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6 Attorneys for Receiver
7 STEPHEN J. DONELL

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 SECURITIES AND EXCHANGE
11 COMMISSION,

12 Plaintiff,

13 v.

14 ROBERT YANG, et al.,

15 Defendants,

16 YANROB'S MEDICAL, INC., et al.,

17 Relief Defendants.

Case No. 5:15-CV-02387-SVW (KKx)

DECLARATION OF JOSHUA A. DEL
CASTILLO IN SUPPORT OF MOTION
FOR APPROVAL OF SETTLEMENT
WITH THE METROPOLITAN WATER
DISTRICT OF SOUTHERN
CALIFORNIA

Date: March 20, 2017
Time: 1:30 pm
Ctm: 10A
Judge: Hon. Stephen V. Wilson

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1 **DECLARATION OF JOSHUA A. DEL CASTILLO**

2 I, Joshua A. del Castillo, declare:

3 1. I am an attorney at the law firm of Allen Matkins Leck Gamble
4 Mallory & Natis LLP, counsel of record for Plaintiff Stephen J. Donell (the
5 "Receiver"), the Court-appointed permanent receiver for Defendants Suncor
6 Fontana, LLC, Suncor Hesperia, LLC, Suncor Care Lynwood, LLC, and their
7 respective subsidiaries and affiliates (collectively, the "Receivership Entities"), in
8 the pending enforcement action styled SEC v. Yang, et al., U.S. District Court,
9 Central District of California, Case No. 5:15-cv-02387-SVW (KKx).

10 2. This Declaration is made in support of the Receiver's Notice of Motion
11 and Motion for Approval of Settlement with the Metropolitan Water District of
12 Southern California. I have personal knowledge of the facts stated herein, and if
13 called upon to do so, I could and would personally and competently testify to them.

14 3. On or about August 8, 2016, I caused personnel at my firm to mail a
15 demand letter to the Metropolitan Water District of California (the "MWD"), stating
16 that the Receiver had confirmed the source of funds transferred to the MWD in
17 connection with a speculative real estate purchase to be funds misappropriated from
18 Receivership Entity investors, and, accordingly, subject to the turnover requirements
19 of the District Court's December 11, 2015 Preliminary Injunction, Order Appointing
20 Receiver, Freezing Assets, and Providing for Other Ancillary Relief . This letter
21 demanded the return of these funds, on the grounds that its payment reflected a
22 fraudulent transfer accomplished via an invalid liquidated damages provision. A
23 true and correct copy of this correspondence is attached hereto as **Exhibit 1**.

24 4. Thereafter, I and other personnel at my firm sent two additional
25 demand letters to the MWD, dated October 5 and November 3, 2016, respectively.
26 This correspondence identified the factual and legal support for the Receiver's
27 demand, including his confirmation that the funds in issue were assets of the
28 Receivership Entities, the requirements of the Appointment Order, and the

1 Receiver's position that the agreement with the MWD, and its attendant liquidated
2 damages provision, were invalid. True and correct copies of this correspondence are
3 attached hereto as **Exhibits 2** and **3**.

4 5. Detailed discussions with the MWD followed the issuance of the
5 above-referenced correspondence. In the course of those discussions, I addressed
6 the factual and legal bases for the Receiver's demand and counsel for the MWD
7 presented its anticipated defenses, including that the agreement with the MWD was
8 negotiated at arms-length and in good faith, and that liquidated damages provisions
9 are presumptively valid under California law.

10 I declare under penalty of perjury under the laws of the State of California
11 that the foregoing is true and correct.

12 Executed this 16th day of February, 2017, at Los Angeles, California.

13 
14 _____
15 JOSHUA A. DEL CASTILLO

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EXHIBIT 1

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
865 South Figueroa Street, Suite 2800 | Los Angeles, CA 90017-2543
Telephone: 213.622.5555 | Facsimile: 213.620.8816
www.allenmatkins.com

Kenyon Harbison
E-mail: kharbison@allenmatkins.com
Direct Dial: 213.955.5661 File Number: 375525-00004/LA1051061.01

Via FedEx/Email

August 8, 2016

Metropolitan Water District of Southern California
Real Property Development and Management Group
Attn: Real Property Asset Manager
700 North Alameda Street
Los Angeles, CA 90012

**Re: SEC v. Yang, et al. | USDC, CD Cal. Case No. 5:15-cv-02387-SVW
(KKx)**

To Whom It May Concern:

This Firm represents Stephen J. Donell (the "Receiver"), the Court-appointed receiver for Suncor Fontana, LLC, Suncor Hesperia, LLC, Suncor Care Lynwood, LLC, and their respective subsidiaries and affiliates (collectively, the "Receivership Entities" or "Entities") in the above-referenced matter.

By virtue of his appointment, the Receiver succeeds as legal representative to the Receivership Entities, with exclusive authority and control over their assets. A copy of the of the Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and Providing for Other Ancillary Relief is enclosed herewith.

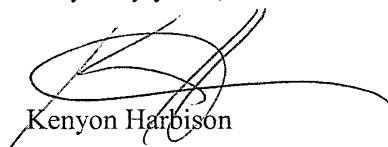
It has come to our attention that one of the relief-defendants in the above-captioned case opened an escrow account, numbered Escrow No. 10832-NW, relating to the property known as the "Unimproved Portion of AP# 422-040-009+015, Riverside County, California," and deposited into that account at least \$250,000 in Entity assets. These assets were improperly and fraudulently deposited into this account, in contravention of the obligations of one or more of the Entities to, *inter alia*, their investors. Further, it has come to our attention that during or about April 2015, this \$250,000, or more, was improperly transferred to the Metropolitan Water District of Southern California ("MWD"). This money is an asset of the estate of the Receivership Entities and MWD is obligated to return it to the Receiver, who is acting on behalf of the Receivership Entities. Accordingly, the Receiver states that demand now.

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Metropolitan Water District of Southern California
August 8, 2016
Page 2

Thank you for your immediate attention to this important matter. Please contact me as soon as possible to arrange a wire transfer to an account held by the Receiver for the benefit of the Entities. If you have any questions, please let me know as soon as possible.

Very truly yours,



Kenyon Harbison

KH

cc: Stephen J. Donell, Receiver
(via email only)

1 ZACHARY T. CARLYLE
2 CarlyleZ@sec.gov
3 SECURITIES AND EXCHANGE COMMISSION
4 Byron G. Rogers Federal Building
5 1961 Stout Street, Suite 1700
6 Denver, Colorado 80294-1961
7 Telephone: (303) 844-1000
8 Facsimile: (303) 297-3529

9 LOCAL COUNSEL:
10 David J. VanHavermaat, Cal. Bar No. 175761
11 VanhavermaatD@sec.gov
12 SECURITIES AND EXCHANGE COMMISSION
13 444 S. Flower Street, Suite 900
14 Los Angeles, California 90071
15 Telephone: (323) 965-3889
16 Facsimile: (213) 443-1904

17 Attorneys for Plaintiff
18 Securities and Exchange Commission

19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA
21 EASTERN DIVISION

22 SECURITIES AND EXCHANGE
23 COMMISSION,
24 Plaintiff,

25 vs.

26 ROBERT YANG,
27 CLAUDIA KANO,
28 SUNCOR FONTANA, LLC,
SUNCOR HESPERIA, LLC, AND
SUNCOR CARE LYNWOOD, LLC
Defendants,

AND

YANROB'S MEDICAL, INC.,
HEALTHPRO CAPITAL PARTNERS, LLC,
AND SUNCOR CARE, INC.
Relief Defendants.

Case No. 5:15-cv-02387-SVW (KKx)

**PRELIMINARY INJUNCTION,
ORDER APPOINTING RECEIVER,
FREEZING ASSETS, AND
PROVIDING FOR OTHER
ANCILLARY RELIEF**

1 The parties in this matter have by stipulation agreed to the entry of this Order
2 of Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and
3 Providing for Other Ancillary Relief.

4 A. This Court has jurisdiction over the parties to, and the subject matter of,
5 this action.

6 B. The terms and conditions of the Temporary Restraining Order, Order
7 Freezing Assets, and Providing for Other Ancillary Relief entered by the Court on
8 November 25, 2015 shall remain in full force and effect until this Court has issued
9 this Order.

10 **I.**

11 IT IS HEREBY ORDERED that, until final judgment in this matter enters,
12 Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor Hesperia,
13 LLC, and Suncor Care Lynwood, LLC and their officers, directors, subsidiaries,
14 affiliates, agents, servants, employees, attorneys-in-fact, and those persons in active
15 concert or participation with them who receive actual notice of this order by personal
16 service or otherwise, and each of them, are enjoined and restrained from, directly or
17 indirectly, in the offer or sale of any security by the use of any means or instruments
18 of transportation, or communication in interstate commerce or by the use of the mails:
19 (1) employing any device, scheme, or artifice to defraud; or (2) obtaining money or
20 property by means of any untrue statement of a material fact or any omission to state
21 a material fact necessary in order to make the statements made, in the light of the
22 circumstances under which they were made, not misleading; or (3) engaging in any
23 transaction, practice, or course of business that operates or would operate as a fraud
24 or deceit upon the purchaser in violation of Section 17(a) of the Securities Act of
25 1933 [15 U.S.C. § 77q(a)].

26 **II.**

27 IT IS HEREBY FURTHER ORDERED that until final judgment in this matter
28 enters, Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor

1 Hesperia, LLC, and Suncor Care Lynwood, LLC and their officers, directors,
2 subsidiaries, affiliates, agents, servants, employees, attorneys-in-fact, and those
3 persons in active concert or participation with them who receive actual notice of this
4 order by personal service or otherwise, and each of them, are enjoined and restrained
5 from directly or indirectly, by the use of any means or instrumentality of interstate
6 commerce, or of the mails or of any facility of any national securities exchange in
7 connection with the purchase or sale of any security: (1) employing any device,
8 scheme, or artifice to defraud; (2) making any untrue statement of a material fact or to
9 omit to state a material fact necessary in order to make the statements made, in the
10 light of the circumstances under which they were made, not misleading; or (3)
11 engaging in any act, practice, or course of business which operates or would operate
12 as a fraud or deceit upon any person in violation of Section 10(b) of the Securities
13 Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R.
14 240.10b-5].

15 **III.**

16 IT IS HEREBY FURTHER ORDERED that except as otherwise specified in
17 this Order, pending further order of this Court, the asset freeze imposed by Section III
18 of the Temporary Restraining Order, Order Freezing Assets, and Providing for Other
19 Ancillary Relief entered by the Court on November 25, 2015, shall continue in full
20 force and effect, and all such funds and other assets shall remain frozen.

21 **IV.**

22 IT IS HEREBY FURTHER ORDERED that until final judgment in this matter
23 enters, Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor
24 Hesperia, LLC, Suncor Care Lynwood, LLC, and Relief Defendants Yanrob's
25 Medical, Inc., HealthPro Capital Partners, LLC, and Suncor Care, Inc., and their
26 officers, directors, successor corporations, subsidiaries and affiliates, agents, servants,
27 employees, attorneys-in-fact, and those persons in active concert or participation with
28 them who receive actual notice of this order by personal service or otherwise, and

1 each of them, are hereby restrained from destroying, mutilating, concealing, altering,
2 or disposing of any document referring or relating in any manner to any transactions
3 described in the Complaint in this action, or to any communications between or
4 among any of the Defendants and/or Relief Defendants.

5 **V.**

6 IT IS HEREBY FURTHER ORDERED that

7 **A.** This Court hereby takes exclusive jurisdiction and possession of the
8 assets, of whatever kind and wherever situated, of the Suncor Receivership Entities
9 (collectively, the "Receivership Assets").

10 **B.** Until further Order of this Court, Stephen J. Donell is hereby appointed
11 to serve without bond as receiver (the "Receiver") for the estates of the Suncor
12 Receivership Entities (the "Receivership Estates").

13 **C. Asset Freeze**

14 1. Except as otherwise specified herein, all Receivership Assets and
15 all assets of the Defendants Suncor Fontana, LLC, Suncor Hesperia, LLC, and
16 Suncor Care Lynwood, LLC, and their respective subsidiaries and affiliates
17 (collectively, the "Suncor Receivership Entities") and those assets of Relief
18 Defendants Yanrob's Medical, Inc., HealthPro Capital Partners, LLC, and Suncor
19 Care, Inc. that: (a) are attributable to funds derived from investors of the Suncor
20 Receivership Entities; (b) are held in constructive trust for the Suncor Receivership
21 Entities; (c) were fraudulently transferred by the Suncor Receivership Entities;
22 and/or (d) may otherwise be includable as assets of the estates of the Suncor
23 Receivership Entities (collectively, the "Recoverable Assets") are frozen until
24 further order of this Court. Accordingly, all persons and entities with direct or
25 indirect control over any Receivership Assets and/or any Recoverable Assets, other
26 than the Receiver, are hereby restrained and enjoined from directly or indirectly
27 transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating
28 or otherwise disposing of or withdrawing such assets. This freeze shall include, but

1 not be limited to, Receivership Assets and/or Recoverable Assets that are on deposit
2 with financial institutions such as banks, brokerage firms and mutual funds.

3 **D. General Powers and Duties of Receiver**

4 1. The Receiver shall have all powers, authorities, rights and
5 privileges heretofore possessed by the officers, directors, managers and general and
6 limited partners of the Suncor Receivership Entities under applicable state and federal
7 law, by the governing charters, by-laws, articles and/or agreements in addition to all
8 powers and authority of a receiver at equity, and all powers conferred upon a receiver
9 by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed.R.Civ.P. 66.

