

## PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this “**Agreement**”) is made and entered into as of \_\_\_\_\_, 20\_\_ for reference purposes only, by and between The City of Fontana, a California Municipal Corporation (“**Seller**”), and VRP, Inc., a California corporation (“**Buyer**”). The date upon which both Buyer and Seller have executed this Agreement and delivered the same to one another, shall hereinafter be referred to as the “**Effective Date**”.

IN CONSIDERATION of the respective agreements hereinafter set forth, Seller and Buyer hereby agree as follows:

1. Purchase and Sale of Property. Seller hereby agrees to sell “AS-IS” and convey to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following (collectively, the “**Property**”):

(a) That certain real property located at the intersection of the vacated Highland Avenue and Oleander Avenue, in the City of Fontana, County of San Bernardino, State of California all as more fully described in **Exhibit A** (the “**Land**”), together with all rights, privileges, easements or appurtenances to or affecting the Land (collectively, the “**Appurtenances**”).

(b) Tangible Personal Property. All of Seller's right, title and interest, without warranty, in the equipment, machinery, furniture, fixtures, furnishings, supplies and other tangible personal property, all of which is inventoried on **Exhibit C** (the “**Personal Property**”), owned by Seller and now or hereafter located in and used in connection with the operation, ownership or management of the Property, specifically excluding any items of personal property owned by third parties and leased to Seller (collectively, the “**Tangible Personal Property**”).

(c) Intangible Personal Property. All of Seller's right, title and interest, if any, without warranty, in all intangible personal property related to the Real Property and the Improvements, including, without limitation, all to the extent assignable: the plans and specifications and other architectural and engineering drawings for the improvements, if any; warranties, if any; contract rights related to the construction, operation or management of the Property, if any (collectively, the “**Service Contracts**”) (but Seller's right, title and interest therein shall only be assigned to the extent Seller's obligations thereunder are expressly assumed by Buyer pursuant to this Agreement); and governmental permits, approvals and licenses, if any (collectively, the “**Intangible Personal Property**”).

2. Purchase Price.

(a) The purchase price for the Property (“**Purchase Price**”) shall be Seven Thousand, five hundred Dollars (\$7,500.00).

(b) The Purchase Price shall be paid as follows:

(i) Within three (3) days following the Effective Date, Seller and Buyer shall open an escrow in connection herewith (“**Escrow**”) at Bennett Escrow (“**Escrow Holder**”), and Buyer shall deposit into Escrow the amount of Three hundred and Seventy-five Dollars [5% of Purchase Price] (\$375.00) (“**Initial Deposit**”) in cash or other immediately available funds.

(ii) The Initial Deposit shall be held by Escrow Holder in an interest-bearing account for the benefit of Buyer in accordance with this Agreement. Notwithstanding anything herein to the contrary, One Hundred Dollars (\$100.00) of the Initial Deposit (the “**Independent Consideration**”) shall not be refundable to Buyer, but shall represent consideration for this Agreement and shall be paid to Seller. The Independent Consideration shall be paid to Seller within 3 days of the Effective Date. The Independent Consideration shall serve as consideration for the granting of the time periods herein contained for Buyer to exercise Buyer's right to satisfy and approve all of Buyer's conditions herein contained.

(iii) Within two (2) days following the expiration of the Feasibility Period, and if this Agreement is not earlier terminated, Buyer shall deposit into Escrow the additional amount of Three hundred and Seventy-five Dollars [5%-10% of Purchase Price] (\$375.00) (the “**Second Deposit**”). Together, the First and Second Deposit, and Extension Deposit, if any, shall be referred to as the “**Deposits.**”

(iv) The Deposits (less the Independent Consideration) are referred to herein from time to time as the “**Earnest Money.**” The Earnest Money shall be held by Escrow Holder in an interest-bearing account for the benefit of Buyer in accordance with this Agreement.

(v) If the Closing (as defined herein) as contemplated hereunder should occur, then the Earnest Money will be paid by the Escrow Holder to Seller at the Closing, and the Earnest Money and any interest accrued thereon will be credited against the Purchase Price payable by Buyer to Seller at the Closing.

(vi) If this Agreement is not terminated prior to the expiration of the Feasibility Period, the Earnest Money and any interest accrued thereon shall be nonrefundable to Buyer, except that if this Agreement is terminated prior to the Closing due to Seller's default or the failure of any of the Conditions Precedent (as defined herein) or as expressly set forth herein, then the Earnest Money together with any interest accrued thereon shall be returned to Buyer. The Earnest Money together with all interest accrued thereon shall be applied to the Purchase Price at the Closing.

