escrow instructions to First American Title Insurance Company (the "Escrow Holder"), National Commercial Services, 777 S. Figueroa Street, 4th Floor, Los Angeles, CA 90017, Attention: Barbara Laffer, Escrow Officer, Telephone: (213) 271-1702, Fax: (877) 805-5021, Email: [blaffer@firstam.com](mailto:blaffer@firstam.com), in connection with the above-referenced escrow (the "Escrow"). This Agreement is executed by the Parties with reference to the following additional facts:

A. Seller (or its predecessor-in-interest) has previously made a loan in the original principal amount of Twelve Million and 00/100 Dollars (\$12,000,000.00) (the "Loan") to Cosentino Winery, LLC, a Delaware limited liability company ("Cosentino Winery"), and certain other co-borrowers in connection with certain real property commonly known as 7415 St. Helena Highway, St. Helena, County of Napa, California and more particularly described in Exhibit "A" attached to this Agreement (such real property, together with all improvements thereon, is referred to as the "Land and Improvements").

B. The Loan is evidenced by Borrower's Third Amended and Restated Promissory Note dated May 22, 2008 and is secured by, among other collateral, a Deed of Trust dated December 2, 2005 and recorded on December 6, 2005 as Instrument No. 2005-0049650 in the Official Records of Napa County (the "Official Records"), in the State of California (as previously amended, the "Security Instrument").

C. Seller has commenced non-judicial foreclosure proceedings against the Property (the "Foreclosure Proceedings") by recording a notice of default under the Security Instrument on or about August 5, 2010.

D. The Foreclosure Proceedings were interrupted by the filing of involuntary bankruptcy proceedings against Cosentino Winery and Cosentino Signature Enterprises Ltd., LLC, a Delaware limited liability company ("CSEL" and, together with Cosentino Winery, collectively, the "Debtors"), in the United States Bankruptcy Court, Northern District of California (the "Bankruptcy Court"), Case Nos. 10-14006 and 10-14008 (the "Bankruptcy Proceedings"). Seller has obtained relief from the automatic stay to allow the Foreclosure Proceedings to continue, pursuant to the Orders Granting Physicians Reciprocal Insurer's Motion for Relief from Stay Pursuant to 11 U.S.C. §362(d)(2), dated November 20, 2010.

E. In connection with the pending Foreclosure Proceedings, Seller has acquired the Property, or proposes to acquire the Property, pursuant to a trustee's sale of the Property under the Security Instrument, which trustee's sale is currently scheduled to be conducted on December 29, 2010 (such sale is referred to as the "Foreclosure Sale," and the date on which the Foreclosure Sale is actually conducted is referred to as the "Foreclosure Sale Date").

F. Seller and Buyer desire to enter into this Agreement to provide for Seller's sale and transfer of the Property to Buyer subsequent to Seller's acquisition of the Property in the Foreclosure Sale, all on the terms and conditions of this Agreement.

Therefore, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, on the terms and conditions set forth in this Agreement.

1. **Certain Definitions.** The following terms used in this Agreement shall have the following respective definitions:

1.1. **“Approved Exceptions”** means, collectively, (a) exception numbers #3 through #14, inclusive, and #20 of the Commitment for Title Insurance dated as of November 18, 2010 and issued by First American Title Insurance Company (the **“Title Company”**) under its Order Number T00112831 (the **“Title Report”**) that are hereby approved by Buyer; (b) all delinquent and all non-delinquent real property taxes and assessments affecting all or part of the Real Property; (c) all **“Survey Matters”** (as such term is defined in Section 2.4.2 below) that have been deemed to have been approved by Buyer; (d) the new deed of trust that is referenced in Section 2.3.2(b)(ii) below, which new deed of trust secures a loan by Seller to Buyer to finance a portion of the Purchase Price payable by Buyer to Seller for the Property; and (e) all exceptions to title that are caused or created by or attach through Buyer (excluding the New Deed of Trust) (collectively, **“Buyer Title Defects”**), including any deeds of trust, mortgages, liens, or judgments that arise or attach through Buyer or any mechanic’s liens arising out of any labor, materials, equipment, or services performed for or furnished at the request or instance of Buyer or any person acting under or with the authority of Buyer.

1.2. **“Deposit”** means Buyer’s deposit to be delivered to Seller outside of Escrow Holder pursuant to Section 2.2.1 below in the amount of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) in immediately available funds.

1.3. **“Grant Deed”** means the Grant Deed to be executed by Seller, as grantor, in favor of Buyer, as grantee, in the form of **Exhibit “B”** attached to this Agreement.

1.4. **“Person”** means any natural person and any partnership, limited liability company, corporation, trust, estate or other entity.

1.5. **“Property”** means, collectively, all of Seller’s right, title and interest in and to the following, in each case to the extent acquired by Seller at the Foreclosure Sale:

1.5.1. The real property described in **Exhibit “A”** attached hereto (the **“Land”**);

1.5.2. All buildings, structures, and improvements located on the Land (collectively, the **“Improvements”**);

1.5.3. All easements, rights of way, and other rights appurtenant to the Land or the Improvements (collectively, the **“Appurtenant Real Property Rights”**);

1.5.4. All crops of the Debtors, including winery grapes, growing on the Land (collectively, the **“Crops”**);

1.5.5. All finished and library cased goods and bulk wine inventory of the Debtors, including such inventory stored at the Real Property and the locations listed in **Exhibit “C”** attached to this Agreement (collectively, the **“Inventory”**);

**1.5.6.** All equipment and furniture of the Debtors, including production, tasting room and other winery equipment located at the Real Property (collectively, the "Equipment"); and

**1.5.7.** All trademarks, label rights, goodwill, trade styles, trade names and customer lists of the Debtors, and all agreements of the Debtors, to the extent such agreements are assignable (collectively, the "Intangible Personal Property").

The Land and Improvements, Crops, and Appurtenant Real Property Rights are referred to collectively as the "Real Property." The Inventory, Equipment and Intangible Personal Property are referred to collectively as the "Personal Property."

Notwithstanding anything to the contrary contained in this Agreement, the Property shall not include (a) any "Accounts" (as such term is defined in the California Commercial Code (the "Code")) or other proceeds of inventory arising out of or relating to sales of Debtors' inventory prior to the Foreclosure Sale, or (b) for the avoidance of doubt, equipment or fixtures that are owned by third party lessors.

**1.6.** "Purchase Price" means Nine Million Five Hundred Fifty Thousand and 00/100 Dollars (\$9,550,000.00).

**1.7.** "Scheduled Closing Date" means (a) the first (1st) Business Day after the Foreclosure Sale Date; or (b) such other date as Buyer and Seller, in their sole and absolute discretion, may mutually agree upon in writing as the date on which the Close of Escrow is to occur.

## **2. Purchase and Sale; Opening of Escrow; Payment of Purchase Price.**

**2.1. Agreement to Buy and Sell Property.** Seller agrees to sell and convey the Property to Buyer, and Buyer agrees to acquire and purchase the Property from Seller, on the terms and conditions of this Agreement.

**2.2. Opening of Escrow; Deposit.** No later than 3:00 p.m. Pacific Standard Time ("PST"), on the same Business Day as the Foreclosure Sale Date, Buyer and Seller shall open the Escrow with Escrow Holder at its offices located at 777 S. Figueroa Street, 4th Floor, Los Angeles, California 90017, Attention: Barbara Laffer, Escrow Officer, by each faxing, emailing or otherwise delivering to the Escrow Holder an executed counterpart of this Agreement. The delivery to Escrow Holder of counterparts of this Agreement executed by Buyer and Seller, respectively, and Buyer's delivery of the Deposit to Seller shall constitute the opening of Escrow (the "Opening of Escrow") and authorization to Escrow Holder to act in accordance with the terms of this Agreement. Buyer has previously delivered the Deposit to Seller outside of Escrow, and Escrow Holder is authorized to credit Buyer for the Deposit at the Close of Escrow. If Buyer fails to deliver a signed counterpart of this Agreement to Escrow Holder in the manner and within the period described in this Section 2.2, this Agreement shall

automatically terminate, and Seller shall have no further obligations hereunder (but shall retain all claims for Buyer's breach of this Agreement). Except as otherwise expressly set forth herein, the entire Deposit shall be nonrefundable to Buyer, and the Deposit shall be applied to the Purchase Price at the Close of Escrow.

**2.3. Purchase Price.** The Purchase Price for the Property shall be payable as follows:

**2.3.1. Deposit.** The sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00), representing the Deposit, shall be paid by Buyer's delivery of such Deposit to Seller outside of Escrow, and Seller hereby acknowledges receipt of the Deposit from Buyer;

**2.3.2. Balance of Purchase Price.** Not later than 2:00 p.m. PST on the same Business Day as the Foreclosure Sale Date, Buyer shall deliver the following to Escrow Holder, representing the Purchase Price, less the Deposit previously paid by Buyer directly to Seller:

(a) **Cash Balance.** Buyer shall deposit with the Escrow Holder an amount equal to Two Million One Hundred Fifty Thousand and 00/100 Dollars (\$2,150,000.00) in immediately available funds (the "Cash Balance"); and

(b) **Balance of Purchase Price Evidenced by Promissory Note; Other New Loan Documents.** Buyer shall deliver to Escrow Holder the following documents evidencing and securing a loan to be made by Seller to Buyer in connection with Buyer's payment of the Purchase Price (collectively, the "New Loan Documents"):

(i) A Promissory Note Secured by Deed of Trust in the original principal face amount of Six Million Nine Hundred Thousand and 00/100 Dollars (\$6,900,000.00) (the "Note"), duly executed by Buyer, as maker, in favor of Seller, as holder, which Note shall evidence the Purchase Price, less the Deposit and Cash Balance, and shall be in the form and substance of Exhibit "D" attached to this Agreement;

(ii) A Deed of Trust, Fixture Filing, Assignment of Rents and Leases, and Security Agreement and Rider thereto (collectively, the "New Deed of Trust") executed by Buyer, as trustor, in favor of Seller, as beneficiary, which New Deed of Trust shall be in the form and substance of Exhibit "E" attached to this Agreement;

(iii) An Environmental Indemnity Agreement (the "Indemnity Agreement") duly executed by Buyer, as indemnitor, in favor of Seller and certain other parties, as indemnitees, which Indemnity Agreement shall be in the form and substance of Exhibit "F" attached to this Agreement;

(iv) An Agreement to Provide Insurance (the "Agreement to Provide Insurance") duly executed by Buyer in favor of Seller, which Agreement to Provide Insurance shall be in the form and substance of Exhibit "G" attached to this Agreement; and



(v) A Corporate Resolution and Encumbrance Certificate (the "Certificate") duly executed by the Secretary and a second officer of Buyer, which Certificate shall be in the form and substance of Exhibit "H" attached to this Agreement.