10 2. The trustees, directors, officers, managers, employees, investment
11 advisors, accountants, attorneys and other agents of the Suncor Receivership Entities
12 are hereby dismissed and the powers of any general partners, directors and/or
13 managers are hereby suspended. Such persons and entities shall have no authority
14 with respect to the Suncor Receivership Entities' operations or assets, except to the
15 extent as may hereafter be expressly granted by the Receiver. The Receiver shall
16 assume and control the operation of the Suncor Receivership Entities and shall pursue
17 and preserve all of their claims.

18 3. No person holding or claiming any position of any sort with any
19 of the Suncor Receivership Entities shall possess any authority to act by or on behalf
20 of any of the Suncor Receivership Entities.

21 4. Subject to the specific provisions in this Order, the Receiver shall
22 have the following general powers and duties:

23 a. To use reasonable efforts to determine the nature, location
24 and value of all property interests of the Suncor Receivership Entities, including, but
25 not limited to, monies, funds, securities, credits, effects, goods, chattels, lands,
26 premises, leases, claims, rights and other assets, together with all rents, profits,
27 dividends, interest or other income attributable thereto, of whatever kind, which the
28 Suncor Receivership Entities own, possess, have a beneficial interest in, or control

1 directly or indirectly (“Receivership Property”);

2 b. To take custody, control and possession of all Receivership
3 Property and records relevant thereto from the Suncor Receivership Entities; to sue
4 for and collect, recover, receive and take into possession from third parties all
5 Receivership Property and records relevant thereto;

6 c. To manage, control, operate and maintain the Receivership
7 Estates and hold in his possession, custody and control all Receivership Property,
8 pending further Order of this Court;

9 d. To use Receivership Property for the benefit of the
10 Receivership Estates, making payments and disbursements and incurring expenses as
11 may be necessary or advisable in the ordinary course of business in discharging his
12 duties as Receiver;

13 e. To take such actions as the Receiver deems necessary, in
14 his reasonable business judgment, for the preservation of any Receivership Assets
15 and Receivership Property, including, but not limited to making repairs to,
16 continuing, or completing construction of any real properties owned by the Suncor
17 Receivership Entities or drawing on any loan funds, lines of credit, and/or amounts
18 held in escrow as the Receiver deems necessary and appropriate for such efforts;

19 f. To take any action which, prior to the entry of this Order,
20 could have been taken by the officers, directors, partners, managers, trustees and
21 agents of the Suncor Receivership Entities;

22 g. To engage and employ persons in his discretion to assist
23 him in carrying out his duties and responsibilities hereunder, including, but not
24 limited to, accountants, attorneys, financial or business advisers, liquidating agents,
25 real estate agents, forensic experts, brokers, traders or auctioneers;

26 h. To take such action as necessary and appropriate for the
27 preservation of Receivership Property or to prevent the dissipation or concealment of
28 Receivership Property;

1 i. To review, on at least a bi-weekly basis, a detailed summary
2 of all receipts and expenses, including operating expenses, of Relief Defendant
3 Yanrob's Medical, Inc., and to authorize the payment, on a specific or ongoing basis,
4 of those operating expenses of Relief Defendant Yanrob's Medical, Inc., which the
5 Receiver determines, in his reasonable business judgment, are necessary and
6 appropriate for the preservation of its business. Subject to this limited exception, all
7 funds of Defendant Yanrob's Medical, Inc. shall remain frozen in accordance with
8 Section V.C., above, and subject to all other applicable terms of this Order;

9 j. To issue subpoenas for documents and testimony consistent
10 with the Federal Rules of Civil Procedure;

11 k. To bring such legal actions based on law or equity in any
12 state, federal, or foreign court as the Receiver deems necessary or appropriate in
13 discharging his duties as Receiver;

14 l. To pursue, resist and defend all suits, actions, claims and
15 demands which may now be pending or which may be brought by or asserted against
16 the Receivership Estates; and,

17 m. To take such other action as may be approved by this Court.

18 **E. Access to Information**

19 1. The individual Suncor Receivership Entities and the past and/or
20 present officers, directors, agents, managers, general and limited partners, trustees,
21 attorneys, accountants and employees of the Suncor Receivership Entities, as well as
22 those acting in their place, are hereby ordered and directed to preserve and turn over
23 to the Receiver forthwith all paper and electronic information of, and/or relating to,
24 the Suncor Receivership Entities and/or all Receivership Property; such information
25 shall include but not be limited to books, records, documents, accounts and all other
26 instruments and papers.

27 2. Within ten days (10) of the entry of this Order, the Suncor
28 Receivership Entities shall file with the Court and serve upon the Receiver and the

1 Commission a sworn statement, listing: (a) all employees (and job titles thereof),
2 other personnel, attorneys, accountants and any other agents or contractors of the
3 Suncor Receivership Entities; and, (b) the names, addresses and amounts of claims of
4 all known creditors of the Suncor Receivership Entities.

5 3. Within thirty (30) days of the entry of this Order, the Suncor
6 Receivership Entities shall provide to the Receiver and the Commission copies of the
7 Suncor Receivership Entities' federal income tax returns for January 1, 2011 to the
8 present with all relevant and necessary underlying documentation.

9 4. The Suncor Receivership Entities' past and/or present officers,
10 directors, agents, attorneys, managers, shareholders, employees, accountants, debtors,
11 creditors, managers and general and limited partners, and other appropriate persons or
12 entities shall answer under oath to the Receiver all questions which the Receiver may
13 put to them and produce all documents as required by the Receiver regarding the
14 business of the Suncor Receivership Entities, or any other matter relevant to the
15 operation or administration of the receivership or the collection of funds due to the
16 Suncor Receivership Entities. In the event that the Receiver deems it necessary to
17 require the appearance of the aforementioned persons or entities, the Receiver shall
18 make its discovery requests in accordance with the Federal Rules of Civil Procedure.

19 5. The Receiver shall have the power to issue subpoenas to compel
20 testimony of persons or production of records, consistent with the Federal Rules of
21 Civil Procedure and applicable Local Rules, except for the provisions of Fed.R.Civ.P.
22 26(d)(1), concerning any subject matter within the powers and duties granted by this
23 Order.

24 6. The Defendants Robert Yang and Claudia Kano and the Suncor
25 Receivership Entities are required to assist the Receiver in fulfilling his duties and
26 obligations. As such, they must respond promptly and truthfully to all requests for
27 information and documents from the Receiver.

28

1 **F. Access to Books, Records and Accounts**

2 1. The Receiver is authorized to take immediate possession of all
3 assets, bank accounts or other financial accounts, books and records and all other
4 documents or instruments relating to the Suncor Receivership Entities. All persons
5 and entities having control, custody or possession of any Receivership Property are
6 hereby directed to turn such property over to the Receiver.

7 2. The Suncor Receivership Entities, as well as their agents, servants,
8 employees, attorneys, any persons acting for or on behalf of the Suncor Receivership
9 Entities, and any persons receiving notice of this Order by personal service, facsimile
10 transmission or otherwise, having possession of the property, business, books,
11 records, accounts or assets of the Suncor Receivership Entities are hereby directed to
12 deliver the same to the Receiver, his agents and/or employees.

13 3. All banks, brokerage firms, financial institutions, and other
14 persons or entities which have possession, custody or control of any assets or funds
15 held by, in the name of, or for the benefit of, directly or indirectly, the Suncor
16 Receivership Entities, that receive actual notice of this Order by personal service,
17 facsimile transmission or otherwise shall:

18 a. Not liquidate, transfer, sell, convey or otherwise transfer
19 any assets, securities, funds, or accounts in the name of or for the benefit of the
20 Suncor Receivership Entities except upon instructions from the Receiver;

21 b. Not exercise any form of set-off, alleged set-off, lien, or any
22 form of self-help whatsoever, or refuse to transfer any funds or assets to the
23 Receiver's control without the permission of this Court;

24 c. Within five (5) business days of receipt of that notice, file
25 with the Court and serve on the Receiver and counsel for the Commission a certified
26 statement setting forth, with respect to each such account or other asset, the balance
27 in the account or description of the assets as of the close of business on the date of
28 receipt of the notice; and,

1 d. Cooperate expeditiously in providing information and
2 transferring funds, assets and accounts to the Receiver or at the direction of the
3 Receiver.

4 **G. Access to Real and Personal Property**

5 1. The Receiver is authorized to take immediate possession of all
6 personal property of the Suncor Receivership Entities, wherever located, including
7 but not limited to electronically stored information, computers, laptops, hard drives,
8 external storage drives, and any other such memory, media or electronic storage
9 devices (including all passwords necessary for accessing such information), books,
10 papers, data processing records, evidence of indebtedness, bank records and accounts,
11 savings records and accounts, brokerage records and accounts, certificates of deposit,
12 stocks, bonds, debentures, and other securities and investments, contracts, mortgages,
13 furniture, office supplies and equipment.

14 2. The Receiver is authorized to take immediate possession of all
15 real property of the Suncor Receivership Entities, wherever located, including but not
16 limited to all ownership and leasehold interests and fixtures. Upon receiving actual
17 notice of this Order by personal service, facsimile transmission or otherwise, all
18 persons other than law enforcement officials acting within the course and scope of
19 their official duties, are (without the express written permission of the Receiver)
20 prohibited from: (a) entering such premises; (b) removing anything from such
21 premises; or, (c) destroying, concealing or erasing anything on such premises.

22 3. In order to execute the express and implied terms of this Order,
23 the Receiver is authorized to change door locks to the premises described above. The
24 Receiver shall have exclusive control of the keys. The Suncor Receivership Entities,
25 or any other person acting or purporting to act on their behalf, are ordered not to
26 change the locks in any manner, nor to have duplicate keys made, nor shall they have
27 keys in their possession during the term of the receivership.

28

1 4. The Receiver is authorized to open all mail directed to or received
2 by or at the offices or post office boxes of the Suncor Receivership Entities, and to
3 inspect all mail opened prior to the entry of this Order, to determine whether items or
4 information therein fall within the mandates of this Order.

5 **H. Notice to Third Parties**

6 1. The Receiver shall promptly give notice of his appointment to all
7 known officers, directors, agents, employees, shareholders, creditors, debtors,
8 managers and general and limited partners of the Suncor Receivership Entities, as the
9 Receiver deems necessary or advisable to effectuate the operation of the receivership.

10 2. All persons and entities owing any obligation, debt, or distribution
11 with respect to an ownership interest to any Suncor Receivership Entity shall, until
12 further ordered by this Court, pay all such obligations in accordance with the terms
13 thereof to the Receiver and its receipt for such payments shall have the same force
14 and effect as if the Suncor Receivership Entity had received such payment.

15 3. In furtherance of his responsibilities in this matter, the Receiver is
16 authorized to communicate with, and/or serve this Order upon, any person, entity or
17 government office that he deems appropriate to inform them of the status of this
18 matter and/or the financial condition of the Receivership Estates. All government
19 offices which maintain public files of security interests in real and personal property
20 shall, consistent with such office's applicable procedures, record this Order upon the
21 request of the Receiver or the SEC.

22 4. The Receiver is authorized to instruct the United States
23 Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the
24 business, operations or activities of any of the Suncor Receivership Entities (the
25 "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Suncor
26 Receivership Entities. The Postmaster shall not comply with, and shall immediately
27 report to the Receiver, any change of address or other instruction given by anyone
28 other than the Receiver concerning the Receiver's Mail. The Suncor Receivership

1 Entities shall not open any of the Receiver's Mail and shall immediately turn over
2 such mail, regardless of when received, to the Receiver. All personal mail of any
3 individual Suncor Receivership Entities, and/or any mail appearing to contain
4 privileged information, and/or any mail not falling within the mandate of the
5 Receiver, shall be released to the named addressee by the Receiver. The foregoing
6 instructions shall apply to any proprietor, whether individual or entity, of any private
7 mail box, depository, business or service, or mail courier or delivery service, hired,
8 rented or used by the Suncor Receivership Entities. The Suncor Receivership Entities
9 shall not open a new mailbox, or take any steps or make any arrangements to receive
10 mail in contravention of this Order, whether through the U.S. mail, a private mail
11 depository or courier service.

12 5. Subject to payment for services provided, any entity furnishing
13 water, electric, telephone, sewage, garbage or trash removal services to the Suncor
14 Receivership Entities shall maintain such service and transfer any such accounts to
15 the Receiver unless instructed to the contrary by the Receiver.

16 **I. Injunction Against Interference with Receiver**

17 1. The Suncor Receivership Entities and all persons receiving notice
18 of this Order by personal service, facsimile or otherwise, are hereby restrained and
19 enjoined from directly or indirectly taking any action or causing any action to be
20 taken, without the express written agreement of the Receiver, which would:

21 a. Interfere with the Receiver's efforts to take control,
22 possession, or management of any Receivership Property; such prohibited actions
23 include but are not limited to, using self-help or executing or issuing or causing the
24 execution or issuance of any court attachment, subpoena, replevin, execution, or other
25 process for the purpose of impounding or taking possession of or interfering with or
26 creating or enforcing a lien upon any Receivership Property;

27 b. Hinder, obstruct or otherwise interfere with the Receiver in
28 the performance of his duties; such prohibited actions include but are not limited to,

1 concealing, destroying or altering records or information;

2 c. Dissipate or otherwise diminish the value of any
3 Receivership Property; such prohibited actions include but are not limited to,
4 releasing claims or disposing, transferring, exchanging, assigning or in any way
5 conveying any Receivership Property, enforcing judgments, assessments or claims
6 against any Receivership Property or any Receivership Defendant, attempting to
7 modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any
8 lease, loan, mortgage, indebtedness, security agreement or other agreement executed
9 by any Receivership Defendant or which otherwise affects any Receivership
10 Property; or,

11 d. Interfere with or harass the Receiver, or interfere in any
12 manner with the exclusive jurisdiction of this Court over the Receivership Estates.