(vii) On or before the Closing, if this Agreement has not been earlier terminated, Buyer shall deposit into Escrow cash or other immediately available funds in the amount of the balance of the Purchase Price, less any credits due Buyer hereunder (the “**Closing Amount**”). The Closing Amount shall be applied towards the Purchase Price at the Closing.

3. Title to the Property. At the Closing, Seller shall cause to be conveyed to Buyer fee simple title to the Property by duly executed and acknowledged grant deed substantially in the form attached hereto as **Exhibit B** and incorporated herein by this reference (the “**Deed**”) as well as a duly executed Bill of Sale for the Personal Property, if any. As used in this Agreement, Closing (the “**Closing**”) shall be deemed to occur upon the recording of the Deed. Evidence of

delivery of fee simple title shall be the issuance by Escrow Holder to Buyer of an ALTA standard coverage owner's policy of title insurance in the amount of the Purchase Price, insuring fee simple title to the Property in Buyer, subject only to such exceptions as Buyer shall have approved as provided below (the "**Title Policy**"). The Title Policy shall provide full coverage against mechanics' and materialmen's liens and shall contain such special endorsements as Buyer may reasonably require, including, without limitation, any endorsements required as a condition to Buyer's approval of any title exceptions (the "**Endorsements**"). Within five (5) business days following the opening of Escrow, Seller shall order the issuance of a preliminary title report with respect to the Property, together with copies of all underlying documents referenced therein and a map containing a plotting of all easements capable of being plotted (collectively, the "**Preliminary Report**"), to be prepared by the Escrow Holder and delivered to Buyer. No later than thirty (30) business days after receipt of the Preliminary Report, Buyer shall give written notice to Seller of any items contained in the Preliminary Report which Buyer disapproves ("**Buyer's Disapproval Notice**"). Failure of Buyer to notify Seller of Buyer's disapproval of all or any item on the Preliminary Report shall be deemed to be an approval by Buyer of such item(s). In any event, Seller covenants to remove as exceptions to title prior to the Closing, any mortgages, deeds of trust, and other monetary encumbrances (collectively, "**Disapproved Liens**") shown on the Preliminary Report except for real property taxes not delinquent. Seller shall notify Buyer no later than five (5) business days after receipt of Buyer's Disapproval Notice whether it elects to remove such other items disapproved by Buyer. If by the expiration of the Feasibility Period, there remain exceptions to title which have not been modified to the satisfaction of Buyer and/or removed prior to the Closing Date, then Buyer may elect to do either of the following by the expiration of the Feasibility Period: (i) accept such exceptions and proceed to take title to the Real Property subject to such exception(s); or (ii) this Agreement may be terminated in accordance with Section 4(b). In the event Buyer elects to terminate this Agreement pursuant to this Section 3, neither party shall have any further obligations to the other hereunder (except under provisions of this Agreement which specifically state that they survive termination).

#### 4. Feasibility.

(a) From and after the Effective Date until the Closing or earlier termination of this Agreement, Seller shall afford authorized representatives of Buyer access to the Property, upon reasonable prior notice to Seller, and so long as such access does not unreasonably interfere with the conduct of business on or use of the Property, for purposes of conducting such physical inspections and investigations of the Property as Buyer deems necessary (the "**Inspections**"). Seller's representative shall be present with Buyer or Buyer's representative for any access to the Property. The Inspections and investigations may include, without limitation, (i) a review of existing zoning, entitlement, planning or similar issues applicable to the Property; (ii) a review of the physical condition of the Property and the systems serving the Property; (iii) a review of the environmental condition of the Property, including a Phase I environmental site assessment and any proposal regarding a Phase II environmental site assessment. Buyer agrees not to conduct or cause to be conducted a Phase II environmental site assessment without the prior written consent of Seller. Buyer's Inspections and investigations shall be governed by Section 14.

(b) As used herein, the term ("**Feasibility Period**") shall refer to a period of time to expire at 5:00 p.m., California time, on the forty-fifth (45<sup>th</sup>) calendar day following the Effective Date; provided, however, that if the 45<sup>th</sup> day is a Saturday, Sunday or holiday on which

banking institutions are closed in the State of California, then the Feasibility Period shall expire on the following business day. Buyer may elect, by written notice to Seller at any time prior to the expiration of the Feasibility Period, to terminate this Agreement, which election shall be in Buyer's sole and absolute discretion. If Buyer desires to terminate this Agreement pursuant to this Section 4(b) then before the expiration of the Feasibility Period, Buyer shall deliver written notice to Seller of Buyer's election to terminate (the “**Buyer's Notice to Terminate**”). If Buyer desires to proceed with the purchase of the Property subject to the remaining conditions set forth in this Agreement, then on or before the expiration of the Feasibility Period, Buyer shall deliver written notice to Seller of such election to proceed (the “**Buyer's Notice to Proceed**”), electing to waive Buyer's right of termination pursuant to this Section 4(b) and proceed with the Closing subject to the remaining conditions set forth in this Agreement. If Buyer fails to deliver either Buyer's Notice to Terminate or Buyer's Notice to Proceed to Seller prior to the expiration of the Feasibility Period, then Buyer shall be deemed to have elected to proceed with this Agreement and the Closing. In the event of the termination of this Agreement pursuant to this Section 4(b), neither party shall have any further obligations to the other hereunder (except under provisions of this Agreement which specifically state that they survive termination).