## **2.4. Title Insurance.**

**2.4.1. Issuance of CLTA Title Insurance.** As more particularly set forth in Section 4.3 below, the Close of Escrow is conditioned on the Title Company's issuance of a CLTA owner's policy of title insurance (the "Title Policy") for the Land to Buyer that complies with the requirements of such Section.

**2.4.2. ALTA Coverage.** Buyer, at its option, may elect to obtain any title insurance endorsements or an ALTA extended coverage owner's policy of title insurance (an "ALTA Policy") for Buyer at the Close of Escrow; provided, however, that (a) the cost of any such endorsements and the additional premium for such ALTA Policy over and above the cost of the Title Policy will be at Buyer's sole cost and expense; and (b) notwithstanding anything to the contrary contained in this Agreement, Buyer's election to obtain an ALTA Policy will not delay the Close of Escrow or constitute a condition to the Close of Escrow, and the failure of Buyer to obtain an ALTA Policy for any reason shall not be deemed a failure of any condition to the Close of Escrow. If Buyer elects to obtain an ALTA Policy, Buyer shall conclusively be deemed to have approved as Approved Exceptions all matters that are or would be disclosed by an inspection or by an ALTA Survey of the Land (collectively, the "Survey Matters"), and Buyer shall accept all such Survey Matters as exceptions in any ALTA Policy that Buyer may elect to obtain at the Close of Escrow, including a blanket general exception for all such Survey Matters resulting from the absence of a Survey acceptable to the Title Company.

## **2.5. Inspections.**

**2.5.1. Inspection.** Buyer acknowledges and agrees that it has approved the present physical condition of the Property, and that Buyer's obligations under this Agreement are not conditioned on any further soil, geological, engineering or environmental investigations, tests or reports, physical inventory counts, or any other physical or other inspections of the Property of any kind.

**2.5.2. No Liens.** Buyer agrees to keep the Property free from any mechanic's or other liens arising out of (a) any entry on the Property by Buyer or any of its agents or contractors prior to the Close of Escrow; or (b) any activities by Buyer or any of its agents or contractors on or about the Property prior to the Close of Escrow. If any such lien at any time shall be recorded, Buyer, at its sole cost and expense, shall cause the same to be discharged of record within five (5) days thereafter by satisfying the same or, if Buyer, in its discretion and in good faith determines that such lien should be contested, by recording a surety bond complying with applicable law that is sufficient to release the Property from such lien. This Section shall survive the Closing or termination of this Agreement.

**2.5.3. Repairs.** Buyer, at its sole cost and expense, shall promptly clean up and repair the Property, in whatever manner necessary, after Buyer's or Buyer's agents' or contractors' entry thereon so that the Property shall be returned to the same condition that existed prior to such entry. Notwithstanding anything to the contrary contained in this Agreement, Buyer shall not conduct any invasive or destructive testing or investigation of the Property prior to the Close of Escrow without Seller's prior written consent, which consent may be withheld by Seller in its sole and absolute discretion. This Section shall survive the Closing or termination of this Agreement.

**2.6. Indemnity.** Buyer shall indemnify, defend and hold harmless Seller and its affiliates, subsidiaries, parent company, and advisors, and each of them, and each of their respective members, principals, beneficiaries, partners, officers, directors, shareholders, employees, agents, successors and assigns (Seller and all of the other foregoing Persons are referred to collectively as the "Seller Indemnitees") from and against any and all claims, demands, causes of action, suits, settlements, judgments, losses, damages, injuries, liabilities, penalties, enforcement actions, fines, taxes, liens, encumbrances, costs or expenses (including, without limitation, reasonable attorneys' fees, litigation, arbitration and/or administrative proceeding costs, and expert and consultant fees), whether direct or indirect, known or unknown (all of the foregoing are referred to collectively as the "Claims and Liabilities") resulting in (a) any injuries to Persons (including death) or damage to property (real or personal) due to the negligence or intentional act of the Buyer or its agents or contractors in connection with any entry by Buyer onto the Property prior to the Closing; or (b) any mechanics', workers' or other liens against the Property by reason of or relating to the work or activities conducted on the Property by Buyer or Buyer's agents and contractors prior to Closing. This Section shall survive the Closing or termination of this Agreement.

**2.7. Allocation of Purchase Price.** The Purchase Price for the Property shall be allocated among the various classes of real and personal property included in the Property in accordance with the terms set forth in Exhibit "I" attached to this Agreement.

### **3. Certain Personal Property Matters.**

#### **3.1. Inventory.**

**3.1.1. Inventory Schedule.** Attached as Exhibit "L" hereto is a listing of the Inventory, itemized by type (i.e., cased goods and bulk wine), which listing also states the estimated amount of producers' liens to which the Inventory is subject (the "Inventory Schedule"). The data for the Inventory Schedule was provided by the Debtors and Buyer has been given access to the Inventory in order to verify the accuracy and completeness of the Inventory Schedule to Buyer's satisfaction. Without investigation, Seller represents that it has no actual knowledge that the Inventory Schedule is inaccurate or incomplete in any material respect. Except as set forth in the preceding sentence, Seller makes no representations or warranties with respect to the Inventory or the Inventory Schedule, and nothing contained in this Section is intended to modify or limit the provisions of Section 8 of this Agreement.

**3.1.2. Growers' Liens.** Buyer acknowledges that it is acquiring the Inventory subject to any and all existing producers' or growers' liens (collectively, the "Growers' Liens"), but only to the extent that the Growers' Liens were valid and enforceable immediately prior to giving effect to the Foreclosure Sale (and without prejudice to Buyer's right to object to, dispute or otherwise challenge the validity, enforceability, extent or amount allegedly secured by any Growers' Lien). Buyer shall use its commercially reasonable efforts to satisfy, or obtain a settlement and release of, all such Growers' Liens at or prior to Closing, it being agreed that the failure of Buyer to satisfy, or obtain a settlement and release of, any such Growers' Liens at or prior to Closing, shall not affect either Party's obligation to consummate the Closing. Buyer will furnish copies of all documents evidencing such satisfactions, or settlements and releases, promptly upon receipt thereof. The inclusion of this provision in this Agreement shall not constitute an admission by either party that any Growers' Liens are valid and enforceable.

Without limiting the generality of the foregoing, reference is made to the Letter Agreement (the "Valentine Agreement"), between Seller, as assignee of Physicians Reciprocal Insurers, and Valentine Vineyards ("Valentine"). Buyer hereby acknowledges that Buyer is acquiring the Wine (as defined in the Valentine Agreement) subject to the Growers' Lien of Valentine, to the extent that such Growers' Lien was valid and enforceable immediately prior to giving effect to the Foreclosure Sale (and without prejudice to Buyer's right to object to, dispute or otherwise challenge any of Valentine's assertions described in the Valentine Agreement).

**3.2. Trademarks.** Attached as Exhibit "M" hereto is a listing of the trademarks currently registered with the United States Patent and Trademark Office in the name of CSEL (the "Registered Trademarks"). Promptly following Buyer's request at or after Closing, Seller shall execute and deliver one or more recordable assignments of the Registered Trademarks prepared by Buyer and in form and substance reasonably satisfactory to Seller.

**3.3. Equipment.** Buyer acknowledges that it is acquiring certain Equipment and fixtures subject to any and all existing liens in favor of equipment lenders or lessors (collectively, the "Equipment Liens"), but only to the extent that the Equipment Liens are valid, enforceable and will not be discharged pursuant to the Foreclosure Sale as a result of being subordinate to the liens of Seller, as lender to the Debtors. Buyer shall use its commercially reasonable efforts to satisfy, or obtain a settlement and release of, all such Equipment Liens at or prior to Closing, it being agreed that the failure of Buyer to satisfy, or obtain a settlement and release of, any such Equipment Liens at or prior to Closing, shall not affect either Party's obligation to consummate the Closing. Buyer will furnish copies of all documents evidencing such satisfactions, or settlements and releases, promptly upon receipt thereof.

**3.4. No Limitation.** The inclusion of this Section 3 and Section 6.7.4 in this Agreement shall not impair, limit or otherwise modify any of the disclaimers set forth in Section 8 or the Bill of Sale.

**4. Conditions to Closing.** The respective obligations of the Parties to consummate the transactions contemplated by this Agreement are contingent upon the following, which conditions shall be for the benefit of Buyer and Seller, respectively, as indicated below:

**4.1. Representations and Warranties.**

**4.1.1. Seller's Representations.** As a condition to Buyer's obligations only, Seller's representations and warranties contained herein shall be true and correct in all material respects as of the Effective Date of this Agreement and as of the Close of Escrow.

**4.1.2. Buyer's Representations.** As a condition to Seller's obligations only, Buyer's representations and warranties contained herein shall be true and correct in all material respects as of the Effective Date of this Agreement and as of the Close of Escrow.

**4.2. Performance of Covenants.**

**4.2.1. Seller's Covenants.** As a condition to Buyer's obligations only, as of the Closing, Seller shall have performed its obligations under this Agreement within the time required by this Agreement (subject to any applicable notice and cure provision contained in this Agreement) and all deliveries to be made at Closing by Seller have been tendered.

**4.2.2. Buyer's Covenants.** As a condition to Seller's obligations only, as of the Closing, Buyer shall have performed its obligations under this Agreement within the time required by this Agreement (subject to any applicable notice and cure provision contained in this Agreement) and all deliveries to be made at Closing by Buyer have been tendered.

**4.2.3. Satisfaction of Covenant Condition.** If neither Party gives the Escrow Holder written notice of the other Party's default under this Agreement or of the other Party's breach of any warranty or representation under this Agreement, then for purposes of this Section 4.2 and Section 4.1 above only, the conditions contained in this Section 4.2 and in Section 4.1 above shall be deemed to have been satisfied, and the Escrow Holder shall proceed with the Closing as though such conditions have been satisfied.