13 2. Defendants Robert Yang, Claudia Kano, and the Suncor
14 Receivership Entities shall cooperate with and assist the Receiver in the performance
15 of his duties.

16 3. The Receiver shall promptly notify the Court and SEC counsel of
17 any failure or apparent failure of any person or entity to comply in any way with the
18 terms of this Order.

19 **J. Stay of Litigation**

20 1. As set forth in detail below, the following proceedings, excluding
21 the instant proceeding and all police or regulatory actions and actions of the
22 Commission related to the above-captioned enforcement action, are stayed until
23 further Order of this Court:

24 All civil legal proceedings of any nature, including, but not
25 limited to, bankruptcy proceedings, arbitration proceedings,
26 foreclosure actions, default proceedings, or other actions of any
27 nature involving: (a) the Receiver, in his capacity as Receiver;
28 (b) any Receivership Property, wherever located; (c) any of the

1 Suncor Receivership Entities, including subsidiaries and
2 partnerships; or, (d) any of the Suncor Receivership Entities’
3 past or present officers, directors, managers, agents, or general
4 or limited partners sued for, or in connection with, any action
5 taken by them while acting in such capacity of any nature,
6 whether as plaintiff, defendant, third-party plaintiff, third-party
7 defendant, or otherwise (such proceedings are hereinafter
8 referred to as “Ancillary Proceedings”).

9 2. The parties to any and all Ancillary Proceedings are enjoined from
10 commencing or continuing any such legal proceeding, or from taking any action, in
11 connection with any such proceeding, including, but not limited to, the issuance or
12 employment of process.

13 3. All Ancillary Proceedings are stayed in their entirety, and all
14 Courts having any jurisdiction thereof are enjoined from taking or permitting any
15 action until further Order of this Court. Further, as to a cause of action accrued or
16 accruing in favor of one or more of the Suncor Receivership Entities against a third
17 person or party, any applicable statute of limitation is tolled during the period in
18 which this injunction against commencement of legal proceedings is in effect as to
19 that cause of action.

20 **K. Managing Assets**

21 1. For each of the Receivership Estates, the Receiver shall establish
22 one or more custodial accounts at a federally insured bank to receive and hold all
23 cash equivalent Receivership Property (the “Receivership Funds”).

24 2. The Receiver’s deposit account shall be entitled “Receiver’s
25 Account, Estate of [Name of Suncor Receivership Entity]” together with the name of
26 the action.

27 3. The Receiver may, without further Order of this Court, transfer,
28 compromise, or otherwise dispose of any Receivership Property, other than real

1 estate, in the ordinary course of business, on terms and in the manner the Receiver
2 deems most beneficial to the Receivership Estate, and with due regard to the
3 realization of the true and proper value of such Receivership Property.

4 4. Subject to the specific provisions of this order, the Receiver is
5 authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the
6 sale or lease, and take all necessary and reasonable actions to cause the sale or lease
7 of all real property in the Receivership Estates, either at public or private sale, on
8 terms and in the manner the Receiver deems most beneficial to the Receivership
9 Estate, and with due regard to the realization of the true and proper value of such real
10 property.

11 5. Upon further Order of this Court, pursuant to such procedures as
12 may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and
13 2004, the Receiver will be authorized to sell, and transfer clear title to, all real
14 property in the Receivership Estates.

15 6. The Receiver is authorized to take all actions to manage, maintain,
16 and/or wind-down business operations of the Receivership Estates, including making
17 legally required payments to creditors, employees, and agents of the Receivership
18 Estates and communicating with vendors, investors, governmental and regulatory
19 authorities, and others, as appropriate.

20 7. The Receiver shall take all necessary steps to enable the
21 Receivership Funds to obtain and maintain the status of a taxable "Settlement Fund,"
22 within the meaning of Section 468B of the Internal Revenue Code and of the
23 regulations.

24 **L. Investigate and Prosecute Claims**

25 1. Subject to the requirement, in Section V.J above, that leave of this
26 Court is required to resume or commence certain litigation, the Receiver is
27 authorized, empowered and directed to investigate, prosecute, defend, intervene in or
28 otherwise participate in, compromise, and/or adjust actions in any state, federal or

1 foreign court or proceeding of any kind as may in his discretion, and in consultation
2 with SEC counsel, be advisable or proper to recover and/or conserve Receivership
3 Property.

4 2. Subject to his obligation to expend receivership funds in a
5 reasonable and cost-effective manner, the Receiver is authorized, empowered and
6 directed to investigate the manner in which the financial and business affairs of the
7 Suncor Receivership Entities were conducted and (after obtaining leave of this Court)
8 to institute such actions and legal proceedings, for the benefit and on behalf of the
9 Receivership Estate, as the Receiver deems necessary and appropriate; the Receiver
10 may seek, among other legal and equitable relief, the imposition of constructive
11 trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers,
12 rescission and restitution, collection of debts, and such other relief from this Court as
13 may be necessary to enforce this Order. Where appropriate, the Receiver should
14 provide prior notice to Counsel for the Commission before commencing
15 investigations and/or actions.

16 3. The Receiver hereby holds, and is therefore empowered to waive,
17 all privileges, including the attorney-client privilege, held by all entity Suncor
18 Receivership Entities.

19 4. The Receiver has a continuing duty to ensure that there are no
20 conflicts of interest between the Receiver, his Retained Personnel (as that term is
21 defined below), and the Receivership Estate.

22 **M. Bankruptcy Filing**

23 1. The Receiver may seek authorization of this Court to file
24 voluntary petitions for relief under Title 11 of the United States Code (the
25 “Bankruptcy Code”) for the Suncor Receivership Entities. If a Suncor Receivership
26 Entity is placed in bankruptcy proceedings, the Receiver may become, and may be
27 empowered to operate each of the Receivership Estates as, a debtor in possession. In
28 such a situation, the Receiver shall have all of the powers and duties as provided a

1 debtor in possession under the Bankruptcy Code to the exclusion of any other person
2 or entity. Pursuant to Paragraph V.K above, the Receiver is vested with management
3 authority for all entity Suncor Receivership Entities and may therefore file and
4 manage a Chapter 11 petition.

5 2. The provisions of Section V.J above bar any person or entity,
6 other than the Receiver, from placing any of the Suncor Receivership Entities in
7 bankruptcy proceedings.

8 **N. Liability of Receiver**

9 1. Until further Order of this Court, the Receiver shall not be
10 required to post bond or give an undertaking of any type in connection with his
11 fiduciary obligations in this matter.

12 2. The Receiver and his agents, acting within scope of such agency
13 (“Retained Personnel”) are entitled to rely on all outstanding rules of law and Orders
14 of this Court and shall not be liable to anyone for their own good faith compliance
15 with any order, rule, law, judgment, or decree. In no event shall the Receiver or
16 Retained Personnel be liable to anyone for their good faith compliance with their
17 duties and responsibilities as Receiver or Retained Personnel

18 3. This Court shall retain jurisdiction over any action filed against
19 the Receiver or Retained Personnel based upon acts or omissions committed in their
20 representative capacities.

21 4. In the event the Receiver decides to resign, the Receiver shall first
22 give written notice to the Commission’s counsel of record and the Court of its
23 intention, and the resignation shall not be effective until the Court appoints a
24 successor. The Receiver shall then follow such instructions as the Court may
25 provide.

26 **O. Recommendations and Reports**

27 1. On or before December 24, 2015, the Receiver shall file a report
28 regarding the Receiver’s initial plan to marshal the assets of the Suncor Receivership

1 Entities, with service copies to counsel of record.

2 2. The Receiver is authorized, empowered and directed to develop a
3 plan for the fair, reasonable, and efficient recovery and liquidation of all remaining,
4 recovered, and recoverable Receivership Property (the "Liquidation Plan").

5 3. Within ninety (90) days of the entry date of this Order, or at an
6 alternate date set by the Court upon application of the Receiver, the Receiver shall
7 file the Liquidation Plan in the above-captioned action, with service copies to counsel
8 of record.

9 4. Within thirty (30) days after the end of each calendar quarter, the
10 Receiver shall file and serve a full report and accounting of each Receivership Estate
11 (the "Quarterly Status Report"), reflecting (to the best of the Receiver's knowledge as
12 of the period covered by the report) the existence, value, and location of all
13 Receivership Property, and of the extent of liabilities, both those claimed to exist by
14 others and those the Receiver believes to be legal obligations of the Receivership
15 Estates.

16 5. The Quarterly Status Report shall contain the following:

17 a. A summary of the operations of the Receiver;

18 b. The amount of cash on hand, the amount and nature of
19 accrued administrative expenses, and the amount of unencumbered funds in the
20 estate;

21 c. A schedule of all the Receiver's receipts and disbursements
22 (attached as Exhibit A to the Quarterly Status Report), with one column for the
23 quarterly period covered and a second column for the entire duration of the
24 receivership;

25 d. A description of all known Receivership Property, including
26 approximate or actual valuations, anticipated or proposed dispositions, and reasons
27 for retaining assets where no disposition is intended;

28

1 e. A description of liquidated and unliquidated claims held by
2 the Receivership Estate, including the need for forensic and/or investigatory
3 resources; approximate valuations of claims; and anticipated or proposed methods of
4 enforcing such claims (including likelihood of success in: (i) reducing the claims to
5 judgment; and, (ii) collecting such judgments);

6 f. A list of all known creditors with their addresses and the
7 amounts of their claims;

8 g. The status of Creditor Claims Proceedings, after such
9 proceedings have been commenced; and,

10 h. The Receiver's recommendations for a continuation or
11 discontinuation of the receivership and the reasons for the recommendations.

12 6. On the request of the Commission, the Receiver shall provide the
13 Commission with any documentation that the Commission deems necessary to meet
14 its reporting requirements, that is mandated by statute or Congress, or that is
15 otherwise necessary to further the Commission's mission.

16 **P. Fees, Expenses and Accountings**

17 1. Subject to the specific provisions of this Order, the Receiver need
18 not obtain Court approval prior to the disbursement of Receivership Funds for
19 expenses in the ordinary course of the administration and operation of the
20 receivership. Further, prior Court approval is not required for payments of applicable
21 federal, state or local taxes.

22 2. Subject to the specific provisions of this Order, the Receiver is
23 authorized to solicit persons and entities ("Retained Personnel") to assist him in
24 carrying out the duties and responsibilities described in this Order. The Receiver
25 shall not engage any Retained Personnel without first obtaining an Order of the Court
26 authorizing such engagement.

27 3. The Receiver and Retained Personnel are entitled to reasonable
28 compensation and expense reimbursement from the Receivership Estates as described

1 in the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S.
2 Securities and Exchange Commission” (the “Billing Instructions”) agreed to by the
3 Receiver. Such compensation shall require the prior approval of the Court.

4 4. Within forty-five (45) days after the end of each calendar quarter,
5 the Receiver and Retained Personnel shall apply to the Court for compensation and
6 expense reimbursement from the Receivership Estates (the “Quarterly Fee
7 Applications”). At least thirty (30) days prior to filing each Quarterly Fee
8 Application with the Court, the Receiver will serve upon counsel for the SEC a
9 complete copy of the proposed Application, together with all exhibits and relevant
10 billing information in a format to be provided by SEC staff.

11 5. All Quarterly Fee Applications will be interim and will be subject
12 to cost benefit and final reviews at the close of the receivership. At the close of the
13 receivership, the Receiver will file a final fee application, describing in detail the
14 costs and benefits associated with all litigation and other actions pursued by the
15 Receiver during the course of the receivership.

16 6. Quarterly Fee Applications may be subject to a holdback in the
17 amount of 20% of the amount of fees and expenses for each application filed with the
18 Court. The total amounts held back during the course of the receivership will be paid
19 out at the discretion of the Court as part of the final fee application submitted at the
20 close of the receivership.

21 7. Each Quarterly Fee Application shall:

22 a. Comply with the terms of the Billing Instructions agreed to
23 by the Receiver; and,

24 b. Contain representations (in addition to the Certification
25 required by the Billing Instructions) that: (i) the fees and expenses included therein
26 were incurred in the best interests of the Receivership Estate; and, (ii) with the
27 exception of the Billing Instructions, the Receiver has not entered into any agreement,
28 written or oral, express or implied, with any person or entity concerning the amount

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of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

8. At the close of the Receivership, the Receiver shall submit a Final Accounting, in a format to be provided by SEC staff, as well as the Receiver's final application for compensation and expense reimbursement.

VI.

IT IS HEREBY FURTHER ORDERED that the hearing to show cause set for December 21, 2015 by the Temporary Restraining Order, Order Freezing Assets, and Providing for Other Ancillary Relief entered by the Court on November 25, 2015 is vacated.