(c) In the event Buyer elects to terminate this Agreement pursuant to Section 4(b), or if Closing does not occur for any reason, Buyer shall return all Seller's Deliveries to Seller. Buyer further agrees that prior to Closing, Buyer shall provide Seller with copies of all studies, reports, appraisals and other materials commissioned by or prepared for Buyer relating to or regarding the Property (“**Buyer's Reports**”), at no cost to Seller.

5. Conditions to Seller's Obligations. Seller's obligations hereunder, including, but not limited to, its obligation to consummate the purchase transaction provided for herein, are subject to the satisfaction of each of the following conditions, each of which is for the sole benefit of Seller and may be waived by Seller in writing in Seller's sole and absolute discretion:

(a) Buyer shall not be in default under this Agreement.

(b) Each representation and warranty made in this Agreement by Buyer shall be true and correct in all material respects at the time as of which the same is made and as of the Close of Escrow.

6. Conditions Precedent to Closing. The following are conditions precedent to Buyer's obligation to purchase the Property (the “**Conditions Precedent**”). The Conditions Precedent are intended solely for the benefit of Buyer and may be waived only by Buyer in writing in Buyer's sole and absolute discretion. In the event any Condition Precedent is not satisfied, Buyer may, in its sole and absolute discretion, terminate this Agreement, subject to the provisions of Section 8.

(a) Buyer's inspection, review and approval, within the Feasibility Period, of all of the following:

(i) The physical characteristics and condition of the Property (including without limitation the condition of the soils);

(ii) Seller's Deliveries; and,

(b) Escrow Holder shall be unconditionally committed to issue the Title Policy to Buyer upon the Closing in the form and with such exceptions and endorsements as have been approved, or are deemed approved, by Buyer as provided in Section 3 above.

(c) Seller shall have complied with all of Seller's duties and obligations contained in this Agreement and all of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date.

7. LIQUIDATED DAMAGES. IF THE SALE OF THE PROPERTY PURSUANT TO THIS AGREEMENT IS NOT CONSUMMATED SOLELY BECAUSE OF A DEFAULT UNDER THIS AGREEMENT ON THE PART OF BUYER, THE INITIAL DEPOSIT, THE SECOND DEPOSIT AND ANY EXTENSION DEPOSIT (THE “**DEPOSITS**”), AND ALL BUYER'S REPORTS, SHALL BE RETAINED BY SELLER AS LIQUIDATED DAMAGES. THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT OF A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE EARNEST MONEY AND BUYER'S REPORTS HAVE BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AND AS SELLER'S SOLE AND EXCLUSIVE REMEDY AGAINST BUYER, AT LAW OR IN EQUITY, IN THE EVENT OF A DEFAULT UNDER THIS AGREEMENT ON THE PART OF BUYER. UPON THE OCCURRENCE OF ANY SUCH DEFAULT BY BUYER, BUYER SHALL DELIVER WITHIN 2 BUSINESS DAYS OF SELLER'S REQUEST ALL BUYER'S REPORTS AND APPROPRIATE DOCUMENTS ASSIGNING SAME TO SELLER. SELLER HEREBY WAIVES ANY AND ALL BENEFITS IT MAY HAVE UNDER CALIFORNIA CIVIL CODE SECTION 3389. FURTHERMORE, THE PAYMENT AND RETENTION OF SUCH EARNEST MONEY AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 AND 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. UPON BUYER'S DEFAULT, SELLER MAY INSTRUCT ESCROW HOLDER TO CANCEL THE ESCROW, AND PROMPTLY UPON RECEIPT OF SAID INSTRUCTIONS, ESCROW HOLDER SHALL (i) CANCEL THE ESCROW, (ii) PAY ALL OF ESCROW HOLDER'S CHARGES FROM THE EARNEST MONEY, AND (iii) DISBURSE TO SELLER THE EARNEST MONEY PURSUANT TO THIS SECTION 8.