**4.3. Buyer's Title Insurance Policy.** As a condition to Buyer's obligations only, the Title Company shall be committed to issue to Buyer the Title Policy in the amount of that portion of the Purchase Price that is allocated to the Real Property as set forth on Exhibit "I" insuring that the Land is vested in the name of Buyer, subject only to the Approved Exceptions.

**4.4. Seller's ALTA Loan Policy.** As a condition to Seller's obligations only, the Title Company shall be committed to issue to the Seller a 2006 ALTA Loan Policy of Title Insurance (Adopted 6/17/06) (the "ALTA Loan Policy") that (a) is issued to Seller, as the insured; (b) is written with liability in the principal amount of the Note; (c) insures that fee title to the Land is vested in Buyer; (d) insures that the New Deed of Trust constitutes a first priority lien against the Land, subject only to second installment real property taxes and assessments for the 2010-2011 real property tax fiscal year and exception numbers #3 through #14, inclusive, and #20 of the Title Report; and (e) includes CLTA Endorsement Nos. 100, 116, 116.7 and such

other endorsements as Seller may reasonably require. Buyer agrees not to cause or permit any Buyer Title Defects to affect the Real Property or to appear as exceptions in the ALTA Loan Policy.

**4.5. Occurrence of Foreclosure Sale.** As a condition to each of the Party's respective obligations, Seller shall have acquired the Property at the Foreclosure Sale on or before January 10, 2011. As set forth in the Break-Up Fee Letter (as defined below), if any Break-Up Fee Event (as defined therein) occurs, then Buyer shall be entitled to receive the Break-Up Fee (as defined therein).

**5. Representations and Warranties.**

**5.1. Representations and Warranties By Seller.** Seller warrants and represents to Buyer as of the Effective Date and as of the Close of Escrow as follows:

(a) **Authority.** Seller has the full power and authority to enter into this Agreement and the other documents contemplated by this Agreement to which Seller is a party (the "Other Seller Documents") and to perform all its obligations hereunder and thereunder. This Agreement and the Other Seller Documents have been duly executed and delivered by Seller, and this Agreement and the Other Seller Documents constitute the legal, valid and binding obligation of Seller enforceable in accordance with their terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting buyer's, seller's or creditors' rights generally. The execution, delivery and performance of this Agreement and of the Other Seller Documents (i) are within Seller's limited liability company powers, have been duly authorized by all necessary limited liability company action on the part of Seller, are not in contravention of the terms of Seller's organizational documents; (ii) will not conflict with or violate any applicable law, or any judgment, order or decree of any governmental authority to which Seller has been named as a party; (iii) will not require the consent of any governmental authority or any other Person, except for such consents that have been duly obtained and which are in full force and effect; and (iv) will not conflict with, nor result in any breach of, any of the provisions of any material agreement, charter document or other instrument to which Seller is a party or by which it or its property may be bound; provided, however, that Seller makes no representation or warranty with respect to compliance with any laws governing any Growers' Liens in connection with the sale of the Inventory contemplated by this Agreement.

**5.2. Representations and Warranties By Buyer.** Buyer warrants and represents to Seller as of the Effective Date and as of the Close of Escrow as follows:

(a) **Authority.** Buyer has full power and authority to enter into this Agreement and the other documents contemplated by this Agreement to which Buyer is a party (the "Other Buyer Documents") and to perform all its obligations hereunder and thereunder. This Agreement and the Other Buyer Documents have been duly executed and delivered by Buyer, and this Agreement and the Other Buyer Documents constitute the legal, valid and binding obligation of such Buyer enforceable in accordance with their terms, except as such

enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting buyer's, seller's, or creditors' rights generally. The execution, delivery and performance of this Agreement and of the Other Buyer Documents (i) are within Buyer's corporate powers, have been duly authorized by all necessary corporate action on the part of Buyer, are not in contravention of the terms of Buyer's articles of incorporation or bylaws; (ii) will not conflict with or violate any applicable law, or any judgment, order or decree of any governmental authority to which Buyer has been named as a party; (iii) will not require the consent of any governmental authority or any other Person, except for such consents that have been duly obtained and which are in full force and effect; and (iv) will not conflict with, nor result in any breach of any of, the provisions of any material agreement, charter document or other instrument to which Buyer is a party or by which it or its property may be bound.

(b) **No Consents.** No consent of any other Person and no consent, approval, authorization or other action by or filing with any governmental authorities is required in connection with the execution, delivery and performance of Buyer's obligations under this Agreement or the Other Buyer Documents.

(c) **New Loan Documents.** All representations and warranties of Buyer set forth in the New Loan Documents are incorporated into this Agreement by this reference as if more fully set forth herein.

(d) **Adequate Funding.** Buyer has sufficient funds presently available to enable Buyer fully to perform its obligations under this Agreement.

(e) **California Resale Certificate.** Buyer has provided Seller with a California Resale Certificate (the "**Resale Certificate**"). The Resale Certificate is true and accurate in all respects, including the Buyer's California Reseller's Permit number provided therein, and the Resale Certificate has been duly executed by an officer of Buyer.

**5.3. Survival of Representations and Warranties.** All representations and warranties of the respective Parties contained in this Agreement shall be true at the time of the Parties' execution of this Agreement and as of the Close of Escrow and shall survive the Closing.

## **6. Closing.**

**6.1. Escrow.** Upon request by Escrow Holder, Buyer and Seller shall promptly execute and deliver to Escrow Holder such additional escrow instructions as may be reasonably required by Escrow Holder to consummate the transactions contemplated by this Agreement and that are not inconsistent with this Agreement. Escrow Holder's standard general instructions are attached hereto as **Exhibit "J"** and are incorporated herein by this reference. Buyer and Seller shall be bound by such general instructions, except that if there is a conflict between such general instructions and the remaining provisions of this Agreement, the remaining provisions of this Agreement shall govern and control. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN SUCH GENERAL INSTRUCTIONS, TIME IS OF THE ESSENCE OF EACH PROVISION OF THIS AGREEMENT.

**6.2. Closing.** The “Closing” or “Close of Escrow” means the exchange of money and documents as described herein, and will be deemed to have occurred when Seller’s Grant Deed to Buyer has been recorded by Escrow Holder in the Official Records in accordance with the terms and conditions of this Agreement. The Closing will occur on the Scheduled Closing Date or on such other date as the Parties may agree upon in writing. As used in this Agreement, “Closing Date” shall mean the date on which the Closing occurs.

**6.3. Seller’s Deliveries.** By not later than 3 p.m. PST on the same Business Day as the Foreclosure Sale Date, Seller shall deliver to the Escrow Holder for delivery to Buyer through Escrow the following documents, each of which shall be duly executed and acknowledged, as applicable, by the Seller:

**6.3.1.** A Trustee’s Deed Upon Sale executed by T.D. Service Company (the “Trustee”), as trustee under the Security Instrument, transferring all right, title and interest of the Trustee in the Property to Seller, as the purchaser at the Foreclosure Sale (the “Trustee’s Deed”);

**6.3.2.** The original recordable Grant Deed transferring the Real Property to Buyer;

**6.3.3.** An affidavit or qualifying statement which satisfies the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder;

**6.3.4.** A Real Estate Withholding Certificate pursuant to the applicable provisions of the California Revenue and Taxation Code, completed to indicate no withholding of taxes is required;

**6.3.5.** A Bill of Sale in the form of Exhibit “K” attached to this Agreement (the “Bill of Sale”) transferring all of Seller’s right, title and interest in and to the Personal Property to Buyer; and

**6.3.6.** All other documents, instruments , and agreements required by this Agreement and all other standard and customary documents related to the transfer of the Property that are reasonably required by the Title Company or Escrow Holder and that have not previously been delivered by Seller to Escrow Holder.

**6.4. Buyer’s Deliveries.** By not later than 3 p.m. PST on the same Business Day as the Foreclosure Sale Date, Buyer shall deliver to the Escrow Holder for delivery to Seller through Escrow the following items and documents, which documents shall be duly executed and acknowledged, as applicable, by the Buyer:

**6.4.1.** A Bill of Sale;

**6.4.2.** The Note, New Deed of Trust, and other New Loan Documents;

**6.4.3.** Immediately available federal funds as are required to be paid by Buyer under this Agreement in an amount equal to the Cash Balance;

**6.4.4.** All other monies, documents, instruments, and agreements required by this Agreement and all other standard and customary documents related to the transfer of the Property as that are reasonably required by the Title Company or Escrow Holder that have not previously been delivered by Buyer to Escrow Holder;

**6.4.5.** The Resale Certificate.

**6.5. Close of Escrow.** Provided that all conditions to Closing set forth in this Agreement have been satisfied or, as to any condition not satisfied, waived by the Party or Parties intended to be benefited thereby, on the Closing Date, Escrow Holder shall conduct the Closing by recording or distributing the following documents and funds in the following order and manner:

**6.5.1.** Record the Trustee's Deed in the Official Records;

**6.5.2.** Record the Grant Deed in the Official Records after calculating and inserting the amount for the documentary transfer tax in the Grant Deed;

**6.5.3.** Record the New Deed of Trust in the Official Records;

**6.5.4.** Deliver the Cash Balance (without debit or deduction of any kind, except as set forth in Section 6.8) to Seller as directed by Seller pursuant to written wire transfer instructions delivered by Seller to Escrow Holder;

**6.5.5.** Deliver to Seller the Note and other New Loan Documents executed by Buyer (excluding the New Deed of Trust to be recorded in the Official Records);

**6.5.6.** Deliver the remaining funds to Seller or Buyer, as the case may be, after taking into account all items chargeable to the account of Buyer pursuant to Sections 6.7 and 6.9 below; and

**6.5.7.** Deliver one complete set of signed counterparts of the Bill of Sale to Buyer and Seller, respectively, and deliver to Buyer and Seller, respectively, such other documents that have been deposited in Escrow for delivery to the applicable Parties at Closing pursuant to this Agreement.

**6.6. Termination of Escrow.** If the Closing does not take place on or before the Scheduled Closing Date or such later or other date as the Parties may agree upon in writing, then the Escrow shall terminate, and all funds and documents deposited into Escrow shall be returned to the respective Parties; provided, however, that each of the Parties reserves and retains all rights and remedies arising out of a breach of this Agreement by the other Party, subject to the other terms and limitations contained in this Agreement, including those set forth in Section 7 below. If the Closing does not take place on or before the Scheduled Closing Date or such later



or other date as the Parties may agree upon in writing, for any reason other than an Event of Default of Buyer, then Seller shall promptly return the Deposit to Buyer.