Dated: December 11, 2015



STEPHEN V. WILSON
UNITED STATES DISTRICT JUDGE

EXHIBIT 2

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
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Telephone: 213.622.5555 | Facsimile: 213.620.8816
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Kenyon Harbison
E-mail: kharbison@allenmatkins.com
Direct Dial: 213.955.5661 File Number: 375525-00004/LA1057209.03

Via U.S. Mail/Email

October 5, 2016

Heriberto F. Diaz, Senior Deputy General Counsel
Metropolitan Water District of California
700 North Alameda Street
Los Angeles, CA 90012

Re: SEC v. Yang, et al. | USDC, CD Cal. Case No. 5:15-cv-02387-SVW (KKx)

Mr. Diaz:

As you know, this firm represents Stephen J. Donell (the "Receiver"), the Court-appointed receiver for Suncor Fontana, LLC, Suncor Hesperia, LLC, Suncor Care Lynwood, LLC, and their respective subsidiaries and affiliates (collectively, the "Receivership Entities" or "Entities") in the above-referenced matter. This letter responds to your letter of September 2, 2016.

Based on his review of the documents, the Receiver has concluded that the transfer of the funds to the Metropolitan Water District of California ("MWD") was a fraudulent transfer under California law, in that it, *inter alia*, had the effect of delaying and hindering the ability of investors in the Entities to recover their investments. Accordingly, pursuant to the previously provided Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and Providing for Other Ancillary Relief, these funds, all of which were derived from defrauded investors in the Receivership Entities, must be returned.

Separately, as you yourself have noted, paragraph 7.1 of the relevant purchase agreement purported to establish \$250,000 as a liquidated damages amount. In order to be valid in the context of a commercial real property transaction, a liquidated damages provision must represent a reasonable attempt to anticipate the losses to be suffered. *See, e.g., Californians for Population Stabilization v. Hewlett-Packard Co.*, 58 Cal.App.4th 273, 289 (1997); Cal. Civ. Code § 1676. Here, there is ample evidence to suggest that the \$250,000 paid to the MWD does not reflect a reasonable estimate of losses it might have suffered; and, indeed, the MWD suffered no losses. Accordingly, the purported \$250,000 liquidated damages provision was unreasonable under the circumstances existing at the time the contract was made. Moreover, in this context, reasonableness is measured as against the sophistication of the contracting parties. *See, e.g., Hong v. Somerset Assoc.*, 161 Cal.App.3d 111, 114 (1984). Here, there is no evidence that the buyer under the contract had any significant real estate development experience, at all. Likewise, the liquidated

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

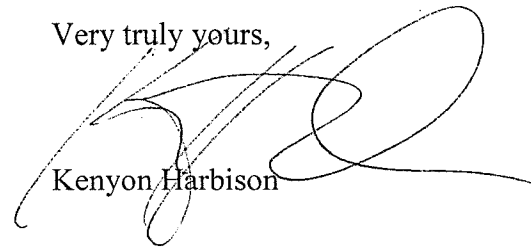
Heriberto F. Diaz, Senior Deputy General Counsel
October 5, 2016
Page 2

damages here were set at 5% of the purchase price, far in excess of the 1.8% deemed reasonable in a case like *Hong*. In short, the liquidated damages provision of the purchase and sale agreement upon which the MWD relies in denying the Receiver's turnover request was simply invalid.

Accordingly, the Receiver respectfully renews his request that the MWD return the subject funds, immediately. If the MWD continues to refuse to return the subject funds, then the Receiver will commence an action against the MWD in order to recover the funds for the benefit of defrauded investors and other creditors of the Receivership Entities.

Thank you for your attention to this important matter. Please contact me as soon as possible to arrange a wire transfer to an account held by the Receiver for the benefit of the Entities, or to discuss the Receiver's turnover request. If you have any questions, please let me know as soon as possible.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kenyon Harbison', written over a printed name.

Kenyon Harbison

KH

cc: Stephen J. Donell, Receiver
(via email only)

EXHIBIT 3

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
865 South Figueroa Street, Suite 2800 | Los Angeles, CA 90017-2543
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Joshua A. del Castillo
E-mail: jdelcastillo@allenmatkins.com
Direct Dial: 213.955.5591 File Number: 375525-00003/LA1060153.01

Via Certified Mail

November 3, 2016

Heriberto F. Diaz, Senior Deputy General Counsel
Metropolitan Water District of California
700 North Alameda Street
Los Angeles, CA 90012

Re: SEC v. Yang, et al. | USDC, CD Cal. Case No. 5:15-cv-02387-SVW (KKx)

Dr. Mr. Diaz:

As you know from your prior discussions with my colleague, Kenyon Harbison, this firm represents Stephen J. Donell (the "Receiver"), the court-appointed permanent receiver for Suncor Fontana, LLC, Suncor Hesperia, LLC, Suncor Care Lynwood, LLC, and their subsidiaries and affiliated (collectively, the "Receivership Entities") in the above-referenced Securities and Exchange Commission enforcement action, presently pending before the United States District Court for the Central District of California (the "Court").

On two prior occasions, we have advised the Metropolitan Water District of California (the "MWD") that the \$250,000 it retained in connection with a failed land purchase agreement by and between the MWD and Suncor Care, Inc. ("Suncor"), a Receivership Entity, must be returned to the Receiver in accordance with the Court's December 11, 2015 Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and Providing for Other Ancillary Relief (the "Appointment Order"), a copy of which is enclosed for your reference, which compels the return of funds, however and wherever held, that are derived from investors in the Receivership Entities. A copy of the MWD's agreement with Suncor is also enclosed, for your reference.

Notwithstanding the fact that the Receiver has confirmed that the funds paid to the MWD were directly derived from Receivership Entity investors and represent the proceeds of an admitted securities fraud, the MWD has repeatedly refused to return these funds to the Receiver in accordance with the express requirements of the Appointment Order, on the grounds that, at a minimum, the \$250,000 payment it received constituted an appropriate liquidated damages payment, given the failure of its anticipated sale of real property to Suncor.

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Heriberto F. Diaz, Senior Deputy General Counsel
November 3, 2016

Page 2

This is not the case. Most importantly, the funds paid to the MWD were never Suncor's to pay: they were the proceeds of an unlawful securities investment scheme and were derived exclusively from defrauded investors.

Moreover, even assuming, *arguendo*, that Suncor had some right to release the funds to the MWD, the liquidated damages provision upon which the MWD has relied in denying the Receiver's turnover request is unenforceable. Where, as here, it represents an unreasonable allocation of the risk – as between a large, sophisticated government entity and Suncor's unsophisticated principals, each of whom was in the midst of perpetrating a securities fraud on unwitting investors at the time the agreement was signed – such a liquidated damages provision is invalid.

This is especially true when, as here, regardless of the relative sophistication of the parties, there is a lack of equal bargaining power. Similarly, in order for a liquidated damages provision to be enforceable in the context of a real property transaction, it must reflect a reasonable attempt by the parties to anticipate the losses suffered. In other words, a payment characterized as a liquidated damages payment, even if in good faith, is subject to rescission if the party to whom it was paid suffered no damages, or inconsequential damages unrelated to the size of the payment received.

The facts here strongly militate in the Receiver's favor. First, the individuals who controlled Suncor at the time it entered into its agreement with the MWD were not authorized to siphon investor funds from other Receivership Entities and pledge those funds as liquidated damages to the MWD. In fact, it was this very sort of conduct that precipitated the present Securities and Exchange Commission action against Suncor's principals, Robert Wang and Claudia Kano. Each has since entered into a consent judgment essentially admitting to the Securities and Exchange Commission's fraud allegations.

Likewise, the liquidated damages provision relied upon by the MWD in its refusal to return the subject funds to the Receiver does not reflect a reasonable allocation of risk: the "upside" of a failure of the agreement inured exclusively to the MWD's benefit. This is unsurprising, given the marked difference in sophistication between the parties. The transaction is all the more suspect when considering the fact that the MWD suffered no losses in connection with its agreement with Suncor, yet walked away with a quarter of a million dollars in stolen funds.

Accordingly, the Receiver respectfully requests, once more, that the MWD return the \$250,000 it was paid by Suncor. The MWD's agreement with Suncor is unusual, and directly implicates funds fraudulently obtained from investors at a time when Suncor was under adverse domination. The Receiver sincerely hopes that the MWD gives appropriate weight to these facts when considering whether return the funds in issue.

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Heriberto F. Diaz, Senior Deputy General Counsel
November 3, 2016

Page 3

Please contact me at your earliest convenience to arrange for the \$250,000 paid by Suncor to the MWD to be returned to the Receiver. If the funds are not returned by, or the parties have not commenced meaningful settlement discussions by, 5:00 p.m. on November 11, 2016, then the Receiver expects to initiate litigation against the MWD to recover these funds. Thank you very much for your prompt attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Joshua A. del Castillo', with a long, sweeping underline that extends to the left and then curves back under the signature.

Joshua A. del Castillo

JAD
Enclosures

cc: Stephen J. Donell, Receiver
(via email only)

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Attorneys for Plaintiff
Securities and Exchange Commission

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,
Plaintiff,

vs.

ROBERT YANG,
CLAUDIA KANO,
SUNCOR FONTANA, LLC,
SUNCOR HESPERIA, LLC, AND
SUNCOR CARE LYNWOOD, LLC
Defendants,

AND

YANROB'S MEDICAL, INC.,
HEALTHPRO CAPITAL PARTNERS, LLC,
AND SUNCOR CARE, INC.
Relief Defendants.

Case No. 5:15-cv-02387-SVW (KKx)

**PRELIMINARY INJUNCTION,
ORDER APPOINTING RECEIVER,
FREEZING ASSETS, AND
PROVIDING FOR OTHER
ANCILLARY RELIEF**

1 The parties in this matter have by stipulation agreed to the entry of this Order
2 of Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and
3 Providing for Other Ancillary Relief.

4 A. This Court has jurisdiction over the parties to, and the subject matter of,
5 this action.

6 B. The terms and conditions of the Temporary Restraining Order, Order
7 Freezing Assets, and Providing for Other Ancillary Relief entered by the Court on
8 November 25, 2015 shall remain in full force and effect until this Court has issued
9 this Order.

10 **I.**

11 IT IS HEREBY ORDERED that, until final judgment in this matter enters,
12 Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor Hesperia,
13 LLC, and Suncor Care Lynwood, LLC and their officers, directors, subsidiaries,
14 affiliates, agents, servants, employees, attorneys-in-fact, and those persons in active
15 concert or participation with them who receive actual notice of this order by personal
16 service or otherwise, and each of them, are enjoined and restrained from, directly or
17 indirectly, in the offer or sale of any security by the use of any means or instruments
18 of transportation, or communication in interstate commerce or by the use of the mails:
19 (1) employing any device, scheme, or artifice to defraud; or (2) obtaining money or
20 property by means of any untrue statement of a material fact or any omission to state
21 a material fact necessary in order to make the statements made, in the light of the
22 circumstances under which they were made, not misleading; or (3) engaging in any
23 transaction, practice, or course of business that operates or would operate as a fraud
24 or deceit upon the purchaser in violation of Section 17(a) of the Securities Act of
25 1933 [15 U.S.C. § 77q(a)].

26 **II.**

27 IT IS HEREBY FURTHER ORDERED that until final judgment in this matter
28 enters, Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor

1 Hesperia, LLC, and Suncor Care Lynwood, LLC and their officers, directors,
2 subsidiaries, affiliates, agents, servants, employees, attorneys-in-fact, and those
3 persons in active concert or participation with them who receive actual notice of this
4 order by personal service or otherwise, and each of them, are enjoined and restrained
5 from directly or indirectly, by the use of any means or instrumentality of interstate
6 commerce, or of the mails or of any facility of any national securities exchange in
7 connection with the purchase or sale of any security: (1) employing any device,
8 scheme, or artifice to defraud; (2) making any untrue statement of a material fact or to
9 omit to state a material fact necessary in order to make the statements made, in the
10 light of the circumstances under which they were made, not misleading; or (3)
11 engaging in any act, practice, or course of business which operates or would operate
12 as a fraud or deceit upon any person in violation of Section 10(b) of the Securities
13 Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R.
14 240.10b-5].

15 **III.**

16 IT IS HEREBY FURTHER ORDERED that except as otherwise specified in
17 this Order, pending further order of this Court, the asset freeze imposed by Section III
18 of the Temporary Restraining Order, Order Freezing Assets, and Providing for Other
19 Ancillary Relief entered by the Court on November 25, 2015, shall continue in full
20 force and effect, and all such funds and other assets shall remain frozen.

21 **IV.**

22 IT IS HEREBY FURTHER ORDERED that until final judgment in this matter
23 enters, Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor
24 Hesperia, LLC, Suncor Care Lynwood, LLC, and Relief Defendants Yanrob's
25 Medical, Inc., HealthPro Capital Partners, LLC, and Suncor Care, Inc., and their
26 officers, directors, successor corporations, subsidiaries and affiliates, agents, servants,
27 employees, attorneys-in-fact, and those persons in active concert or participation with
28 them who receive actual notice of this order by personal service or otherwise, and

1 each of them, are hereby restrained from destroying, mutilating, concealing, altering,
2 or disposing of any document referring or relating in any manner to any transactions
3 described in the Complaint in this action, or to any communications between or
4 among any of the Defendants and/or Relief Defendants.

5 **V.**

6 **IT IS HEREBY FURTHER ORDERED** that

7 **A.** This Court hereby takes exclusive jurisdiction and possession of the
8 assets, of whatever kind and wherever situated, of the Suncor Receivership Entities
9 (collectively, the “Receivership Assets”).