INITIALS: Seller \_\_\_\_\_ Buyer \_\_\_\_\_

8. Escrow; Closing, Prorations.

(a) Upon mutual execution of this Agreement, the parties hereto shall deposit an executed counterpart of this Agreement with Escrow Holder and this Agreement shall serve as instructions to Escrow Holder for consummation of the purchase contemplated hereby. Seller and Buyer shall execute such supplemental Escrow instructions as may be appropriate to enable Escrow Holder to comply with the terms of this Agreement, provided such supplemental Escrow instructions are not in conflict with this Agreement as it may be amended in writing from time to

time. In the event of any conflict between the provisions of this Agreement and any supplementary Escrow instructions signed by Buyer and Seller, the terms of this Agreement shall control.

(b) The Closing shall take place (the “**Closing Date**”) on or before the date that is fifteen (15) days following the expiration of the Feasibility Period or as may be extended as provided below.

(c) [Buyer shall have the option to extend the Closing Date for one period of fifteen (15) days (“**Extension Period**”), exercisable by written notice of the Extension Period (the “**Extension Notice**”) delivered to Seller and Escrow Holder not later than five (5) days prior to the previously scheduled Closing Date, together with an additional deposit of [Five Thousand Dollars (\$5,000.00)] (the “**Extension Deposit**”). The Extension Deposit shall be immediately released to Seller upon receipt by Escrow Holder and shall not be applicable to the Purchase Price, and shall be nonrefundable to Buyer except in the event of Seller's default hereunder. ]

(d) At or before the Closing, Seller shall deliver to Escrow Holder or Buyer the following:

(i) the duly executed and acknowledged Grant Deed for the Property and the duly executed Bill of Sale;

(ii) a duly executed affidavit that Seller is not a “foreign person” within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986 in the form attached as **Exhibit D** and incorporated herein by this reference together with a duly executed non-foreign person affidavit and evidence that Seller is exempt from the withholding obligations imposed by California Revenue and Taxation Code Sections 18805, 18815, and 26131;

(iii) evidence reasonably acceptable to Escrow Holder that the documents delivered by Seller have been duly authorized and executed on behalf of Seller and constitute valid and binding obligations of Seller.

(iv) any other documents which the Escrow Holder may reasonably require from Seller in order to close Escrow which do not increase Seller's liability or obligations hereunder;

(v) a closing statement in form and content satisfactory to Buyer and Seller (the “**Closing Statement**”) duly executed by Seller; and

(vi) any other instruments, records or correspondence called for hereunder which have not previously been delivered.

(e) At or before the Closing, Buyer shall deliver to Escrow Holder or Seller the following:

(i) the Closing Statement, duly executed by Buyer;

(ii) the Closing Amount; and

(iii) evidence reasonably acceptable to Escrow Holder that the documents delivered by Buyer have been duly authorized and executed on behalf of Buyer and constitute valid and binding obligations of Buyer.

(f) Seller and Buyer shall each deposit such other instruments as are reasonably required by Escrow Holder or otherwise required to close the Escrow and consummate the purchase of the Property in accordance with the terms hereof.

(g) The following are to be paid by Buyer or Seller or apportioned as of the Closing Date, as follows:

(i) General real property taxes for the year in which Closing occurs together with assessments, property operating expenses, utilities and other recurring costs relating to the Property shall be apportioned as of the Closing Date on the basis of a thirty (30)-day month.

(ii) Costs and expenses of Escrow incurred in this transaction shall be paid as follows:

(1) Seller shall pay all sales, use and documentary transfer taxes (except as provided in Subparagraph (ii)(4) below);

(2) Seller shall pay the premium for a standard ALTA coverage owner's policy of title insurance; Buyer shall pay the premium for any extended ALTA coverage if desired;

(3) Seller and Buyer shall each pay one-half (1/2) of the Escrow fees, recording fees and related expenses;

(4) Seller and Buyer shall each pay one-half (1/2) of any city or county transfer taxes due;

(5) all other costs of escrow shall be paid equally by Buyer and Seller.

(iii) The provisions of this Subparagraph (g) shall survive the Closing.