**6.7. Utilities; Sales Tax; Liens.**

**6.7.1. Taxes.** All delinquent real property taxes and assessments affecting the Property and all real property taxes and assessments affecting the Real Property for the current fiscal tax year (excluding only the second installment real property taxes for the 2010-2011 real property tax fiscal year) (collectively, the "Real Property Taxes") shall be paid by Buyer as of the Closing Date through Escrow, and Seller shall have no liability or obligation of any kind to pay all or part of the Real Property Taxes. Buyer shall acquire the Personal Property subject to, among other things, all applicable delinquent and non-delinquent personal property taxes and assessments, and Seller shall have no liability or obligation of any kind to pay any or all taxes affecting all or part of the Personal Property.

**6.7.2. Utilities and Other Expenses.** Seller shall notify all water, gas, electric and other utility companies, if any, servicing the Property under accounts in the name of Seller or Physicians Reciprocal Insurers (collectively, the "Utility Companies") of the sale of the Property to Buyer and shall request that all Utility Companies send Seller a bill or statement for all unpaid amounts owing to the Utility Companies by Seller or Physicians Reciprocal Insurers for the period from the date Seller obtained relief from stay in the Bankruptcy Proceedings to the Close of Escrow (referred to collectively as "Pre-Closing Period Utility Bills"), which unpaid amounts shall be paid by Seller at Closing in the case of Pre-Closing Period Utility Bills received prior to Closing, or promptly following the receipt thereof in the case of Pre-Closing Period Utility Bills received after Closing. Buyer shall notify all Utility Companies servicing the Property that as of the Close of Escrow, Buyer will own the Property and that all unpaid utility bills for any period after the Close of Escrow (referred to collectively as "Post-Closing Period Utility Bills") are to be sent to Buyer and shall be the sole responsibility and obligation of Buyer. All other expenses of operating the Property that relate to the period from the date Seller obtained relief from stay in the Bankruptcy Proceedings to the Close of Escrow shall be paid by Seller (it being further agreed that Seller shall be responsible for all unpaid inventory storage fees for the Lodi, California (Weibel Storage warehouse) and American Canyon, California (Western Wine Services warehouse) third party warehouse locations that relate to the period prior to the Close of Escrow). All other expenses of operating the Property that relate to the period from and after the Close of Escrow shall be paid by Buyer. If, following the Close of Escrow, either Party (the "Receiving Party") receives a statement or statements for any utility bills or a statement or statements for any other expenses of operating the Property that are attributable to the period for which the other Party (the "Other Party") is responsible as set forth in this Section 6.7.2 ("Other Operating Bills"), the Receiving Party shall promptly deliver such statement or statements to the Other party, and such Other Party shall promptly pay such statement or statements outside of Escrow within ten (10) Business Days after such Other Party's receipt of such statement or statements from Seller. Buyer shall indemnify, defend and hold harmless Seller and all other Seller Indemnitees from and against any and all Claims and Liabilities (including reasonable attorneys' fees, costs, and expenses) arising out of any and all Post-Closing Utility Bills and any and all Other Operating Bills that are attributable to the period

for which Buyer is responsible as set forth in this Section 6.7.2. Seller shall indemnify, defend and hold harmless Buyer and its affiliates, subsidiaries, parent company, and advisors, and each of them, and each of their respective members, principals, beneficiaries, partners, officers, directors, shareholders, employees, agents, successors and assigns (Buyer and all of the other foregoing Persons are referred to collectively as the “Buyer Indemnitees”), from and against any and all Claims and Liabilities (including reasonable attorneys’ fees, costs, and expenses) arising out of any and all Pre-Closing Utility Bills and any and all Other Operating Bills that are attributable to the period for which Seller is responsible as set forth in this Section 6.7.2. This Section shall survive the Closing.

**6.7.3. Sales Tax.** Buyer shall be solely responsible for the payment of all sales tax imposed by the State of California and any other governmental authority by reason of the sale of the Property to Buyer (collectively, the “Sales Tax”). Buyer shall pay such Sales Tax to Escrow Holder prior to the Close of Escrow in accordance with this Agreement, and Escrow Holder shall cause all Sales Tax payments received from Buyer to be transmitted to the appropriate taxing authority at the Close of Escrow. Buyer shall indemnify, defend and hold harmless Seller and all other Seller Indemnitees from and against all Claims and Liabilities (including reasonable attorneys’ fees, costs, and expenses) arising out of any Sales Tax payable in connection with the transactions contemplated by this Agreement. This Section shall survive the Closing. For purposes of clarity, Buyer shall not be responsible for any Sales Tax or other transfer taxes imposed by the State of California or any other governmental authority by reason of Seller’s acquisition of the Property in the Foreclosure Sale.

**6.7.4. Certain Liens.** Buyer shall acquire the Personal Property subject to the Growers’ Liens and Equipment Liens referred to in Section 3. Seller shall have no liability or obligation of any kind to pay any or all obligations secured by, or allegedly secured by, such Growers’ Liens or Equipment Liens affecting all or part of the Personal Property. Buyer shall indemnify, defend and hold harmless Seller and all other Seller Indemnitees from and against (a) all Claims and Liabilities (including reasonable attorneys’ fees, costs, and expenses) arising out of Buyer’s failure to satisfy, or obtain a settlement and release of, any obligations secured by such Growers’ Liens and Equipment Liens, and (b) all Claims and Liabilities (including reasonable attorneys’ fees, costs, and expenses) arising out of any assertion by any vendor of the Debtors that any obligations owed to such vendor are secured by, or allegedly secured by, a Growers’ Lien or Equipment Lien (including, without limitation, all Claims and Liabilities arising out of any assertion by any such vendor that its liens, or alleged liens, attach to all or any portion of the Purchase Price), even if such assertion is determined to be without merit. This Section shall survive the Closing.

**6.8. Seller’s Closing Costs.** Seller shall have no obligation or responsibility for the payment of any or all of the closing costs, fees and expenses for the transactions contemplated by this Agreement (collectively, the “Closing Costs”), and no debits or deductions of any kind shall be made to the Cash Balance payable to Seller at the Close of Escrow; provided, however, that Seller shall be responsible for the amounts attributed to Seller pursuant to Section 6.7.2 and one-half of the Escrow Holder’s fees, and such amounts shall be deducted from the Cash Balance payable to Seller at the Close of Escrow if not previously paid by Seller.

**6.9. Buyer's Closing Costs.** Except as set forth in Section 6.12, Buyer shall pay all Closing Costs of every kind and nature, including (a) the cost of obtaining the standard coverage Title Policy in the amount of the Purchase Price; (b) the cost of any additional premiums or charges with respect to an ALTA Policy, if any, requested by Buyer over and above the cost of the Title Policy, including any additional cost of obtaining any endorsements to the Title Policy or ALTA Policy, as applicable, required by Buyer; (c) the cost of recording the Grant Deed, the Trustee's Deed, and all other recordable documents; (d) all documentary transfer taxes payable in connection with the recordation of the Grant Deed or any other recordable document; (e) the premium for the ALTA Loan Policy (including all endorsements to such policy); (f) all Real Property Taxes in accordance with Section 6.7.1 above; (g) all other recording fees and charges and any other closing costs customarily charged to buyers or sellers for document preparation, recording documents, and miscellaneous items; and (h) all other miscellaneous closing costs customarily charged to buyers and sellers in the county in which the Land is located. Notwithstanding the foregoing, Buyer shall only be responsible for one-half of the Escrow Holder's fees. This Section 6.9 and Section 6.8 above shall survive the Closing.

**6.10. No Commissions.** Buyer and Seller each represent to each other that neither Party is using the services of any real estate broker or person that may claim a commission or finder's fee with respect to this transaction. In the event of any Claims and Liabilities for a broker's commission, finder's fee or other similar form of compensation by any third Person in connection with the negotiation or execution of this Agreement or the transactions contemplated by this Agreement, Seller shall indemnify, hold harmless and defend Buyer from and against all such Claims and Liabilities (including reasonable attorneys' fees, costs and expenses) if and to the extent that such Claims and Liabilities are based on any agreement made by Seller, and Buyer shall indemnify, hold harmless and defend Seller from and against all such Claims and Liabilities (including reasonable attorneys' fees, costs, and expenses) (including all claims by Buyer's Broker for commissions for Buyer's acquisition of the Property) if and to the extent that such Claims and Liabilities are based upon any agreement made by Buyer. The provisions of this Section shall survive the Closing.

**6.11. Access.** Promptly following the Close of Escrow, Seller shall deliver to Buyer outside of Escrow all keys, access codes and security access cards pertaining to the Real Property that are in Seller's possession.

**6.12. Parties to Bear Own Expenses.** Each of the Parties shall pay all costs and expenses (including attorneys' fees) incurred by them in negotiating and preparing this Agreement and in effectuating the transactions contemplated by this Agreement, subject to Section 10.13 below.

**6.13. Material Damage or Condemnation.**

**6.13.1. Material Adverse Effect or Condemnation.** If, after the Opening of Escrow, there shall occur a material adverse effect on all or a portion of the Property resulting from any material physical loss, damage or destruction which results in an adverse financial impact of at least \$250,000 to the Property, other than as a result of any act or omission of Buyer

or its representatives (a "Material Adverse Effect"), then Buyer shall have the right to terminate this Agreement by giving written notice of termination to Seller and Escrow Holder within three (3) Business Days after Buyer first learns of such occurrence (any in any event prior to the Close of Escrow) and, upon such termination, neither Seller or Buyer shall thereafter have any obligation to each other, except for any obligations of the respective Parties that expressly survive the termination of this Agreement and except as otherwise expressly provided in Section 6.13.2 below. In the alternative, in the event of a Material Adverse Effect, Buyer may elect to complete the transaction on the terms set forth in this Agreement and, in such event, Buyer shall receive a full assignment from Seller of all insurance proceeds, if any, payable in connection with such Material Adverse Effect (other than proceeds expended prior to Closing in restoration and repair of the Property by Seller). In the event any portion of the Property is taken by condemnation or eminent domain or there is any actual or threatened condemnation or eminent domain action affecting any direct or indirect access to the Property prior to the Closing Date, such matters shall be deemed to constitute a Material Adverse Effect for purposes of this Section 6.13. The phrase "taking by eminent domain" includes any notices of taking or commencement of proceedings under eminent domain power.