10 **B.** Until further Order of this Court, Stephen J. Donell is hereby appointed
11 to serve without bond as receiver (the “Receiver”) for the estates of the Suncor
12 Receivership Entities (the “Receivership Estates”).

13 **C. Asset Freeze**

14 1. Except as otherwise specified herein, all Receivership Assets and
15 all assets of the Defendants Suncor Fontana, LLC, Suncor Hesperia, LLC, and
16 Suncor Care Lynwood, LLC, and their respective subsidiaries and affiliates
17 (collectively, the “Suncor Receivership Entities”) and those assets of Relief
18 Defendants Yanrob’s Medical, Inc., HealthPro Capital Partners, LLC, and Suncor
19 Care, Inc. that: (a) are attributable to funds derived from investors of the Suncor
20 Receivership Entities; (b) are held in constructive trust for the Suncor Receivership
21 Entities; (c) were fraudulently transferred by the Suncor Receivership Entities;
22 and/or (d) may otherwise be includable as assets of the estates of the Suncor
23 Receivership Entities (collectively, the “Recoverable Assets”) are frozen until
24 further order of this Court. Accordingly, all persons and entities with direct or
25 indirect control over any Receivership Assets and/or any Recoverable Assets, other
26 than the Receiver, are hereby restrained and enjoined from directly or indirectly
27 transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating
28 or otherwise disposing of or withdrawing such assets. This freeze shall include, but

1 not be limited to, Receivership Assets and/or Recoverable Assets that are on deposit
2 with financial institutions such as banks, brokerage firms and mutual funds.

3 **D. General Powers and Duties of Receiver**

4 1. The Receiver shall have all powers, authorities, rights and
5 privileges heretofore possessed by the officers, directors, managers and general and
6 limited partners of the Suncor Receivership Entities under applicable state and federal
7 law, by the governing charters, by-laws, articles and/or agreements in addition to all
8 powers and authority of a receiver at equity, and all powers conferred upon a receiver
9 by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed.R.Civ.P. 66.

10 2. The trustees, directors, officers, managers, employees, investment
11 advisors, accountants, attorneys and other agents of the Suncor Receivership Entities
12 are hereby dismissed and the powers of any general partners, directors and/or
13 managers are hereby suspended. Such persons and entities shall have no authority
14 with respect to the Suncor Receivership Entities' operations or assets, except to the
15 extent as may hereafter be expressly granted by the Receiver. The Receiver shall
16 assume and control the operation of the Suncor Receivership Entities and shall pursue
17 and preserve all of their claims.

18 3. No person holding or claiming any position of any sort with any
19 of the Suncor Receivership Entities shall possess any authority to act by or on behalf
20 of any of the Suncor Receivership Entities.

21 4. Subject to the specific provisions in this Order, the Receiver shall
22 have the following general powers and duties:

23 a. To use reasonable efforts to determine the nature, location
24 and value of all property interests of the Suncor Receivership Entities, including, but
25 not limited to, monies, funds, securities, credits, effects, goods, chattels, lands,
26 premises, leases, claims, rights and other assets, together with all rents, profits,
27 dividends, interest or other income attributable thereto, of whatever kind, which the
28 Suncor Receivership Entities own, possess, have a beneficial interest in, or control

1 directly or indirectly (“Receivership Property”);

2 b. To take custody, control and possession of all Receivership
3 Property and records relevant thereto from the Suncor Receivership Entities; to sue
4 for and collect, recover, receive and take into possession from third parties all
5 Receivership Property and records relevant thereto;

6 c. To manage, control, operate and maintain the Receivership
7 Estates and hold in his possession, custody and control all Receivership Property,
8 pending further Order of this Court;

9 d. To use Receivership Property for the benefit of the
10 Receivership Estates, making payments and disbursements and incurring expenses as
11 may be necessary or advisable in the ordinary course of business in discharging his
12 duties as Receiver;

13 e. To take such actions as the Receiver deems necessary, in
14 his reasonable business judgment, for the preservation of any Receivership Assets
15 and Receivership Property, including, but not limited to making repairs to,
16 continuing, or completing construction of any real properties owned by the Suncor
17 Receivership Entities or drawing on any loan funds, lines of credit, and/or amounts
18 held in escrow as the Receiver deems necessary and appropriate for such efforts;

19 f. To take any action which, prior to the entry of this Order,
20 could have been taken by the officers, directors, partners, managers, trustees and
21 agents of the Suncor Receivership Entities;

22 g. To engage and employ persons in his discretion to assist
23 him in carrying out his duties and responsibilities hereunder, including, but not
24 limited to, accountants, attorneys, financial or business advisers, liquidating agents,
25 real estate agents, forensic experts, brokers, traders or auctioneers;

26 h. To take such action as necessary and appropriate for the
27 preservation of Receivership Property or to prevent the dissipation or concealment of
28 Receivership Property;

1 i. To review, on at least a bi-weekly basis, a detailed summary
2 of all receipts and expenses, including operating expenses, of Relief Defendant
3 Yanrob's Medical, Inc., and to authorize the payment, on a specific or ongoing basis,
4 of those operating expenses of Relief Defendant Yanrob's Medical, Inc., which the
5 Receiver determines, in his reasonable business judgment, are necessary and
6 appropriate for the preservation of its business. Subject to this limited exception, all
7 funds of Defendant Yanrob's Medical, Inc. shall remain frozen in accordance with
8 Section V.C., above, and subject to all other applicable terms of this Order;

9 j. To issue subpoenas for documents and testimony consistent
10 with the Federal Rules of Civil Procedure;

11 k. To bring such legal actions based on law or equity in any
12 state, federal, or foreign court as the Receiver deems necessary or appropriate in
13 discharging his duties as Receiver;

14 l. To pursue, resist and defend all suits, actions, claims and
15 demands which may now be pending or which may be brought by or asserted against
16 the Receivership Estates; and,

17 m. To take such other action as may be approved by this Court.

18 **E. Access to Information**

19 1. The individual Suncor Receivership Entities and the past and/or
20 present officers, directors, agents, managers, general and limited partners, trustees,
21 attorneys, accountants and employees of the Suncor Receivership Entities, as well as
22 those acting in their place, are hereby ordered and directed to preserve and turn over
23 to the Receiver forthwith all paper and electronic information of, and/or relating to,
24 the Suncor Receivership Entities and/or all Receivership Property; such information
25 shall include but not be limited to books, records, documents, accounts and all other
26 instruments and papers.

27 2. Within ten days (10) of the entry of this Order, the Suncor
28 Receivership Entities shall file with the Court and serve upon the Receiver and the

1 Commission a sworn statement, listing: (a) all employees (and job titles thereof),
2 other personnel, attorneys, accountants and any other agents or contractors of the
3 Suncor Receivership Entities; and, (b) the names, addresses and amounts of claims of
4 all known creditors of the Suncor Receivership Entities.

5 3. Within thirty (30) days of the entry of this Order, the Suncor
6 Receivership Entities shall provide to the Receiver and the Commission copies of the
7 Suncor Receivership Entities' federal income tax returns for January 1, 2011 to the
8 present with all relevant and necessary underlying documentation.

9 4. The Suncor Receivership Entities' past and/or present officers,
10 directors, agents, attorneys, managers, shareholders, employees, accountants, debtors,
11 creditors, managers and general and limited partners, and other appropriate persons or
12 entities shall answer under oath to the Receiver all questions which the Receiver may
13 put to them and produce all documents as required by the Receiver regarding the
14 business of the Suncor Receivership Entities, or any other matter relevant to the
15 operation or administration of the receivership or the collection of funds due to the
16 Suncor Receivership Entities. In the event that the Receiver deems it necessary to
17 require the appearance of the aforementioned persons or entities, the Receiver shall
18 make its discovery requests in accordance with the Federal Rules of Civil Procedure.

19 5. The Receiver shall have the power to issue subpoenas to compel
20 testimony of persons or production of records, consistent with the Federal Rules of
21 Civil Procedure and applicable Local Rules, except for the provisions of Fed.R.Civ.P.
22 26(d)(1), concerning any subject matter within the powers and duties granted by this
23 Order.

24 6. The Defendants Robert Yang and Claudia Kano and the Suncor
25 Receivership Entities are required to assist the Receiver in fulfilling his duties and
26 obligations. As such, they must respond promptly and truthfully to all requests for
27 information and documents from the Receiver.
28

1 **F. Access to Books, Records and Accounts**

2 1. The Receiver is authorized to take immediate possession of all
3 assets, bank accounts or other financial accounts, books and records and all other
4 documents or instruments relating to the Suncor Receivership Entities. All persons
5 and entities having control, custody or possession of any Receivership Property are
6 hereby directed to turn such property over to the Receiver.

7 2. The Suncor Receivership Entities, as well as their agents, servants,
8 employees, attorneys, any persons acting for or on behalf of the Suncor Receivership
9 Entities, and any persons receiving notice of this Order by personal service, facsimile
10 transmission or otherwise, having possession of the property, business, books,
11 records, accounts or assets of the Suncor Receivership Entities are hereby directed to
12 deliver the same to the Receiver, his agents and/or employees.

13 3. All banks, brokerage firms, financial institutions, and other
14 persons or entities which have possession, custody or control of any assets or funds
15 held by, in the name of, or for the benefit of, directly or indirectly, the Suncor
16 Receivership Entities, that receive actual notice of this Order by personal service,
17 facsimile transmission or otherwise shall:

18 a. Not liquidate, transfer, sell, convey or otherwise transfer
19 any assets, securities, funds, or accounts in the name of or for the benefit of the
20 Suncor Receivership Entities except upon instructions from the Receiver;

21 b. Not exercise any form of set-off, alleged set-off, lien, or any
22 form of self-help whatsoever, or refuse to transfer any funds or assets to the
23 Receiver's control without the permission of this Court;

24 c. Within five (5) business days of receipt of that notice, file
25 with the Court and serve on the Receiver and counsel for the Commission a certified
26 statement setting forth, with respect to each such account or other asset, the balance
27 in the account or description of the assets as of the close of business on the date of
28 receipt of the notice; and,

1 d. Cooperate expeditiously in providing information and
2 transferring funds, assets and accounts to the Receiver or at the direction of the
3 Receiver.

4 **G. Access to Real and Personal Property**

5 1. The Receiver is authorized to take immediate possession of all
6 personal property of the Suncor Receivership Entities, wherever located, including
7 but not limited to electronically stored information, computers, laptops, hard drives,
8 external storage drives, and any other such memory, media or electronic storage
9 devices (including all passwords necessary for accessing such information), books,
10 papers, data processing records, evidence of indebtedness, bank records and accounts,
11 savings records and accounts, brokerage records and accounts, certificates of deposit,
12 stocks, bonds, debentures, and other securities and investments, contracts, mortgages,
13 furniture, office supplies and equipment.

14 2. The Receiver is authorized to take immediate possession of all
15 real property of the Suncor Receivership Entities, wherever located, including but not
16 limited to all ownership and leasehold interests and fixtures. Upon receiving actual
17 notice of this Order by personal service, facsimile transmission or otherwise, all
18 persons other than law enforcement officials acting within the course and scope of
19 their official duties, are (without the express written permission of the Receiver)
20 prohibited from: (a) entering such premises; (b) removing anything from such
21 premises; or, (c) destroying, concealing or erasing anything on such premises.

22 3. In order to execute the express and implied terms of this Order,
23 the Receiver is authorized to change door locks to the premises described above. The
24 Receiver shall have exclusive control of the keys. The Suncor Receivership Entities,
25 or any other person acting or purporting to act on their behalf, are ordered not to
26 change the locks in any manner, nor to have duplicate keys made, nor shall they have
27 keys in their possession during the term of the receivership.
28

1 4. The Receiver is authorized to open all mail directed to or received
2 by or at the offices or post office boxes of the Suncor Receivership Entities, and to
3 inspect all mail opened prior to the entry of this Order, to determine whether items or
4 information therein fall within the mandates of this Order.

5 **H. Notice to Third Parties**

6 1. The Receiver shall promptly give notice of his appointment to all
7 known officers, directors, agents, employees, shareholders, creditors, debtors,
8 managers and general and limited partners of the Suncor Receivership Entities, as the
9 Receiver deems necessary or advisable to effectuate the operation of the receivership.

10 2. All persons and entities owing any obligation, debt, or distribution
11 with respect to an ownership interest to any Suncor Receivership Entity shall, until
12 further ordered by this Court, pay all such obligations in accordance with the terms
13 thereof to the Receiver and its receipt for such payments shall have the same force
14 and effect as if the Suncor Receivership Entity had received such payment.

15 3. In furtherance of his responsibilities in this matter, the Receiver is
16 authorized to communicate with, and/or serve this Order upon, any person, entity or
17 government office that he deems appropriate to inform them of the status of this
18 matter and/or the financial condition of the Receivership Estates. All government
19 offices which maintain public files of security interests in real and personal property
20 shall, consistent with such office's applicable procedures, record this Order upon the
21 request of the Receiver or the SEC.