9. Representations, Warranties and Covenants of Seller. As of the date hereof and again as of Closing, Seller represent and warrants to Buyer as follows:

(a) Seller is duly organized, validly existing and in good standing under the laws of the State of California. This Agreement and all documents executed by Seller which are to be delivered to Buyer at the Closing are and at the time of Closing will be duly authorized, executed and delivered by Seller, are and at the time of Closing will be legal, valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms. Seller has obtained all necessary authorizations, approvals and consents to the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

(b) No Action. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings are pending against Seller, nor are any such proceedings contemplated by Seller;

(c) No Representations as to Property. There are no representations, agreements, arrangements, or circumstances, oral or written, between the parties relating to the subject matter contained in this Agreement that are not fully expressed in the Agreement, and Seller has not made and does not make any representation or warranty concerning any matter or thing affecting or relating to the Property, including but not limited to its fitness for a particular use, its physical condition or any other matter; and

(d) Sale "AS-IS". Subject to Seller's representations and warranties contained herein, Buyer's election to purchase the Property will be based upon and will constitute evidence of Buyer's independent investigation of the Property, its use, development potential and suitability for Buyer's intended use, including (without limitation) the following: the feasibility of developing the Property for the purposes intended by Buyer and the conditions of approval for any subdivision map; the size and dimensions of the Property; the availability, cost and adequacy of water, sewerage and any utilities serving or required to serve the Property; the presence and adequacy of current or required infrastructure or other improvements on, near or affecting the Property; any surface, soil, subsoil, fill or other physical conditions of or affecting the Property, such as climate, geological, drainage, air, water or mineral conditions; the condition of title to the Property; the existence of governmental laws, statutes, rules, regulations, ordinances, limitations, restrictions or requirements concerning the use, density, location or suitability of the Property for any existing or proposed development thereof including but not limited to zoning, building, subdivision, environmental or other such regulations; the necessity or availability of any general or specific plan amendments, rezoning, zoning variances, conditional use permits, building permits, environmental impact reports, parcel or subdivision maps and public reports, requirements of any improvement agreements; requirements of the California Subdivision Map Act, and any other governmental permits, approvals or acts (collectively "**Permits**"); the necessity or existence of any dedications, taxes, fees, charges, costs or assessments which may be imposed in connection with any governmental regulations or the obtaining of any required Permits; the presence of endangered plant or animal species upon the Property; and all of the matters concerning the condition, use, development or sale of the Property. Seller will not be liable for any loss, damage, injury or claim to any person or property arising from or caused by the development of the Property by Buyer.

Except with respect to a default by Seller hereunder (including a breach of Seller's warranties and representations), Buyer at the Close of Escrow expressly waives its rights granted under California Civil Code Section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

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

Seller's Initials: \_\_\_\_\_.

10. Representations, Warranties and Covenants of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Buyer is a Limited Liability Company, duly organized, validly existing and in good standing under the laws of California [and qualified to do business in California]. This Agreement and all documents executed by Buyer which are to be delivered to Seller at the Closing are and at the time of Closing will be duly authorized, executed and delivered by Buyer, are and at the time of Closing will be legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms, and do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Buyer is subject. Buyer has obtained all necessary authorizations, approvals and consents to the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

(b) Buyer warrants that Buyer is a sophisticated owner and buyer of real property, familiar and experienced with requirements for the development of real property. Buyer has examined the Property or will have done so by Closing, is or will be familiar with its physical condition, and accepts the Property in an "AS-IS" condition.

(c) Buyer has conducted or will conduct an independent investigation with respect to zoning and subdivision laws, ordinances, resolutions, and regulations of all governmental authorities having jurisdiction over the Property, and the use and improvement of the Property and is, or at Closing will be, satisfied with the results of such investigation.

(d) The Property is being sold "AS-IS" and with all faults.

11. Environmental Matters/Release. As used in this Agreement, "**Hazardous Materials**" includes petroleum, asbestos, radioactive materials or substances defined as "hazardous substances," "hazardous materials" or "toxic substances" (or words of similar import) in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), and under the applicable laws of California. Buyer must rely on its own investigation and not on any representation by Seller regarding Hazardous Materials. Buyer shall rely solely upon its own investigation and inspection of the Property and the improvements thereon and upon the aid and advice of Buyer's independent expert(s) in purchasing the Property, and shall take title to the Property without any warranty, express or implied, by Seller or any employee or agent of Seller. Seller makes no representations regarding Hazardous Materials in, on or under the Property. Seller's knowledge and disclosures regarding Hazardous Materials are limited to the contents of Seller's Deliveries.

Accordingly, Buyer hereby expressly waives and relinquishes any and all rights and remedies Buyer may now or hereafter have against Seller, whether known or unknown, with respect to any past present, or future presence of Hazardous Materials on, under or about the Property or with respect to any past, present or future violations of any rules, regulations or laws, now or hereinafter enacted, regulating or governing use, handling, storage or disposal of Hazardous Materials, including, without limitation (i) any and all remedies Buyer may now or hereafter have under the Comprehensive Environmental Response Compensation and Liability

Act of 1980 (“CERCLA”), as amended, and any similar law, rule or regulation, (ii) any and all rights Buyer may now or hereafter have against Seller under the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code, Section 25300 et seq.), as amended and any similar law, rule or regulation, and (iii) any and all claims, whether known or unknown, now or hereafter existing, with respect to the Property under Section 107 of CERCLA (42 U.S. C.A. § 9607).