**6.13.2. Termination by Buyer.** If Buyer elects to terminate this Agreement as a result of a Material Adverse Effect pursuant to Section 6.13.1 above, then (a) Buyer and Seller shall promptly execute and deliver to Escrow Holder such documents as Escrow Holder may reasonably require to evidence such termination; (b) Escrow Holder shall return all documents previously delivered to Escrow by Buyer and Seller, respectively; (c) Escrow Holder shall return to Buyer all funds held in Escrow which were previously deposited in Escrow by Buyer, less one-half of Escrow Holder's termination fees and one-half of the Title Company's cancellation fees (the remaining half of Escrow Holder's termination fees and the remaining half of the Title Company's cancellation fees being the responsibility of Seller); (d) Seller shall return the Deposit to Buyer; (e) Buyer shall return to Seller all documents delivered to Buyer by Seller relating to the Property; and (f) the respective obligations of Buyer and Seller under this Agreement shall terminate, and this Agreement shall be of no further force or effect, except as otherwise expressly set forth in this Agreement.

## **7. Default.**

### **7.1. Buyer's Default.**

**7.1.1. Event of Default by Buyer.** The occurrence of any one or more of the following events shall constitute an "Event of Default" by Buyer under this Agreement:

(a) Any representation or warranty made by Buyer in this Agreement, any Other Buyer Documents, or any related agreement or in any certificate, document or financial or other statement furnished at any time in connection herewith or therewith shall prove to have been misleading in any material respect on the date when made or deemed to have been made by Buyer; or

(b) If Buyer fails, for any reason other than Seller's default hereunder

or the failure of a condition precedent to Buyer's obligation to perform hereunder, to meet, comply with or perform any covenant, agreement or obligation on its part required within the time limits and in the manner required in this Agreement; provided, however, no Event of Default by Buyer shall be deemed to have occurred unless and until Seller has given Buyer written notice thereof, describing the nature of the default in reasonable detail, and Buyer has failed to cure such default within three (3) days after receipt of such notice; provided further, however, that notwithstanding anything to the contrary contained in this Section, the cure period contained in this Section shall not apply to Buyer's failure to consummate the purchase of the Property on or before the Scheduled Closing Date in accordance with the terms and conditions of this Agreement, including any failure by Buyer to deliver the funds and documents described in Section 6.4 on or before the Scheduled Closing Date in accordance with the terms of this Agreement.

Notwithstanding anything to the contrary contained in this Agreement, and without limiting any of the other terms of this Section 7.1, if a Buyer Event of Default has occurred, in no event and under no circumstance shall Buyer be liable or responsible to Seller for, and Seller waives all rights to recover from Buyer, punitive or exemplary damages, damages for lost profits (including any and all amounts that might otherwise be recoverable by Seller under California Civil Code Section 3343(a)(4)), and all other consequential or other damages of any kind arising out of such default; provided, however, that nothing contained in this paragraph shall impair, limit or otherwise modify Seller's rights under Section 7.1.2. The terms of this Section 7.1 shall survive the Close of Escrow and shall not be merged with the Grant Deed.

**7.1.2. LIQUIDATED DAMAGES. IF THE CLOSING FAILS TO OCCUR BY REASON OF AN EVENT OF DEFAULT BY BUYER UNDER THE TERMS OF THIS AGREEMENT, BUYER SHALL BE RESPONSIBLE FOR ALL CANCELLATION CHARGES REQUIRED TO BE PAID TO ESCROW HOLDER AND THE TITLE COMPANY AND ANY ESCROW CHARGES. IN ADDITION, THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES SHALL TERMINATE AND THE DEPOSIT IN THE AMOUNT OF \$500,000.00 (THE "LIQUIDATED DAMAGES AMOUNT") SHALL BE RETAINED BY SELLER. BUYER AND SELLER AGREE THAT SELLER'S DAMAGES WHICH WOULD RESULT FROM BUYER'S FAILURE TO CONSUMMATE THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT ARE IMPRACTICABLE AND EXTREMELY DIFFICULT TO ASCERTAIN. THE LIQUIDATED DAMAGES AMOUNT SHALL BE DEEMED LIQUIDATED DAMAGES FOR BUYER'S FAILURE TO CONSUMMATE THE PURCHASE OF THE PROPERTY AS SELLER'S SOLE AND EXCLUSIVE REMEDY AGAINST BUYER FOR SUCH BREACH, WHICH SUM SHALL BE PRESUMED TO BE A REASONABLE ESTIMATE OF THE AMOUNT OF ACTUAL DAMAGES SUSTAINED BY SELLER BY REASON OF BUYER'S BREACH OF ITS OBLIGATION TO PURCHASE THE PROPERTY PURSUANT TO THIS AGREEMENT. THE PAYMENT OF THE LIQUIDATED DAMAGES AMOUNT AS LIQUIDATED DAMAGES FOR THE BREACH OF BUYER'S OBLIGATION TO**

CONSUMMATE THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THE PARTIES HAVE SET FORTH THEIR INITIALS BELOW TO INDICATE THEIR AGREEMENT WITH THE LIQUIDATED DAMAGES PROVISION CONTAINED IN THIS SECTION.

Buyer's Initials AM

Seller's Initials \_\_\_\_\_

**7.1.3. Failure of Condition Regarding Issuance of ALTA Loan Policy.** If the sale of the Property fails to close on or before the Scheduled Closing Date as a result of the failure of the condition for Seller's benefit set forth in Section 4.4 above regarding issuance of the ALTA Loan Policy to Seller, and provided that (i) the Title Company's inability to issue the ALTA Loan Policy is not the result of any Buyer Title Defects; and (ii) Seller does not waive such failure of a condition in written notice to Buyer and Escrow Holder within one (1) Business Day after the Scheduled Closing Date, then Seller's sole and exclusive remedy shall be to terminate this Agreement by giving written notice of termination to Buyer and Escrow Holder ("Seller's Termination Notice"), and in the event that Seller gives the Seller's Termination Notice, (a) this Agreement and Escrow shall terminate; (b) Buyer and Seller shall promptly execute and deliver to Escrow Holder such documents as Escrow Holder may reasonably require to evidence such termination; (c) Escrow Holder shall return all documents previously delivered to Escrow by Buyer and Seller, respectively; (d) Escrow Holder shall return to Buyer all funds held in Escrow which were previously deposited in Escrow by Buyer; (e) Seller shall return the Deposit to Buyer; (f) Buyer and Seller shall each be responsible for one-half of (i) all cancellation charges required to be paid to Escrow Holder and Title Company and (ii) any Escrow charges; (g) Buyer shall return to Seller all documents delivered to Buyer by Seller relating to the Property; and (g) the respective obligations of Buyer and Seller under this Agreement shall terminate, and this Agreement shall be of no further force or effect, except as otherwise expressly set forth in this Agreement.

**7.2. Seller's Default.**

**7.2.1. Event of Default by Seller.** The occurrence of any one or more of the following events shall constitute a "Event of Default" by Seller under this Agreement:

(a) Any representation or warranty made by Seller in this Agreement or any Other Seller Documents shall prove to have been misleading in any material respect on the date when made or deemed to have been made by Seller; or

(b) If Seller fails, for any reason other than Buyer's default hereunder or the failure of a condition precedent to Seller's obligation to perform hereunder, to perform any covenant, agreement or obligation on its part required within the time limits and in the manner required in this Agreement; provided, however, no such Event of Default by Seller shall be deemed to have occurred unless and until Buyer has given Seller written notice thereof,

CONSUMMATE THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THE PARTIES HAVE SET FORTH THEIR INITIALS BELOW TO INDICATE THEIR AGREEMENT WITH THE LIQUIDATED DAMAGES PROVISION CONTAINED IN THIS SECTION.

Buyer's Initials \_\_\_\_\_

Seller's Initials JS

**7.1.3. Failure of Condition Regarding Issuance of ATLA Loan Policy.** If the sale of the Property fails to close on or before the Scheduled Closing Date as a result of the failure of the condition for Seller's benefit set forth in Section 4.4 above regarding issuance of the ALTA Loan Policy to Seller, and provided that (i) the Title Company's inability to issue the ALTA Loan Policy is not the result of any Buyer Title Defects; and (ii) Seller does not waive such failure of a condition in written notice to Buyer and Escrow Holder within one (1) Business Day after the Scheduled Closing Date, then Seller's sole and exclusive remedy shall be to terminate this Agreement by giving written notice of termination to Buyer and Escrow Holder ("Seller's Termination Notice"), and in the event that Seller gives the Seller's Termination Notice, (a) this Agreement and Escrow shall terminate; (b) Buyer and Seller shall promptly execute and deliver to Escrow Holder such documents as Escrow Holder may reasonably require to evidence such termination; (c) Escrow Holder shall return all documents previously delivered to Escrow by Buyer and Seller, respectively; (d) Escrow Holder shall return to Buyer all funds held in Escrow which were previously deposited in Escrow by Buyer; (e) Seller shall return the Deposit to Buyer; (f) Buyer and Seller shall each be responsible for one-half of (i) all cancellation charges required to be paid to Escrow Holder and Title Company and (ii) any Escrow charges; (g) Buyer shall return to Seller all documents delivered to Buyer by Seller relating to the Property; and (g) the respective obligations of Buyer and Seller under this Agreement shall terminate, and this Agreement shall be of no further force or effect, except as otherwise expressly set forth in this Agreement.

**7.2. Seller's Default.**

**7.2.1. Event of Default by Seller.** The occurrence of any one or more of the following events shall constitute a "Event of Default" by Seller under this Agreement:

(a) Any representation or warranty made by Seller in this Agreement or any Other Seller Documents shall prove to have been misleading in any material respect on the date when made or deemed to have been made by Seller; or

(b) If Seller fails, for any reason other than Buyer's default hereunder or the failure of a condition precedent to Seller's obligation to perform hereunder, to perform any covenant, agreement or obligation on its part required within the time limits and in the manner required in this Agreement; provided, however, no such Event of Default by Seller shall be deemed to have occurred unless and until Buyer has given Seller written notice thereof,

describing the nature of the default in reasonable detail, and Seller has failed to cure such default within three (3) days after receipt of such notice; provided further, however, that notwithstanding anything to the contrary contained in this Section, the cure period contained in this Section shall not apply with respect to Seller's failure to consummate the sale of the Property on or before the Scheduled Closing Date in accordance with the terms and conditions of this Agreement, including any failure by Seller to deliver the documents described in Section 6.3 on or before the Scheduled Closing Date in accordance with the terms of this Agreement.