22 4. The Receiver is authorized to instruct the United States
23 Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the
24 business, operations or activities of any of the Suncor Receivership Entities (the
25 "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Suncor
26 Receivership Entities. The Postmaster shall not comply with, and shall immediately
27 report to the Receiver, any change of address or other instruction given by anyone
28 other than the Receiver concerning the Receiver's Mail. The Suncor Receivership

1 Entities shall not open any of the Receiver's Mail and shall immediately turn over
2 such mail, regardless of when received, to the Receiver. All personal mail of any
3 individual Suncor Receivership Entities, and/or any mail appearing to contain
4 privileged information, and/or any mail not falling within the mandate of the
5 Receiver, shall be released to the named addressee by the Receiver. The foregoing
6 instructions shall apply to any proprietor, whether individual or entity, of any private
7 mail box, depository, business or service, or mail courier or delivery service, hired,
8 rented or used by the Suncor Receivership Entities. The Suncor Receivership Entities
9 shall not open a new mailbox, or take any steps or make any arrangements to receive
10 mail in contravention of this Order, whether through the U.S. mail, a private mail
11 depository or courier service.

12 5. Subject to payment for services provided, any entity furnishing
13 water, electric, telephone, sewage, garbage or trash removal services to the Suncor
14 Receivership Entities shall maintain such service and transfer any such accounts to
15 the Receiver unless instructed to the contrary by the Receiver.

16 **I. Injunction Against Interference with Receiver**

17 1. The Suncor Receivership Entities and all persons receiving notice
18 of this Order by personal service, facsimile or otherwise, are hereby restrained and
19 enjoined from directly or indirectly taking any action or causing any action to be
20 taken, without the express written agreement of the Receiver, which would:

21 a. Interfere with the Receiver's efforts to take control,
22 possession, or management of any Receivership Property; such prohibited actions
23 include but are not limited to, using self-help or executing or issuing or causing the
24 execution or issuance of any court attachment, subpoena, replevin, execution, or other
25 process for the purpose of impounding or taking possession of or interfering with or
26 creating or enforcing a lien upon any Receivership Property;

27 b. Hinder, obstruct or otherwise interfere with the Receiver in
28 the performance of his duties; such prohibited actions include but are not limited to,

1 concealing, destroying or altering records or information;

2 c. Dissipate or otherwise diminish the value of any
3 Receivership Property; such prohibited actions include but are not limited to,
4 releasing claims or disposing, transferring, exchanging, assigning or in any way
5 conveying any Receivership Property, enforcing judgments, assessments or claims
6 against any Receivership Property or any Receivership Defendant, attempting to
7 modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any
8 lease, loan, mortgage, indebtedness, security agreement or other agreement executed
9 by any Receivership Defendant or which otherwise affects any Receivership
10 Property; or,

11 d. Interfere with or harass the Receiver, or interfere in any
12 manner with the exclusive jurisdiction of this Court over the Receivership Estates.

13 2. Defendants Robert Yang, Claudia Kano, and the Suncor
14 Receivership Entities shall cooperate with and assist the Receiver in the performance
15 of his duties.

16 3. The Receiver shall promptly notify the Court and SEC counsel of
17 any failure or apparent failure of any person or entity to comply in any way with the
18 terms of this Order.

19 **J. Stay of Litigation**

20 1. As set forth in detail below, the following proceedings, excluding
21 the instant proceeding and all police or regulatory actions and actions of the
22 Commission related to the above-captioned enforcement action, are stayed until
23 further Order of this Court:

24 All civil legal proceedings of any nature, including, but not
25 limited to, bankruptcy proceedings, arbitration proceedings,
26 foreclosure actions, default proceedings, or other actions of any
27 nature involving: (a) the Receiver, in his capacity as Receiver;
28 (b) any Receivership Property, wherever located; (c) any of the

1 Suncor Receivership Entities, including subsidiaries and
2 partnerships; or, (d) any of the Suncor Receivership Entities’
3 past or present officers, directors, managers, agents, or general
4 or limited partners sued for, or in connection with, any action
5 taken by them while acting in such capacity of any nature,
6 whether as plaintiff, defendant, third-party plaintiff, third-party
7 defendant, or otherwise (such proceedings are hereinafter
8 referred to as “Ancillary Proceedings”).

9 2. The parties to any and all Ancillary Proceedings are enjoined from
10 commencing or continuing any such legal proceeding, or from taking any action, in
11 connection with any such proceeding, including, but not limited to, the issuance or
12 employment of process.

13 3. All Ancillary Proceedings are stayed in their entirety, and all
14 Courts having any jurisdiction thereof are enjoined from taking or permitting any
15 action until further Order of this Court. Further, as to a cause of action accrued or
16 accruing in favor of one or more of the Suncor Receivership Entities against a third
17 person or party, any applicable statute of limitation is tolled during the period in
18 which this injunction against commencement of legal proceedings is in effect as to
19 that cause of action.

20 **K. Managing Assets**

21 1. For each of the Receivership Estates, the Receiver shall establish
22 one or more custodial accounts at a federally insured bank to receive and hold all
23 cash equivalent Receivership Property (the “Receivership Funds”).

24 2. The Receiver’s deposit account shall be entitled “Receiver’s
25 Account, Estate of [Name of Suncor Receivership Entity]” together with the name of
26 the action.

27 3. The Receiver may, without further Order of this Court, transfer,
28 compromise, or otherwise dispose of any Receivership Property, other than real

1 estate, in the ordinary course of business, on terms and in the manner the Receiver
2 deems most beneficial to the Receivership Estate, and with due regard to the
3 realization of the true and proper value of such Receivership Property.

4 4. Subject to the specific provisions of this order, the Receiver is
5 authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the
6 sale or lease, and take all necessary and reasonable actions to cause the sale or lease
7 of all real property in the Receivership Estates, either at public or private sale, on
8 terms and in the manner the Receiver deems most beneficial to the Receivership
9 Estate, and with due regard to the realization of the true and proper value of such real
10 property.

11 5. Upon further Order of this Court, pursuant to such procedures as
12 may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and
13 2004, the Receiver will be authorized to sell, and transfer clear title to, all real
14 property in the Receivership Estates.

15 6. The Receiver is authorized to take all actions to manage, maintain,
16 and/or wind-down business operations of the Receivership Estates, including making
17 legally required payments to creditors, employees, and agents of the Receivership
18 Estates and communicating with vendors, investors, governmental and regulatory
19 authorities, and others, as appropriate.

20 7. The Receiver shall take all necessary steps to enable the
21 Receivership Funds to obtain and maintain the status of a taxable "Settlement Fund,"
22 within the meaning of Section 468B of the Internal Revenue Code and of the
23 regulations.

24 **L. Investigate and Prosecute Claims**

25 1. Subject to the requirement, in Section V.J above, that leave of this
26 Court is required to resume or commence certain litigation, the Receiver is
27 authorized, empowered and directed to investigate, prosecute, defend, intervene in or
28 otherwise participate in, compromise, and/or adjust actions in any state, federal or

1 foreign court or proceeding of any kind as may in his discretion, and in consultation
2 with SEC counsel, be advisable or proper to recover and/or conserve Receivership
3 Property.

4 2. Subject to his obligation to expend receivership funds in a
5 reasonable and cost-effective manner, the Receiver is authorized, empowered and
6 directed to investigate the manner in which the financial and business affairs of the
7 Suncor Receivership Entities were conducted and (after obtaining leave of this Court)
8 to institute such actions and legal proceedings, for the benefit and on behalf of the
9 Receivership Estate, as the Receiver deems necessary and appropriate; the Receiver
10 may seek, among other legal and equitable relief, the imposition of constructive
11 trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers,
12 rescission and restitution, collection of debts, and such other relief from this Court as
13 may be necessary to enforce this Order. Where appropriate, the Receiver should
14 provide prior notice to Counsel for the Commission before commencing
15 investigations and/or actions.

16 3. The Receiver hereby holds, and is therefore empowered to waive,
17 all privileges, including the attorney-client privilege, held by all entity Suncor
18 Receivership Entities.

19 4. The Receiver has a continuing duty to ensure that there are no
20 conflicts of interest between the Receiver, his Retained Personnel (as that term is
21 defined below), and the Receivership Estate.

22 **M. Bankruptcy Filing**

23 1. The Receiver may seek authorization of this Court to file
24 voluntary petitions for relief under Title 11 of the United States Code (the
25 “Bankruptcy Code”) for the Suncor Receivership Entities. If a Suncor Receivership
26 Entity is placed in bankruptcy proceedings, the Receiver may become, and may be
27 empowered to operate each of the Receivership Estates as, a debtor in possession. In
28 such a situation, the Receiver shall have all of the powers and duties as provided a

1 debtor in possession under the Bankruptcy Code to the exclusion of any other person
2 or entity. Pursuant to Paragraph V.K above, the Receiver is vested with management
3 authority for all entity Suncor Receivership Entities and may therefore file and
4 manage a Chapter 11 petition.

5 2. The provisions of Section V.J above bar any person or entity,
6 other than the Receiver, from placing any of the Suncor Receivership Entities in
7 bankruptcy proceedings.

8 **N. Liability of Receiver**

9 1. Until further Order of this Court, the Receiver shall not be
10 required to post bond or give an undertaking of any type in connection with his
11 fiduciary obligations in this matter.

12 2. The Receiver and his agents, acting within scope of such agency
13 (“Retained Personnel”) are entitled to rely on all outstanding rules of law and Orders
14 of this Court and shall not be liable to anyone for their own good faith compliance
15 with any order, rule, law, judgment, or decree. In no event shall the Receiver or
16 Retained Personnel be liable to anyone for their good faith compliance with their
17 duties and responsibilities as Receiver or Retained Personnel

18 3. This Court shall retain jurisdiction over any action filed against
19 the Receiver or Retained Personnel based upon acts or omissions committed in their
20 representative capacities.

21 4. In the event the Receiver decides to resign, the Receiver shall first
22 give written notice to the Commission’s counsel of record and the Court of its
23 intention, and the resignation shall not be effective until the Court appoints a
24 successor. The Receiver shall then follow such instructions as the Court may
25 provide.

26 **O. Recommendations and Reports**

27 1. On or before December 24, 2015, the Receiver shall file a report
28 regarding the Receiver’s initial plan to marshal the assets of the Suncor Receivership

1 Entities, with service copies to counsel of record.

2 2. The Receiver is authorized, empowered and directed to develop a
3 plan for the fair, reasonable, and efficient recovery and liquidation of all remaining,
4 recovered, and recoverable Receivership Property (the “Liquidation Plan”).

5 3. Within ninety (90) days of the entry date of this Order, or at an
6 alternate date set by the Court upon application of the Receiver, the Receiver shall
7 file the Liquidation Plan in the above-captioned action, with service copies to counsel
8 of record.

9 4. Within thirty (30) days after the end of each calendar quarter, the
10 Receiver shall file and serve a full report and accounting of each Receivership Estate
11 (the “Quarterly Status Report”), reflecting (to the best of the Receiver’s knowledge as
12 of the period covered by the report) the existence, value, and location of all
13 Receivership Property, and of the extent of liabilities, both those claimed to exist by
14 others and those the Receiver believes to be legal obligations of the Receivership
15 Estates.

16 5. The Quarterly Status Report shall contain the following:

17 a. A summary of the operations of the Receiver;

18 b. The amount of cash on hand, the amount and nature of
19 accrued administrative expenses, and the amount of unencumbered funds in the
20 estate;

21 c. A schedule of all the Receiver’s receipts and disbursements
22 (attached as Exhibit A to the Quarterly Status Report), with one column for the
23 quarterly period covered and a second column for the entire duration of the
24 receivership;

25 d. A description of all known Receivership Property, including
26 approximate or actual valuations, anticipated or proposed dispositions, and reasons
27 for retaining assets where no disposition is intended;

28

1 e. A description of liquidated and unliquidated claims held by
2 the Receivership Estate, including the need for forensic and/or investigatory
3 resources; approximate valuations of claims; and anticipated or proposed methods of
4 enforcing such claims (including likelihood of success in: (i) reducing the claims to
5 judgment; and, (ii) collecting such judgments);

6 f. A list of all known creditors with their addresses and the
7 amounts of their claims;

8 g. The status of Creditor Claims Proceedings, after such
9 proceedings have been commenced; and,

10 h. The Receiver's recommendations for a continuation or
11 discontinuation of the receivership and the reasons for the recommendations.

12 6. On the request of the Commission, the Receiver shall provide the
13 Commission with any documentation that the Commission deems necessary to meet
14 its reporting requirements, that is mandated by statute or Congress, or that is
15 otherwise necessary to further the Commission's mission.

16 **P. Fees, Expenses and Accountings**

17 1. Subject to the specific provisions of this Order, the Receiver need
18 not obtain Court approval prior to the disbursement of Receivership Funds for
19 expenses in the ordinary course of the administration and operation of the
20 receivership. Further, prior Court approval is not required for payments of applicable
21 federal, state or local taxes.

22 2. Subject to the specific provisions of this Order, the Receiver is
23 authorized to solicit persons and entities ("Retained Personnel") to assist him in
24 carrying out the duties and responsibilities described in this Order. The Receiver
25 shall not engage any Retained Personnel without first obtaining an Order of the Court
26 authorizing such engagement.

27 3. The Receiver and Retained Personnel are entitled to reasonable
28 compensation and expense reimbursement from the Receivership Estates as described

1 in the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S.
2 Securities and Exchange Commission” (the “Billing Instructions”) agreed to by the
3 Receiver. Such compensation shall require the prior approval of the Court.

4 4. Within forty-five (45) days after the end of each calendar quarter,
5 the Receiver and Retained Personnel shall apply to the Court for compensation and
6 expense reimbursement from the Receivership Estates (the “Quarterly Fee
7 Applications”). At least thirty (30) days prior to filing each Quarterly Fee
8 Application with the Court, the Receiver will serve upon counsel for the SEC a
9 complete copy of the proposed Application, together with all exhibits and relevant
10 billing information in a format to be provided by SEC staff.