BUYER HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 (“SECTION 1542”), WHICH IS SET FORTH BELOW

“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”

BY INITIALING BELOW, BUYER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES.

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

12. Continuation and Survival. All representations, warranties and covenants by the respective parties contained herein or made in writing pursuant to this Agreement are intended to and shall be deemed made as of the date of this Agreement or such writing and again at the Closing, shall be deemed to be material, and unless expressly provided to the contrary shall survive the execution and delivery of this Agreement, the Deed and the Closing.

13. Indemnity.

Buyer agrees to indemnify Seller and the Property against, and to hold and save Seller and the Property harmless from, all claims, demands, suits, actions, damages, obligations, liabilities, losses, costs and expenses, including but not limited to attorneys' fees and court costs, as a result of the Inspections; provided, however, that Buyer will not be obligated to indemnify Seller with respect to its own negligence. The foregoing indemnity shall survive termination of this Agreement. Buyer shall not suffer or permit any mechanic's or materialmen's or other lien to stand against the Property in connection with any labor, materials or services furnished or claimed to have been furnished by or on behalf of Buyer in connection with or as a result of any Inspections. If any such lien shall be filed against the Property, Buyer shall cause such lien to be discharged or bonded within thirty (30) days after such filing. Following any Inspections Buyer shall restore the Property to substantially its physical condition as existed prior to such inspection (except for any changes to the Property caused by Seller, or its agents or employees). Prior to any entry on the

Property Buyer or its consultant shall at its sole cost obtain a policy of liability insurance with a combined single limit in an amount not less than One Million Dollars (\$1,000,000); Seller shall each be named an additional insured on said policy; and Buyer or its consultants shall furnish to Seller a certificate of insurance confirming such coverage.

14. Condemnation.

(a) In the event a governmental entity commences eminent domain proceedings to take any portion of the Property after the date hereof and prior to the Closing, then Buyer shall have the option to terminate this Agreement by written notice to Seller within ten (10) business days after Buyer first learns of such commencement. In the event of any such termination, the Earnest Money, together with all interest, shall be returned to Buyer. Buyer and Seller shall each be liable for one-half of any escrow fees or charges, and neither party shall have any further liability or obligation under this Agreement.

(b) In the event a governmental entity commences eminent domain proceedings to take any part of the Property after the date hereof and prior to the Closing and this Agreement is not terminated pursuant to Section 15(a), then the Closing shall occur as scheduled notwithstanding such proceeding; provided, however, that Seller's interest in all awards arising out of such proceedings (except for any award attributable to the loss of Seller's business or income, Seller's personal property, or the property of any tenant of the Property) shall be assigned to Buyer as of the Closing or credited to Buyer if previously received by Seller. Seller's obligations pursuant to this Section 15(b) shall survive the Closing.

15. Possession. Possession of the Property shall be delivered to Buyer on the Closing Date free of any occupant or property not being conveyed to Buyer as provided hereunder.

16. Seller's Cooperation with Buyer. At no cost to Seller, Seller shall cooperate and do all acts as may be reasonably required or requested by Buyer, at no additional cost to Seller, with regard to the fulfillment of any Condition Precedent. Seller hereby authorizes Buyer and its agents to make all inquiries with and applications to any third party, including any governmental authority, as Buyer may reasonably require to complete its due diligence and satisfy the Conditions Precedent.

17. Brokers and Finders. Seller not employed any firm of as its broker (“**Seller's Broker**”) in connection with the purchase and sale of the Property. Seller shall be solely responsible, pursuant to separate agreement, for any payment, fee or commission owing to a Seller's Broker, if any, in connection with the purchase and sale of the Property in accordance with this Agreement. Each party agrees that neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the sale contemplated herein. In the event that any such broker or finder claims a commission or finder's fee based upon any contact, dealings or communication, the party through whom the broker or finder makes its claim shall be responsible for said commission or fee and all costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by the other party in defending against the same. The party through whom any such other broker or finder makes a claim shall hold harmless, indemnify and defend the other party hereto, its successors and

assigns, agents, employees, officers and directors, and the Property from and against any and all obligations, liabilities, claims, demands, liens, encumbrances and losses (including, without limitation, attorneys' fees), arising out of, based on, or incurred as a result of such claim. The provisions of this Section 18 shall survive the Closing or termination of this Agreement.

18. Professional Fees. In the event legal action is commenced to enforce or interpret any of the terms or provisions of this Agreement, the prevailing party in such action shall be entitled to an award of reasonable attorney's fees and costs incurred in connection with the prosecution or defense of said action. In addition, the prevailing party shall be entitled to recover any actual accounting, engineering or other professional fees reasonably incurred in said action or proceeding.