For the avoidance of doubt, without limiting the second sentence of Section 4.5, if Seller does not acquire the Property at the Foreclosure Sale, the same shall not constitute a Seller Event of Default.

**7.2.2. Buyer's Remedies.** If (i) the sale of the Property to Buyer fails to close on or before the Scheduled Closing Date as a result of an Event of Default by Seller under Section 7.2.1 (a "Seller Event of Default"), and Buyer does not waive such Seller Event of Default in written notice to Seller and Escrow Holder within one (1) Business Day after the Scheduled Closing Date; or (ii) the sale of the Property fails to close on or before the Scheduled Closing Date as a result of the failure of a condition for Buyer's benefit set forth in Section 4 above, and Buyer does not waive such failure of a condition in written notice to Seller and Escrow Holder within one (1) Business Day after the Scheduled Closing Date, then Buyer's exclusive remedies shall be to do the following:

(a) **Buyer's Termination of Agreement.** Terminate this Agreement by giving written notice of termination to Seller and Escrow Holder ("Buyer's Termination Notice") and obtain a return of the Deposit previously paid to Seller. In the event that Buyer gives the Buyer Termination Notice, then (i) Buyer and Seller shall promptly execute and deliver to Escrow Holder such documents as Escrow Holder may reasonably require to evidence such termination; (ii) Escrow Holder shall return all documents previously delivered to Escrow by Buyer and Seller, respectively; (iii) Escrow Holder shall return to Buyer all funds held in Escrow which were previously deposited in Escrow by Buyer, less one-half of the Escrow Holder's termination fees and one-half of the Title Company's cancellation fees (the remaining half of Escrow Holder's termination fees and the remaining half of the Title Company's cancellation fees being the responsibility of Seller), except that Seller shall be responsible for all cancellation charges required to be paid to Escrow Holder and Title Company in the event that such termination is based on a Seller Event of Default; (iv) Seller shall return the Deposit to Buyer; (v) Buyer shall return to Seller all documents delivered to Buyer by Seller relating to the Property; and (vi) the respective obligations of Buyer and Seller under this Agreement shall terminate, and this Agreement shall be of no further force or effect, except as otherwise expressly set forth in this Agreement.

(b) **Break-Up Fee.** To the extent that Buyer is entitled to the Break-Up Fee or the Limited Expense Reimbursement under (and as defined in) the letter agreement, dated as of the date hereof, between Buyer and Seller (the "Break-Up Fee Letter"), commence an action for recovery of the Break-Up Fee or the Limited Expense Reimbursement, which



action may include recovery of such incidental out-of-pocket damages as may be lawfully awarded in such action (“Incidental Damages”).

For the avoidance of doubt, under no circumstance shall Seller be liable or responsible to Buyer for specific performance of this Agreement, and Buyer waives all rights to sue for specific performance of this Agreement.

Notwithstanding anything to the contrary contained in this Agreement, and without limiting any of the other terms of this Section 7.2, if a Seller Event of Default has occurred, in no event and under no circumstance shall Seller be liable or responsible to Buyer for, and Buyer waives all rights to recover from Seller, punitive or exemplary damages, damages for lost profits (including any and all amounts that might otherwise be recoverable by Buyer under California Civil Code Section 3343(a)(4)), and all other consequential or other damages of any kind arising out of such default, excluding, however, any Incidental Damages that may be recovered in an action under Section 7.2.2(b) above. The terms of this Section 7.2 shall survive the Close of Escrow and shall not be merged with the Grant Deed.

**8. “AS IS” PURCHASE BY BUYER; NO WARRANTIES OR REPRESENTATIONS BY SELLER.** EXCEPT FOR SUCH REPRESENTATIONS AND WARRANTIES AS MAY BE EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE OTHER SELLER DOCUMENTS (SUCH SELLER REPRESENTATIONS AND WARRANTIES ARE REFERRED TO COLLECTIVELY AS THE “SELLER CONTRACT REPRESENTATIONS AND WARRANTIES”), BUYER ACKNOWLEDGES AND AGREES THAT (A) BUYER IS PURCHASING THE PROPERTY IN ITS “AS IS, WHERE IS” CONDITION, “WITH ALL FAULTS,” SOLELY IN RELIANCE ON BUYER’S OWN INDEPENDENT INVESTIGATION, ANALYSIS AND EVALUATION OF THE PROPERTY AND ALL OTHER ASPECTS OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT; (B) NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, HAVE BEEN MADE BY SELLER, SELLER’S AGENTS, OR ANY OTHER PERSON ACTING FOR OR ON BEHALF OF SELLER REGARDING THE PROPERTY OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING REPRESENTATIONS OR WARRANTIES REGARDING SELLER’S TITLE TO THE PROPERTY, THE EXISTENCE OF LIENS, CLAIMS OR OTHER ENCUMBRANCES WITH RESPECT TO THE PROPERTY, THE STRUCTURAL INTEGRITY OF ANY IMPROVEMENTS ON THE LAND, THE CONFORMITY OF THE IMPROVEMENTS TO ANY PLANS OR SPECIFICATIONS FOR THE PROPERTY THAT MAY BE PROVIDED TO BUYER, THE CONFORMITY OF THE PROPERTY TO APPLICABLE ZONING OR BUILDING CODE REQUIREMENTS, THE EXISTENCE OF SOIL INSTABILITY, ENVIRONMENTAL CONTAMINATION ON, UNDER, IN OR ABOUT THE PROPERTY, PAST SOIL REPAIRS, SUSCEPTIBILITY TO LANDSLIDES, SUFFICIENCY OF SHORING OR FOUNDATIONS, SUFFICIENCY OF DRAINAGE, OR ANY OTHER MATTER AFFECTING ALL OR PART OF THE PROPERTY; (C) ALL INFORMATION WHATSOEVER, WHETHER WRITTEN OR ORAL, WITHOUT EXCEPTION, PERTAINING TO THE PROPERTY (INCLUDING ALL RECORDS AND OTHER DOCUMENTS PERTAINING TO THE PERSONAL PROPERTY (INCLUDING THE

INVENTORY SCHEDULE AND LISTINGS OF EQUIPMENT), THE USE AND OCCUPANCY OF THE PROPERTY, THE COSTS AND EXPENSES OF MAINTENANCE OF THE PROPERTY, AND ANY AND ALL OTHER MATTERS CONCERNING THE CONDITION, SUITABILITY, INTEGRITY, MARKETABILITY, COMPLIANCE WITH LAW, OR OTHER ATTRIBUTES OR ASPECTS OF THE PROPERTY) HAS BEEN FURNISHED BY SELLER SOLELY AS A COURTESY AND ACCOMMODATION, AND SELLER HAS NEITHER VERIFIED THE ACCURACY OF SUCH INFORMATION NOR THE QUALIFICATIONS OF THE PERSON OR PERSONS PREPARING SUCH INFORMATION, AND SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT THERETO; (D) BUYER ASSUMES ANY AND ALL RISKS AND LIABILITIES, NO MATTER HOW ARISING, FROM ANY RELIANCE THAT BUYER PLACES ON ANY INFORMATION PROVIDED TO BUYER BY SELLER IN CONNECTION WITH BUYER'S PURCHASE OF THE PROPERTY; AND (E) BUYER ASSUMES ALL RISKS AND LIABILITIES WITH RESPECT TO ALL ATTRIBUTES AND CONDITIONS OF THE PROPERTY, INCLUDING THE LAND AND ANY IMPROVEMENTS, AND FROM AND AFTER THE CLOSE OF ESCROW, BUYER EXPRESSLY ASSUMES ALL RISKS AND LIABILITIES FOR ANY DAMAGE OR LOSS AFFECTING ALL OR PART OF THE PROPERTY. THE TERMS OF THIS SECTION SHALL SUPERSEDE ANY OTHER INCONSISTENT PROVISIONS RELATING TO THE SUBJECT MATTER OF THIS SECTION AND SHALL SURVIVE THE CLOSE OF ESCROW. ALL DISCLAIMERS WITH RESPECT TO THE PERSONAL PROPERTY SET FORTH IN THE BILL OF SALE ARE INCORPORATED INTO THIS AGREEMENT BY THIS REFERENCE AS IF MORE FULLY SET FORTH HEREIN. EXCEPT FOR THE SELLER CONTRACT REPRESENTATIONS AND WARRANTIES, AND WITHOUT LIMITING THE GENERALITY OF THIS SECTION OR ANY OTHER PROVISION OF THIS AGREEMENT, BUYER ACKNOWLEDGES AND AGREES THAT:

**8.1. PHYSICAL INSPECTION.** AS OF THE EFFECTIVE DATE, BUYER HAS CONDUCTED ITS OWN INDEPENDENT INSPECTION, INVESTIGATION, ANALYSIS AND EVALUATION OF THE PROPERTY AND HAS DETERMINED SOLELY IN RELIANCE THEREON THAT THE PHYSICAL CONDITION AND OTHER ATTRIBUTES OF THE PROPERTY ARE ACCEPTABLE TO BUYER.

**8.2. REVIEW OF RECORDS.** AS OF THE EFFECTIVE DATE, BUYER HAS HAD ACCESS TO AND HAS CONDUCTED ITS OWN INDEPENDENT INSPECTION, INVESTIGATION, ANALYSIS AND EVALUATION OF ALL INSTRUMENTS, RECORDS AND DOCUMENTS WHICH BUYER DEEMS TO BE APPROPRIATE OR ADVISABLE TO REVIEW IN CONNECTION WITH BUYER'S PURCHASE OF THE PROPERTY AND THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING THOSE RELATING TO ALL ZONING REGULATIONS AND OTHER GOVERNMENTAL REQUIREMENTS, SITE AND PHYSICAL CONDITIONS, TITLE MATTERS, AND ALL OTHER MATTERS AFFECTING THE USE, OCCUPANCY, VALUE AND CONDITION OF THE PROPERTY, AND BUYER HAS DETERMINED SOLELY IN RELIANCE THEREON THAT THE INFORMATION AND

DATA CONTAINED THEREIN OR EVIDENCED THEREBY IS SATISFACTORY TO BUYER.