11 5. All Quarterly Fee Applications will be interim and will be subject
12 to cost benefit and final reviews at the close of the receivership. At the close of the
13 receivership, the Receiver will file a final fee application, describing in detail the
14 costs and benefits associated with all litigation and other actions pursued by the
15 Receiver during the course of the receivership.

16 6. Quarterly Fee Applications may be subject to a holdback in the
17 amount of 20% of the amount of fees and expenses for each application filed with the
18 Court. The total amounts held back during the course of the receivership will be paid
19 out at the discretion of the Court as part of the final fee application submitted at the
20 close of the receivership.

21 7. Each Quarterly Fee Application shall:
22 a. Comply with the terms of the Billing Instructions agreed to
23 by the Receiver; and,
24 b. Contain representations (in addition to the Certification
25 required by the Billing Instructions) that: (i) the fees and expenses included therein
26 were incurred in the best interests of the Receivership Estate; and, (ii) with the
27 exception of the Billing Instructions, the Receiver has not entered into any agreement,
28 written or oral, express or implied, with any person or entity concerning the amount

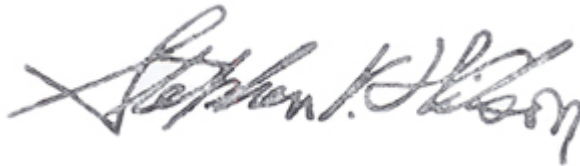
1 of compensation paid or to be paid from the Receivership Estate, or any sharing
2 thereof.

3 8. At the close of the Receivership, the Receiver shall submit a Final
4 Accounting, in a format to be provided by SEC staff, as well as the Receiver's final
5 application for compensation and expense reimbursement.

6 **VI.**

7 IT IS HEREBY FURTHER ORDERED that the hearing to show cause set for
8 December 21, 2015 by the Temporary Restraining Order, Order Freezing Assets, and
9 Providing for Other Ancillary Relief entered by the Court on November 25, 2015 is
10 vacated.

11
12 Dated: December 11, 2015



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14 _____
15 STEPHEN V. WILSON
16 UNITED STATES DISTRICT JUDGE
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**PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

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**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 the date specified hereinbelow on the List of Particulars, by and between Seller and Purchaser. The following terms shall have the meanings specified, when used in this Agreement:

LIST OF PARTICULARS

Date of Agreement:

January 8, 15
~~December 1, 2014~~

MWD Parcel
Numbers:

INFED1-10-100 (portion) and INFED1-10-101

Assessor Parcel
Numbers:

Riverside County 422-040-009 (portion) & -015

Seller:

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, a metropolitan water district duly organized and existing pursuant to the Metropolitan Water District Act of the State of California, as amended

Purchaser:

SUNCOR CARE, INC.

Land:

Approximately 133.045 acres in Moreno Valley, California comprising portions of the property identified as Assessor Parcel Numbers 422-040-009 (portion) & -015 and as more particularly described on Attachment 1 attached hereto and incorporated herein by reference and as shown on Attachment 2 attached hereto and incorporated herein by reference. The seller will retain a 17.341 acre permanent easement for pipeline, tunnel and access uses.

Purchase Price:

Five Million Dollars (\$5,000,000), all cash payable at the close of escrow

Deposit:

Two Hundred and Fifty Thousand Dollars (\$250,000).
Deposit to be released to Seller upon expiration of the Due Diligence Period.

Escrow Agent: Park Place Escrow
2400 East Katella Ave.
Anaheim, CA 92806
Attention: Nancye Woodward
Telephone: (714) 263-2012
Mobile: (714) 608-5886
Email: nancye@parkplaceescrow.com
Escrow No. 10832-NW

Title Company: Lawyers Title
3480 Vine Street
Riverside, CA 92507
Attention: Danielle Gonzales
Telephone: (909) 201-9385
Fax: (866) 657-1033
Email: daniellegonzalez@ltic.com
Title Order Number: 614674874

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

R E C I T A L S

A. Seller desires to sell the Property (as defined in Section 1.1 below) to Purchaser, and Purchaser desires to purchase the Property from Seller;

B. In order to set forth the terms and conditions of such purchase and sale, Seller and Purchaser desire to enter into this Agreement.

C. Seller is a public corporation whose primary goal is the acquisition and distribution of water to its member public agencies. As such, Seller acquired the Property for the purpose of developing, constructing, operating and maintaining the Inland Feeder pipeline and tunnel. Seller has determined that the Property is surplus and, having complied with Article 8, Chapter 5, Part 1, Division 2, Title 5 of the California Government Code Sections 54220-54232 (the "Surplus Lands Act"), desires to sell the Property to Purchaser.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

A G R E E M E N T

**ARTICLE I
PURCHASE AND SALE**

1.1. **Purchase and Sale.** Seller hereby agrees to sell and convey to Purchaser, and Purchaser hereby agrees to purchase from Seller, all of Seller's right, title and interest in and to the Land, and all Rights and Appurtenances, privileges, Easements, improvements and fixtures thereto, subject to the terms, conditions and exceptions provided in this Agreement (collectively, the "Property"). Capitalized terms not defined in this Section 1.1 or below shall have the meanings ascribed to them in the List of Particulars or Recitals above:

1.1.1. **Easements.** All easements, if any, benefiting the Land

1.1.2. **Leases.** All leases, if any, currently in effect; and

1.1.3. **Rights and Appurtenances.** All rights and appurtenances pertaining to the foregoing, including any right, title and interest of Seller in and to adjacent streets, gores, alleys or rights-of-way, except that Seller shall retain all minerals and mineral rights.

**ARTICLE II
PURCHASE PRICE**

2.1 **Purchase Price.** The Purchase Price for the Property shall be as specified in the List of Particulars and shall be paid by Purchaser to Seller, in immediately available funds, as follows:

2.1.1 **Deposit.** Within two (2) business days after full execution of this Agreement, Purchaser shall deliver the deposit of \$250,000 (the "**Deposit**") endorsed to Escrow Agent. The Deposit is to be invested by Escrow Agent in an interest bearing federally insured account, at a mutually acceptable financial institution, which designates Purchaser as the account holder. Any interest which is earned on the Deposit will become part of the Deposit and will be applied to the Purchase Price or, if the sale of the Property is not consummated, its disposition will be determined by Sections 6.4, 7.1, 7.2 or 10.1 of this Agreement. Absent a valid notice of termination of the Agreement during the Due Diligence Period as set forth in Section 10.1, the Deposit shall become non-refundable upon the expiration of the Due Diligence Period and shall be released to Seller by the Escrow Agent upon the first business day after the end of the Due Diligence Period.

2.1.2 **Remainder Payment.** Prior to the Closing, Purchaser shall deliver to Escrow Agent the Remainder Payment by wire transfer of immediately available funds. At Closing, the Remainder Payment shall be applied to the Purchase Price.

**ARTICLE III
PURCHASER'S ACCEPTANCE OF PHYSICAL CONDITION OF PROPERTY**

3.1 **Physical Condition.** Prior to the Closing, Purchaser shall have inspected the Property to the extent Purchaser deems necessary or desirable. Purchaser's failure to notify Seller prior to the expiration of the Due Diligence Period (as defined in Section 10.1), as provided in Article X of this Agreement, shall constitute Purchaser's representation to Seller that Purchaser is satisfied in all respects as to the location and physical condition of the Property.

3.2 **"AS-IS" Nature of Sale.** PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A

PARTICULAR PURPOSE OF THE PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY OR (H) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY LAW, RULE OR REGULATION OF ANY GOVERNMENTAL ENTITY HAVING JURISDICTION OVER HAZARDOUS SUBSTANCES ("HAZARDOUS SUBSTANCES LAW"). "HAZARDOUS SUBSTANCES" MEAN ANY SUBSTANCE, PRODUCT, WASTE OR OTHER MATERIAL OF ANY NATURE WHATSOEVER WHICH IS OR BECOMES LISTED, REGULATED, OR ADDRESSED PURSUANT TO ANY FEDERAL, STATE, OR LOCAL STATUTE, LAW, ORDINANCE, RESOLUTION, CODE, RULE, REGULATION, ORDER OR DECREE REGULATING, RELATING TO, OR IMPOSING LIABILITY OR STANDARDS OF CONDUCT CONCERNING ANY HAZARDOUS OR TOXIC SUBSTANCE. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED BY OR ON BEHALF OF SELLER WITH RESPECT TO THE PROPERTY INCLUDING, WITHOUT LIMITATION, INFORMATION MADE AVAILABLE TO PURCHASER BY SELLER, MAY HAVE BEEN OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF INFORMATION SO OBTAINED. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY AGENT, EMPLOYEE, REPRESENTATIVE OR OTHER PERSON. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS. PURCHASER AND ANYONE CLAIMING BY, THROUGH OR UNDER PURCHASER (COLLECTIVELY, "RELEASOR") HEREBY FULLY AND IRREVOCABLY RELEASE SELLER, ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES AND AGENTS FROM ANY AND ALL CLAIMS THAT RELEASOR MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST SELLER, ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES AND AGENTS FOR ANY COST, LOSS, LIABILITY, DAMAGE, EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION ARISING FROM OR RELATED TO ANY DEFECTS, ERRORS, OMISSIONS OR OTHER CONDITIONS, INCLUDING ENVIRONMENTAL MATTERS, AFFECTING THE PROPERTY OR ANY PORTION THEREOF. THIS RELEASE INCLUDES CLAIMS OF WHICH PURCHASER IS PRESENTLY UNAWARE OR WHICH PURCHASER DOES NOT PRESENTLY SUSPECT TO EXIST IN PURCHASER'S FAVOR WHICH, IF KNOWN BY PURCHASER, WOULD

MATERIALLY AFFECT PURCHASER'S RELEASE OF SELLER. PURCHASER SPECIFICALLY WAIVES THE PROVISIONS OF 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 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR." IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT THE PROPERTY IS SOLD BY SELLER AND PURCHASED BY PURCHASER SUBJECT TO THE FOREGOING.

ARTICLE IV
CONDITION OF TITLE

4.1 Permitted Exceptions.

4.1.1. Purchaser agrees to accept title to Property subject to the following matters (collectively, with any additional exceptions approved by Purchaser pursuant to Section 4.2, the "Permitted Exceptions"):

4.1.1.1 Real property taxes, any general or special assessments or bonds, taxes with respect to any possessory interest and any association fees.

4.1.1.2 Those matters shown on any survey which Purchaser elects to obtain that are not reflected in the Title Report.

4.1.1.3 A 17.341 acre permanent pipeline and tunnel and access easement to be retained by Seller. Limited surface uses are only permitted as set forth in the Grant Deed, subject to easement holder approval.

4.1.1.4 Reservation to Seller of all oil, gas, hydrocarbon substances, and minerals of every kind and character below the surface of the Property, together with the right to drill into, through, onto, use and occupy all parts of the Property lying more than five hundred (500) feet below the surface thereof for any and all purposes incidental to the exploration and for production of oil, gas, hydrocarbon substances or minerals from the Property or other lands.

4.1.1.5 All other matters not specifically disapproved by Purchaser pursuant to Section 4.2 below.

4.2 Approval of Title. Purchaser hereby acknowledges receipt of the preliminary title reports dated April 12, and April 13, 2014, issued by Orange Coast Title Company, together with copies of all documents shown as exceptions therein (the "Title Report"), disclosing the condition of title to the Property. Purchaser shall have fifteen (15) days from Effective Date (as defined in Section 8.1) of this Agreement (the "Title Review Period") to review title and to obtain an update or supplement to the Title Report, if Purchaser so desires. Purchaser shall have the right during the Title Review Period to disapprove, by written notice delivered to

Seller and Escrow Agent, any exceptions to title, except those Permitted Exceptions described in Section 4.1. If Purchaser does not so disapprove of any of such exceptions shown on the Title Report and any of its updates or supplements within the Title Review Period, Purchaser shall be deemed to have approved the legal description and all title matters described in the Title Report and any updates or supplements thereto. Seller, at its sole option, shall have ten (10) days, from and after delivery to it of Purchaser's disapproval notice, to agree that, prior to the Closing, Seller shall cause to be removed some or all of the exceptions to title to which Purchaser objects. Seller shall have no obligation to remove any exceptions to title. If Seller does not agree to remove the objectionable exceptions, Purchaser may elect to waive said objections or, in the alternative, may elect to terminate its obligations under this Agreement, by written notice to Escrow Agent and Seller. If Purchaser does not elect to terminate its obligations under this Agreement within ten (10) days following the expiration of the Title Review Period, as terminated by notice or passage of time, Purchaser shall be deemed to have waived its objections to the Title Report and any updates or supplements thereto.

4.3 **Title Policy.** Either CLTA Owner's Title Insurance Policies (each a "CLTA Title Policy" or together, the "CLTA Title Policies"), or a commitment therefor, shall be issued to Purchaser by Title Company, or its underwriter, at the Closing. Such policies shall be CLTA Owner's Title Insurance Policies unless Purchaser elects prior to the Closing, by appropriate escrow instructions to Escrow Agent, to cause Title Company or its underwriter to issue ALTA Owner's Title Insurance Policies (each a "ALTA Title Policy" or together, the "ALTA Title Policies") in place of either CLTA Title Policy. Purchaser shall not be entitled to an ALTA Title Policy if the issuance thereof would cause any delay in the Closing. If Purchaser elects to have an ALTA Title Policy issued, Purchaser shall pay all costs associated with, and the premium for, said ALTA Title Policy in excess of the costs and premium that would have been incurred for a CLTA Title Policy. Purchaser shall obtain, at its sole cost, any survey required in connection with the ALTA Title Policy. The CLTA Title Policies or ALTA Title Policies shall be in the amount of the Purchase Price, for the protection of Purchaser as a fee owner of the Property, subject only to the Permitted Exceptions (and Title Company's standard printed exceptions).