19. Publicity and Confidentiality. Buyer acknowledges that Seller is a public entity and that this Agreement shall be a matter of public record and available to the public under the Public Records Act. Notwithstanding the foregoing, Buyer agrees to not make any public announcements regarding the Property prior to Closing.

20. Miscellaneous.

(a) Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, (ii) one business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, (iii) upon facsimile transmission (except that if the date of such transmission is not a business day or if such transmission is made after 5:00 p.m. on a business day, then such notice shall be deemed to be given on the first business day following such transmission), (iv) one business day after transmission by email; or (v) two business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows (or such other address as either party may from time to time specify in writing to the other in accordance herewith):

If to Seller:                      City of Fontana  
   Attn: City Manager  
   8353 Sierra Ave  
   Fontana, CA 92335

With a copy to:                      Best Best & Krieger LLP  
   Attn: Matthew Cody  
   1333 N. California Blvd., Suite 220  
   Walnut Creek, CA 94596  
   Phone: (925) 482-3123  
   E-Mail: Matthew.Cody@bbklaw.com

If to Buyer:                              VRP, Inc.  
   Attn: Frank Rusich, President  
   Phone: (909) 350-2700  
   Email frusich@msn.com

With a copy to: VRP, Inc.  
Attn: Tom Rusich, CFO  
Phone: (909) 350-2700  
Email tomrusich@gmail.com

To Escrow Holder: Bennett Escrow  
Attn: Janine Bennett  
Phone: (909) 421-2112  
Email janine@bennettescrow.com

(b) Successors and Assigns. Buyer shall have the right to assign this Agreement to any entity controlling, controlled by or under common control with Buyer without Seller's consent or approval, and otherwise Buyer shall have the right to assign this Agreement to any entity subject to Seller's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed. Any such assignee shall assume all obligations of Buyer hereunder; however, Buyer shall remain liable for all obligations hereunder. Seller shall have the right to assign this Agreement. Except as otherwise permitted by this paragraph, neither this Agreement nor the rights of either party hereunder may be assigned by either party. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

(c) Amendments. This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

(d) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(e) Construction. Headings at the beginning of each Section and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to Sections and subparagraphs are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

(f) No Joint Venture. This Agreement shall not create a partnership or joint venture relationship between Buyer and Seller.

(g) Section 1031 Exchange. Seller and Buyer acknowledge and agree that the purchase and sale of the Property may be part of a tax-free exchange under Section 1031 of the Internal Revenue Code of 1986, as amended, for Buyer. Each party hereby agrees to take all reasonable steps on or before the Closing Date to facilitate such exchange if requested by Buyer, provided that (i) Seller shall not be required to acquire any substitute property, (ii) such exchange shall not affect the representations, warranties, liabilities and obligations of the parties to each other under this Agreement, (iii) Seller shall not incur any additional cost, expense or liability in connection with such exchange (other than expenses of reviewing and executing documents required in connection with such exchange), and (iv) no dates in this Agreement will be extended as a result thereof. Notwithstanding anything to the contrary contained in the foregoing, if Buyer

so elects to close the acquisition of the Property as an exchange, then (A) Buyer, at its sole option, may delegate its obligations to acquire the Property under this Agreement, and may assign its rights to receive the Property from Seller, to an Intermediary or to an exchange accommodation titleholder, as the case may be; (B) such delegation and assignment shall in no way reduce, modify or otherwise affect the obligations of Buyer pursuant to this Agreement; (C) Buyer shall remain fully liable for its obligations under this Agreement as if such delegation and assignment shall not have taken place; (D) Intermediary or exchange accommodation titleholder, as the case may be, shall have no liability to Seller; and (E) the closing of the acquisition of the Property by Buyer or the exchange accommodation titleholder, as the case may be, shall be undertaken by direct deed from Seller (or, if applicable, from other affiliates of Seller whom Seller will cause to execute such deeds) to Buyer (or to exchange accommodation titleholder, as the case may be).

(h) Merger of Prior Agreements. This Agreement and the exhibits attached hereto constitute the entire agreement between the parties and supersede all prior agreements and understandings between the parties relating to the subject matter hereof, including without limitation, any letters of intent previously executed or submitted by either or both of the parties hereto, which shall be of no further force or effect upon execution of this Agreement.

(i) Time of the Essence. Time is of the essence of this Agreement. As used in this Agreement, a “business day” shall mean a day which is not a Saturday, Sunday or recognized federal or state holiday. If the last date for performance by either party under this Agreement occurs on a day which is not a business day, then the last date for such performance shall be extended to the next occurring business day.