**8.3. OTHER INVESTIGATION.** AS OF THE EFFECTIVE DATE, BUYER HAS CONDUCTED ITS OWN INDEPENDENT INSPECTION, INVESTIGATION, ANALYSIS AND EVALUATION OF ALL OTHER ASPECTS OF THE PROPERTY AND THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, AND BUYER IS RELYING ENTIRELY ON BUYER'S OWN INDEPENDENT INSPECTIONS, INVESTIGATIONS, ANALYSES, AND EVALUATIONS AND ON THE ADVICE OF BUYER'S CONSULTANTS OR ADVISORS IN ENTERING INTO THIS AGREEMENT AND CONSUMMATING THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

**8.4. NO RECOURSE.** BUYER SHALL HAVE NO RECOURSE TO SELLER EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE BREAK-UP FEE LETTER.

**9. Hazardous Materials; Release.**

**9.1. Inspection.** Buyer acknowledges that as of the Effective Date, Buyer has conducted such physical inspections of the Property as Buyer deems necessary in order to determine the presence or absence of any substance, product, waste or other material which is listed, regulated, or addressed pursuant to any existing or future federal, state, or local law dealing with hazardous or toxic waste, substances or materials, including toxic mold, lead based paint, asbestos, and asbestos-containing materials (referred to collectively as a "Hazardous Substance") in, on, under or about the Property.

**9.2. Hazardous Substance Occurrence.** For purposes of this Agreement, the following matters and occurrences are referred to individually as a "Hazardous Substance Occurrence" and collectively as "Hazardous Substances Occurrences": (a) the use, storage, generation, production, treatment, disposal, handling or existence of any Hazardous Substance in, on, under, or about the Property; (b) the release, discharge, or transport or existence of any Hazardous Substance onto or from the Property, including contamination of any surrounding property or any natural resources (including groundwater); (c) the violation of any Hazardous Substance laws; or (d) any repair, cleanup, remediation, removal, closure, or decontamination activity relating to any Hazardous Substance in, on, under or about the Property, including any preparation for any such activity, whether or not such activity is undertaken or required as a result of any requirement of any governmental authority.

**9.3. Release.** If the Parties proceed to the Close of Escrow, then:

(a) **Release of Claims.** Effective only as of the Close of Escrow, Buyer, for itself and on behalf of its affiliates, subsidiaries, and parent company, and on behalf of each of their respective officers, directors, shareholders, partners, employees, agents, successors, and assigns (such persons and entities other than Buyer are referred to collectively as the "Buyer")

Releasers”), releases and discharges Seller and all other Seller Indemnitees (Seller and such other Seller Indemnities are referred to collectively as the “Released Parties”), and each of them, from any and all of the following: (i) all Claims and Liabilities, whether or not now known, suspected or anticipated, which Buyer ever had, now has, or which may hereafter accrue directly or indirectly arising out of or in any manner relating to any Hazardous Substance Occurrence; and (ii) all Claims and Liabilities, whether or not now known, suspected or anticipated, which Buyer ever had, now has, or which may hereafter accrue directly or indirectly arising out of or in any manner relating to the condition of all or part of the Property.

(b) **Waiver.** With respect to all Claims and Liabilities being released by Buyer under Section 9.3(a) above, Buyer, for itself and on behalf of all Buyer Releasers, expressly waives any and all rights under Section 1542 of the California Civil Code and any and all rights under any similar statute, rule or regulation of any state or territory of the United States, and any and all rights under any similar statute, rule or regulation of the United States or any of its agencies. Section 1542 provides as follows:

“Section 1542. Certain claims not affected by general release. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

(c) **Discovery of Unknown or Different Facts.** Buyer acknowledges and agrees that the facts with respect to which this Agreement is executed may hereafter be found to be different from the facts now believed by Buyer to be true, and Buyer expressly accepts and assumes the risk of such possible differences and agrees that the release contained in this Section 9.3 shall be and remain effective notwithstanding such differences in facts.

(d) **Indemnification.** The terms and provisions of the Indemnity Agreement and the Rider to New Deed of Trust (Environmental Compliance) are incorporated into this Agreement by this reference as if more fully set forth herein.

## 10. **Miscellaneous.**

10.1. **Definition of Business Day.** For purposes of this Agreement, “Business Day” means any day other than Saturday or Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in Napa County, California.

10.2. **Successors and Assigns.** Subject to the restrictions on assignment contained in Section 10.3 below, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective legal representatives, successors and assigns.

10.3. **Assignment.** This Agreement may be assigned by Buyer only with Seller’s prior written consent, which consent may be withheld in Seller’s sole and absolute discretion. No assignment by Buyer that is permitted or approved by Seller pursuant to this

Section shall in any way release or relieve Buyer from any of its obligations under this Agreement, and following such assignment Buyer shall remain liable for the payment and performance of such obligations. Any assignment or purported assignment of this Agreement by Buyer in violation of this Section shall be null and void and shall be of no force or effect.

**10.4. Severability.** If any provision of this Agreement shall be held by any court of competent jurisdiction to be unlawful, voidable, void, or unenforceable for any reason, such provision shall be deemed to be severable from and shall in no way affect the validity or enforceability of the remaining provisions of this Agreement.

**10.5. Entire Understanding.** This Agreement, together with the documents contemplated by this Agreement (including the Break-Up Fee Letter), contain the entire agreement concerning the subject matter of this Agreement and such documents and supersede all prior and contemporaneous negotiations, agreements, statements, understandings, terms, conditions, representations and warranties, whether oral or written, between Buyer and Seller concerning the subject matter of this Agreement and such documents, including the letter agreement dated November 23, 2010 between Seller's predecessor-in-interest, Physicians Reciprocal Insurers, and Buyer, as amended (including the term sheet attached thereto).

**10.6. Amendments.** This Agreement may be modified only by written agreement signed by Buyer and Seller.

**10.7. California Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to its otherwise applicable conflicts of laws provisions. Each of the Parties consents to personal jurisdiction by the courts of the State of California and agrees that service of process on each Party may be effected by any means authorized by California law.

**10.8. Waiver.** Except as otherwise expressly provided in this Agreement, no waiver by Buyer or Seller of any of the terms or conditions of this Agreement or any of their respective rights hereunder shall be effective unless such waiver is in writing and signed by the Party charged with the waiver. The waiver by one Party of performance of any covenant, condition or promise shall not invalidate this Agreement, nor shall it be considered to be a waiver by it of any other covenant, condition or promise. The waiver by either or both Parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

**10.9. Notices.** Notices required or permitted pursuant to this Agreement shall be sent to the following addresses:

If to Seller:  
PRICALCO, LLC  
c/o Physicians Reciprocal Insurers  
1800 Northern Boulevard  
Roslyn, New York 11576

Attention: Richard Barrow, Chief Financial Officer  
Phone: 516-277-4004  
Fax: 516-365-0502

with a copy to:

Joseph J. Anania Jr.  
JEMA Consulting LLC  
45 Leland Road  
Colts Neck, NJ 07722  
Phone: 732-863-0900  
Fax: 732-863-0910

and

Mathew S. Rotenberg  
Blank Rome LLP  
One Logan Square, 130 North 18th Street  
Philadelphia, PA 19103-6998  
Phone: (215) 569.5662  
Fax: (215) 832.5662

And

William S. Small  
Blank Rome LLP  
1925 Century Park East, 19<sup>th</sup> Floor  
Los Angeles, California 90067  
Phone: (424) 239-3405  
Fax: (424) 239-3395

**If to Buyer:**

Vintage Wine Estates, Inc.  
9600 Bell Road  
Windsor, California 95492  
Phone: (707) 921-2802  
Fax: (707) 921-2792

All notices and other communications provided for in this Agreement shall be in writing and shall be deemed to have been given and received and shall be effective on the earliest of the following dates: (a) on the first (1st) Business Day after the date on which the sender's facsimile transmitting equipment issues a confirmation record of receipt of such notice by the recipient's facsimile equipment or on the same Business Day that receipt of a facsimile transmission is confirmed by the sender of such transmission by telephone at the confirmation telephone number set forth above, if notice is sent by facsimile transmission to the recipient's facsimile number set forth above in this Agreement; (b) the date when actually delivered if delivered in person to the recipient; (c) on the first (1st) Business Day after depositing such notice for next Business Day delivery with a reputable independent nationally-recognized overnight courier service addressed to the recipient as set forth above in this Agreement; or (d) on the third (3rd) day after depositing such notice in a sealed envelope in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, addressed to the recipient at the address set forth above in this Agreement.

**10.10. Interpretation.** The terms and conditions contained in this Agreement shall be construed according to their fair meaning and not strictly for or against Buyer or Seller. The headings to sections of this Agreement are for convenient reference only and shall not be used in interpreting this Agreement. For purposes of this Agreement, the term "including" shall be deemed to mean "including without limitation". This Agreement has been prepared and drafted through a joint effort of the Parties and, therefore, shall not be construed against any of the Parties as the person who prepared or drafted this Agreement. All exhibits and schedules referred to in this Agreement are incorporated by reference as though fully set forth herein.

**10.11. Counterparts.** This Agreement may be executed in counterparts, each of which when executed shall be deemed an original and all of which counterparts taken together shall constitute but one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to form one document. Each Party and Escrow Holder shall be entitled to rely upon a facsimile counterpart of this Agreement executed by the other Party with the same force and effect as if such facsimile copy were an ink-signed original signed by the Party sending such facsimile and delivered to the other Party or to Escrow Holder. If any Party delivers a signed copy of this Agreement to the other Party or to Escrow Holder by facsimile, the Party sending such facsimile shall deliver an ink-signed original to the other Party and Escrow Holder, as applicable, within three (3) Business Days after sending such facsimile, but any Party's failure to do so shall not affect the validity of this Agreement. For purposes of this Section, all references to the term "facsimile" or "facsimile copy" shall be deemed to include a document forwarded by telecopy transmission or a document forwarded by electronic mail as a Portable Document Format (Adobe Acrobat) (or so-called "PDF") attachment to such electronic mail.