(j) Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(k) Further Assurances. Each of the parties shall execute and deliver any and all additional papers, documents and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties.

(l) Exhibits. All exhibits attached hereto and referred to herein are incorporated herein as though set forth at length.

(m) Captions. The captions appearing at the commencement of the sections and paragraphs hereof are descriptive only and for convenience in reference. Should there be any conflict between any such caption and the section at the head of which it appears, the section and paragraph and not such caption shall control and govern in the construction of this Agreement.

(n) No Obligation To Third Parties. Execution and delivery of this Agreement shall not be deemed to confer any rights upon, directly, indirectly or by way of subrogation, nor obligate either of the parties hereto to, any person or entity other than each other.

(o) Waiver. The waiver by any party to this Agreement of the breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or another provision of this Agreement.

(p) Interpretation. This Agreement has been negotiated at arm's length and between persons (or their representatives) sophisticated and knowledgeable in the matters dealt with in this Agreement. Accordingly, any rule of law (including California Civil Code § 1654 and any successor statute) or legal decision that would require interpretation of any ambiguities against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this Agreement.

(q) Counterparts/Facsimile/.PDF Signatures. This Agreement may be executed in counterparts and when so executed by the Parties, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument that shall be binding upon the Parties, notwithstanding that the Parties may not be signatories to the same counterpart or counterparts. The Parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart. In order to expedite the transaction contemplated herein, facsimile or .pdf signatures may be used in place of original signatures on this Agreement. Seller and Buyer intend to be bound by the signatures on the facsimile or .pdf document, are aware that the other party will rely on the facsimile or .pdf signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

**SELLER:**

CITY OF FONTANA, a California Municipal Corporation

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

Name: Matthew Ballantyne

Its: City Manager

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

**ATTEST:**

\_\_\_\_\_

CITY CLERK

**APPROVED AS TO FORM:**

\_\_\_\_\_

CITY ATTORNEY

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

**BUYER:**

\_\_\_\_\_

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

Name: Frank Rusich, President

VRP, Inc., a California Corporation

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

EXHIBIT A  
LEGAL DESCRIPTION

EXHIBIT B  
FORM OF DEED

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO, AND  
MAIL TAX STATEMENTS TO:

[buyer address or attorney]

A.P.N.: \_\_\_\_\_

(Space Above Line for Recorder's Use Only)

The Undersigned Grantor(s) Declare(s):

DOCUMENTARY TRANSFER TAX \$ \_\_\_\_\_; CITY TRANSFER TAX \$ \_\_\_\_\_; SURVEY MONUMENT FEE \$ \_\_\_\_\_

[        ] computed on the consideration or full value of property conveyed, OR

[        ] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,

[        ] unincorporated area; [ ] City of \_\_\_\_\_, and

GRANT DEED

[NOTE- IF SELLER IS PUBLIC ENTITY NO EXEMPTION FOR RECORDING FEES (AS SHOWN HERE); IF BUYER IS PUBLIC ENTITY RECORDING FEES AND TRANSFER TAX EXEMPT AND SUCH EXEMPTION/CODE CITE MUST BE MADE ON DEED FOR RECORDING OFFICE]

FOR VALUE RECEIVED, \_\_\_\_\_  
 (“Grantor”), grants to \_\_\_\_\_ (“Grantee”), all that certain real  
property situated in the County of \_\_\_\_\_, State of California, described on  
Schedule 1 attached hereto and by this reference incorporated herein (the “Property”).

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of  
\_\_\_\_\_, 20\_\_.

**GRANTOR:**

\_\_\_\_\_

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

EXHIBIT C  
PERSONAL PROPERTY

No personal property is located at the Property.

EXHIBIT D

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

This form is provided so that the Buyer and/or Seller in this transaction can certify compliance with the Foreign Investment in Real Property Tax Act to the Escrow Agent and/or Buyer. Buyer (“**Transferee**”) must retain a copy of this document until after the fifth taxable year following the transfer.

Section 1445 of the Internal Revenue Code of 1986, as amended (“**Code**”) provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform Transferee that withholding of tax is not required upon the disposition of a U.S. real property interest, the undersigned hereby certifies the following on behalf of \_\_\_\_\_ (“**Transferor**”):

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder).
2. The Transferor is not a disregarded entity as defined in Income Tax Regulation Section 1.1445-2(b)(2)(iii).
3. The Transferor's U.S. employer or tax identification number is \_\_\_\_\_.
4. The Transferor's office address is \_\_\_\_\_

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

Date: \_\_\_\_\_, 20\_\_

TRANSFEROR:

\_\_\_\_\_

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_