**10.12. No Third Party Beneficiaries.** Nothing contained in this Agreement, express or implied, is intended to confer upon any Person, other than the Parties hereto and their permitted successors and assigns, any rights or remedies under or by reason of this Agreement.

**10.13. Attorneys' Fees.** Should either Party commence any legal proceeding to enforce its rights under or arising out of this Agreement, the prevailing Party in such proceeding shall be entitled to recover from the other Party all costs and expenses incurred in such proceeding, including reasonable attorneys' fees and costs.

**10.14. Confidentiality.** Buyer and Seller shall maintain the confidentiality of this Agreement, as the same may hereafter be amended, and all information relating to the Property that has been or hereafter may be delivered by Seller to Buyer, except for (a) such disclosures to the Escrow Holder, Title Company, and other third persons as may reasonably be necessary in order to consummate the transactions contemplated by this Agreement, as amended, or to enforce the terms of this Agreement, as amended; (b) privileged communications by the respective Parties, including communications with the Parties' respective counsel; (c) such disclosures as may be necessary or required by those governmental agencies, authorities, or examiners having jurisdiction over each of the Parties; (d) such disclosures as may be required by subpoena or any other similar court order or discovery request in any civil or criminal proceeding or investigation; and (e) disclosure of such information as may already constitute a public record through no prior act of the disclosing Party.

**10.15. Further Assurances.** Buyer and Seller shall promptly execute and deliver such further documents and instruments and provide such further information as may reasonably be required by Escrow Holder or the Title Company to consummate the transactions contemplated by this Agreement.

**10.16. REVIEW OF INSTRUCTIONS WITH LEGAL COUNSEL.** EACH PARTY ACKNOWLEDGES AND AGREES THAT (A) IT HAS CAREFULLY READ AND UNDERSTANDS ALL OF THE TERMS AND CONDITIONS OF THESE INSTRUCTIONS; (B) IT HAS ENTERED INTO THESE INSTRUCTIONS AFTER HAVING CONSULTED WITH OR AFTER HAVING HAD THE OPPORTUNITY OF CONSULTING WITH ITS LEGAL COUNSEL; AND (C) IT HAS RECEIVED A COMPLETE COPY OF THESE INSTRUCTIONS.

[SIGNATURE PAGE FOLLOWS]



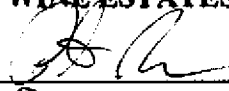
**BUYER:**

**VINTAGE WINE ESTATES, INC.**

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

Name:

Title:

  
Pat Roney  
President

**SELLER:**

**PRICALCO, LLC**

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

Name:

Title:

**BUYER:**

**VINTAGE WINE ESTATES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**SELLER:**

**PRICALCO, LLC**

By: *Gerald Dolman*  
Name: *GERALD DOLMAN*  
Title: *MANAGER*

**ACCEPTANCE BY ESCROW HOLDER**

The undersigned Escrow Holder (a) acknowledges its receipt of the foregoing Instructions executed by Buyer and Seller; and (b) accepts the foregoing Instructions and agrees to act in accordance with the terms contained therein insofar as such terms affect Escrow Holder, subject to the terms of Escrow Holder's acceptance letter, dated as of the date hereof.

**ESCROW HOLDER:**

**First American Title Insurance Company**

By: 

Print Name: BARBARA LAYNE

Title: ESCROW OFFICER

Date: 12/28/2010

## BILL OF SALE AND ASSIGNMENT OF PERSONAL PROPERTY

This Bill of Sale and Assignment of Personal Property (the "Assignment"), dated December 30, 2010, is executed by PRICALCO, LLC, a New York limited liability company ("Seller"), in favor of Vintage Wine Estates, Inc., a California corporation ("Buyer") with reference to the following facts:

A. Seller and Buyer have entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions dated December 28, 2010 (the "Purchase Agreement") in which Seller has agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, the real property more particularly described in the Purchase Agreement and certain improvements located thereon (such improvements are referred to collectively as the "Improvements") and such real property and the Improvements are referred to collectively as the "Real Property").

B. Pursuant to the Purchase Agreement, Seller has agreed to sell and assign to Buyer all of Seller's right, title and interest in and to the following items (collectively, the "Personal Property"): the "Inventory," "Equipment," and "Intangible Personal Property," as each of such terms is defined in the Purchase Agreement.

C. Seller and Buyer desire to enter into this Assignment pursuant to the terms of the Purchase Agreement.

THEREFORE, for valuable consideration, Seller and agree as follows:

1. Assignment. Seller assigns, sells and transfers to Buyer all of Seller's right, title and interest in and to the Personal Property.

Notwithstanding anything to the contrary contained herein, the assignment, sale and transfer of the inventory to Buyer is being made subject to any and all existing producers' or growers' liens (collectively, the "Growers' Liens"), but only to the extent that the Growers' Liens were valid and enforceable immediately prior to giving effect to the Foreclosure Sale (as defined in the Purchase Agreement) (and without prejudice to the right of Buyer to object to, dispute or otherwise challenge the validity, enforceability, extent or amount allegedly secured by any Growers' Lien).

2. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same instrument.

3. Miscellaneous. This Assignment shall be binding on the parties and their respective successors and assigns. The headings to sections of this Assignment are for convenient reference only and shall not be used in interpreting this Assignment. For purposes of this Assignment, the term "including" means "including without limitation." Notwithstanding the fact that this Assignment is dated as of the date shown below, this Assignment shall be effective only upon the "Close of Escrow" (as such term is defined in the Purchase Agreement).

4. Attorneys' Fees. If any action or proceeding is commenced by either party to enforce its rights under this Assignment, the prevailing party in such action or proceeding shall

**SELLER:**

**PRICALCO, LLC**

By: Gerard Dolman  
Name: GERARD DOLMAN  
Title: MANAGER

**Accepted and Agreed:**

**BUYER:**

**VINTAGE WINE ESTATES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**SELLER:**

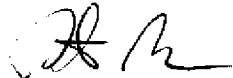
**PRICALCO, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**Accepted and Agreed:**

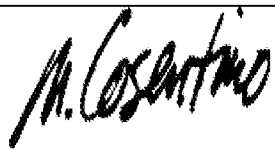
**BUYER:**

**VINTAGE WINE ESTATES, INC.**

By:  \_\_\_\_\_  
Name: Pat Roney  
Title: President

**Cosentino Signature Enterprises Ltd LLC**  
**IP Search Results**

**Active U.S. Trademark Registrations and Applications:**

Mark	Owner	Reg. No. (App. No.)	Reg. Date (App. Date)	Status	Comments
The Sculptor	Cosentino Signature Enterprises Ltd LLC	3,217,153	3/13/2007	Registered; Section 8 & 15 Declaration due 3/13/2013	
m. cosentino	Cosentino Signature Enterprises Ltd LLC	3,176,534	11/28/2006	Registered; Section 8 & 15 Declaration due 11/28/2012	
	Cosentino Signature Enterprises Ltd LLC	3,176,533	11/28/2006	Registered; Section 8 & 15 Declaration due 11/28/2012	
OL' RED	Cosentino Signature Enterprises Ltd LLC	3,183,185	12/12/2006	Registered; Section 8 & 15 Declaration due 12/12/2012	
Crystal Valley Cellars	Cosentino Signature Enterprises Ltd LLC	3,132,914	8/22/2006	Registered; Section 8 & 15 Declaration due 8/22/2012	
Edie	Cosentino Signature Enterprises Ltd LLC	3,129,907	8/15/2006	Registered; Section 8 & 15 Declaration due 8/15/2012	
M.CoZ	Cosentino Signature	3,217,127	3/13/2007	Registered; Section 8 & 15	

Mark	Owner	Reg. No. (App. No.)	Reg. Date (App. Date)	Status	Comments
	Enterprises Ltd LLC			Declaration due 3/13/2013	
The Novelist	Cosentino Signature Enterprises Ltd LLC	3,129,862	8/15/2006	Registered; Section 8 & 15 Declaration due 8/15/2012	
Cosentino Winery	Cosentino Signature Enterprises Ltd LLC	3,180,090	12/5/2006	Registered; Section 8 & 15 Declaration due 12/5/2012	
CIGARZIN	Cosentino Signature Enterprises Ltd LLC	3,138,790	9/5/2006	Registered; Section 8 & 15 Declaration due 9/5/2012	
LEGENDS	Cosentino Signaure Enterprises LLC, Mitch Cosentino, Edie Soldinger, Ben Soldinger, Larry Soldinger	3,616,067	5/5/2009	Registered; Section 8 & 15 Declaration due 5/5/2015	
Francesca d'Amore	Cosentino Signature Enterprises Ltd LLC	3,215,036	3/6/2007	Registered; Section 8 & 15 Declaration due 3/6/2013	



**Inactive U.S. Trademark Registrations and Applications:**

<b>Mark</b>	<b>Owner</b>	<b>Reg. No. (App. No.)</b>	<b>Reg. Date (App. Date)</b>	<b>Status</b>	<b>Comments</b>
THE LEGENDS	Cosentino Signature Enterprises	(78/565,822)	(2/11/2005)	Abandoned 12/7/2009	
TENERO ROSA	Cosentino Signature Enterprises, Ltd., LLC	(78/830,698)	(3/7/2006)	Abandoned 9/7/2007	
SCULPTOR	Cosentino Signature Enterprises, Ltd., LLC	(78/830,694)	(3/7/2006)	Abandoned 3/1/2007	
Francesca d'Amore	Cosentino Signature Enterprises, Ltd., LLC	(78/830,680)	(3/7/2006)	Abandoned 10/2/2006	
CE2V	Cosentino Signature Enterprises Ltd LLC	(78/716,787)	(9/20/2005)	Abandoned 5/2/2007	
The Poet	Cosentino Signature Enterprises Ltd LLC	(78/715,051)	(9/16/2005)	Abandoned 9/25/2006	
M. RED	Cosentino Signature Enterprises, LLC, Larry Soldinger, Mitch	(78/710,095)	(9/9/2005)	Abandoned 9/14/2007	

Mark	Owner	Reg. No. (App. No.)	Reg. Date (App. Date)	Status	Comments
	Cosentino				
MED RED	Cosentino Signature Enterprises, Ltd., LLC	(78/295,916)	(9/4/2003)	Abandoned 1/9/2006	

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