4.4 **No General Title Warranty.** Nothing in this Agreement or in the deeds from Seller to Purchaser recorded at the Closing shall be construed as a warranty or representation by Seller concerning Seller's title to the Property, and Seller makes no such warranty or representation. Purchaser is relying solely upon the Title Report, the CLTA Title Policies or ALTA Title Policies and Purchaser's own investigations respecting the state of title to the Property.

ARTICLE V CLOSING

5.1 **Closing through Escrow.** Subject to the provisions of this Agreement, Purchaser and Seller shall consummate and close the purchase and sale of the Property contemplated by this Agreement no later than ten (10) days after the end of the Due Diligence Period, (the "Closing"), unless the same shall be extended by Seller. The purchase and sale contemplated by this Agreement shall be consummated through an escrow which Purchaser and Seller shall cause to be established with Escrow Agent contemporaneously with the execution of

this Agreement. This Agreement shall be deposited in escrow and shall constitute escrow instructions to Escrow Agent from Purchaser and Seller. The parties agree to execute and deliver to the Escrow Agent, such reasonable and customary escrow instructions in the usual form of escrow agreement for the purpose of consummating the sale contemplated by this Agreement; provided, however, that standard extension provisions in such escrow instructions shall not apply and that in the event of conflicts between the provisions of this Agreement any such escrow instructions, the provisions of this Agreement shall control. Escrow Agent shall perform all customary functions of an escrow agent to consummate this transaction, including among other duties of Escrow Agent, recordation of the deed to be executed by Seller and calculation of the prorations and Closing costs, as described herein, as well as serving as depository for all funds, instruments and documents needed for the Closing. The Escrow Agent shall also be instructed to issue at the Closing the CTLA Title Policies or the ALTA Title Policies showing title to the Property vested in Purchaser, subject only to applicable Permitted Exceptions.

5.2 **Seller's Obligations with Respect to Closing.**

5.2.1 Prior to the Closing, Seller shall deliver to Escrow Agent the following documents (all duly executed and acknowledged by Seller, where required):

5.2.1.1 **Grant Deed.** Grant Deed in substantially the form attached to this Agreement as Attachment 3, executed by Seller and conveying property to Purchaser, subject to no exceptions other than the property Permitted Exceptions;

5.2.1.2 **Foreign Person.** An affidavit of Seller in the form prescribed by Treasury Regulation § 1.1445-2 certifying that Seller is not a "foreign person," as defined in the federal Foreign Investment in Real Property Tax Act of 1980, and the 1984 Tax Reform Act, as amended;

5.2.1.3 **Assignment of Lease.** An assignment of the year-to-year ground lease (R.L. 1655) with The Lamar Companies (Lessee).

5.3 **Purchaser's Obligations at Closing.** Prior to Closing, Purchaser shall deliver to Escrow Agent the following (all duly executed and acknowledged by Purchaser, where required):

5.3.1. **Remainder Payment.** Purchaser shall deliver the balance of the Purchase Price.

5.3.2 **Evidence of Authority.** A copy of the duly adopted resolution of the Board of Directors of Purchaser, certified as true and complete as of Closing, authorizing the execution, delivery and performance by Purchaser of this Agreement and the documents required hereby, and designating one or more persons to execute such documents in Purchaser's name in connection with this Agreement, together with an incumbency certificate for each person executing documents on behalf of Purchaser with specimen signatures for such persons.

5.4. **Closing Costs.** Seller shall pay the following closing costs: all of Seller's attorneys' fees and costs; one-half (1/2) of the fees and costs due to Escrow Agent for services

rendered as escrow agent and all premiums and charges relating to the issuance of the CLTA Title Policies. Purchaser shall pay the following closing costs: all of Purchaser's attorneys' fees and costs; one-half (1/2) of the fees and costs due to Escrow Agent for services rendered as escrow agent; any sales, use, transfer or personal property tax or assessment payable in connection with the transfer of personal and real property; any and all recording charges, stamp taxes, filing fees, other sales and transfer fees; any additional premium for an ALTA Owner's Policies of Title Insurance if Purchaser elects to receive same, including the cost of any survey, the cost of any title endorsements to the CTLA Title Policies or ALTA Title Policies and the premium for the Lender's Title Policies. Purchaser shall, and does hereby, indemnify, defend and hold harmless Seller from any and all sales, use or personal property taxes or assessments to be paid by Purchaser pursuant to this Section 5.4, and such indemnification by Purchaser shall survive the Closing.

5.5 **Proration.** All expenses with respect to the Property shall be prorated to the Closing, as set forth below, subject to the provisions of Section 5.4. The provisions of this Section 5.5 shall survive the Closing.

5.5.1 **Taxes, Assessments and Fees.** All non-delinquent real estate taxes, assessments, and improvements bonds due and payable on the Property shall be prorated as of the date of the Closing based on the actual current Riverside County tax bill. After the Closing, Purchaser shall be solely liable and responsible for any real estate taxes and assessments except to the extent such taxes are attributable to the Property before the Closing. All real estate tax assessments which are or may become a lien against the Property arising out of Seller's ownership, use or development of the Property prior to the Closing, excluding assessments arising out of Buyer's ownership, use or development of the Property, shall be paid by Seller to be prorated as of the date of Closing.

5.5.2 If the Property is not assessed as a separate parcel for tax or assessment purposes, then such taxes and assessments attributable to the Property shall be determined by Seller in its sole and absolute discretion. If, as of the Closing, the Property is not being treated as a separate tax parcel, then within thirty (30) days after the Closing, Purchaser shall, at its sole cost and expense, have the Property assessed separately for tax and assessment purposes. In the event the Property has been assessed for property tax purposes at such rates as would result in "roll-back" taxes upon changes in land usage or ownership of the Property, Purchaser agrees to pay all such taxes and indemnify, defend and save Seller harmless from and against any and all claims and liabilities for such taxes. This indemnification by Purchaser shall survive the Closing. Purchaser shall assume all future obligations on any real property taxes, general or special assessments or bond, taxes with respect to any possessory interest or association fees. Purchaser acknowledges that the Property may be subject to future assessments in connection with the development of the Property and other real property in the vicinity thereof.

5.5.3 **Utilities.** No provision has been made for the proration of water charges, fuel charges or utility charges as Seller shall terminate its account with the providers of any such services as of the date of Closing, and Purchaser shall, prior to the date of Closing, make application to the providers of such services for the continuation of such services in the name of Purchaser, or its designee. It is anticipated that in connection with any such services, the meters will be read on or about the date of Closing, and Seller shall be responsible for paying the bills for

such services accruing prior to the date of Closing, and Purchaser shall be responsible for the payment of all such accounts accruing on or after the date of Closing. If any such accounts are not handled in this manner, then they shall be prorated as of the date of Closing in the same manner as described in Section 5.5.1 above.

5.5.4. **Lease.** No provision has been made for the proration of lease revenues.

5.6 **Delivery of Possession.** Upon the satisfaction by Seller of all of Seller's obligations, as set forth in Section 5.2 hereof, and upon the satisfaction by Purchaser of all of Purchaser's obligations, as set forth in Section 5.3 hereof, and upon the satisfaction of any and all other conditions precedent to this Agreement, if any, Escrow Agent shall cause the recordation of the Grant Deed, distribute to Purchaser and to Seller the items and documents described in Section 5.2 and Section 5.3, respectively, and the purchase and sale transaction contemplated in this Agreement shall be finally consummated. Delivery of possession of the Property to Purchaser at the Closing shall be made subject only to contractual obligations approved or to be assumed by Purchaser and to the Permitted Exceptions.

ARTICLE VI RISK OF LOSS

6.1 **Casualty.** Purchaser assumes all risks and liability for damage to or injury occurring to the Property by fire, storm, accident or any other casualty or cause prior to the Closing.

6.2 **Condemnation.** If, prior to the Closing, action is initiated or threatened to take the Property, or any substantial part thereof, by eminent domain or condemnation proceedings or by deed in lieu thereof, then Purchaser may either (a) terminate this Agreement by delivering written notice to Seller of such termination within five (5) days after Seller notifies Purchaser of the condemnation, or (b) consummate the Closing, in which latter event Seller shall deliver to Purchaser, at Closing, any proceeds actually received by Seller in respect of such condemnation or assign to Purchaser, at Closing, all of Seller's right, title and interest in the award of the condemning authority, provided that in no event shall Purchaser be entitled to receive payment or assignment of such proceeds in an amount greater than the Purchase Price. If Purchaser fails to timely deliver to Seller written notice of termination of this Agreement as described in (a) above, then Purchaser shall be deemed to have elected to proceed in accordance with (b) above.

6.3 **Determination of Substantial Portion.** For purposes of Section 6.2 hereof, a "substantial portion" of the Property shall be deemed to include any taking or casualty loss equal to or greater than ten percent (10%) of the Purchase Price, and shall not include any taking or casualty loss of less than such amount. If any taking or casualty loss is less than a "substantial portion" of the Property, then Seller may elect to (a) terminate this Agreement or (b) direct Purchaser to proceed with Closing, in which event Seller shall deliver to Purchaser at the Closing any proceeds actually received by Seller attributable to the Property from such taking or casualty loss, or shall assign to Purchaser at Closing all of Seller's right, title and interest in any claim to such proceeds.

6.4 **Disposition of Deposit.** If Purchaser elects to terminate this Agreement pursuant to Section 6.2 above, then contemporaneously with such termination, Escrow Agent shall immediately return the Deposit, together with all interest accrued thereon, to Purchaser and, upon Purchaser's receipt thereof, except as may be otherwise expressly provided herein, neither party hereto shall have any further rights against or obligations to the other under this Agreement.

**ARTICLE VII
DEFAULT AND REMEDIES**

7.1 **Purchaser Default.** If Purchaser refuses or fails to consummate the purchase of the Property pursuant to this Agreement for any reason other than termination hereof pursuant to a right granted to Purchaser hereunder to do so, or breach by Seller of its agreements hereunder, then Seller, as its sole and exclusive remedy, shall have the right to terminate this Agreement by giving Purchaser written notice thereof, in which event neither party hereto shall have any further rights, duties or obligations hereunder, except as may be otherwise expressly provided herein, and Seller shall retain, as liquidated damages, the Deposit, together with all interest earned thereon.

PURCHASER AND SELLER AGREE THAT IF PURCHASER BREACHES ITS DUTIES UNDER THIS AGREEMENT: (A) SELLER'S DAMAGES WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO DETERMINE; AND (B) TAKING INTO ACCOUNT ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, THE AMOUNT OF THE DEPOSIT REPRESENTS THE BEST AND MOST REASONABLE ESTIMATE OF SELLER'S DAMAGES AT THE TIME OF THE EXECUTION OF THIS AGREEMENT. CONSEQUENTLY, IN THE EVENT OF PURCHASER'S DEFAULT UNDER THIS AGREEMENT, SELLER'S SOLE AND EXCLUSIVE REMEDY SHALL BE TO TERMINATE THIS AGREEMENT AND TO RETAIN THE DEPOSIT PLUS ALL INTEREST EARNED THEREON.



Purchaser's Initials



Seller's Initials

7.2 **Consequences of Termination of this Agreement.** If this Agreement is terminated by Purchaser pursuant to a right guaranteed to Purchaser hereunder to do so, the following shall occur: (i) the Deposit, together with interest accrued thereon, (or any portion thereof) deposited by Purchaser with Escrow Agent or any portion of the Deposit paid or released to Seller in accordance with the terms hereof, shall be refunded to Purchaser; (ii) any documents deposited with Escrow Agent by either party shall be returned to the party depositing the same; (iii) Purchaser shall return to Seller all documents delivered by Seller to Purchaser pursuant to this Agreement; and (iv) Purchaser shall pay any applicable Escrow and Title cancellation charges. Upon completion of all the foregoing, this Agreement shall be deemed terminated. Promptly after any termination of this Agreement and the Escrow for whatever reason, Purchaser shall deliver to Seller, at no cost to Seller, all technical data prepared or obtained by Purchaser, its agents or contractors in connection with the Property, including, but not limited to, land plans, maps,

engineering studies, soils studies, geological studies and other engineering information in Purchaser's possession or under Purchaser's control, all of which shall become the property of Seller.

7.2.1 **Seller Default.** If Seller defaults under this Agreement, then Purchaser may, at Purchaser's option, bring an action to terminate this Escrow or pursue any other rights or remedies that Purchaser may have at law; provided however, Purchaser does not view the Property as having any unique characteristics. Accordingly, Purchaser agrees that, in the event Seller defaults in any of its obligations hereunder, Purchaser's sole remedy shall be a monetary remedy and Purchaser waives any right to bring an action of specific performance or to otherwise seek enforcement of Seller's obligations hereunder. Purchaser specifically waives any and all rights it may have pursuant to the provisions of California Civil Code Sections 1680, 3384, 3387 and 3389.

ARTICLE VIII EFFECTIVE DATE

8.1 **Effective Date.** This Agreement shall constitute an offer to purchase the Property on the terms and conditions set forth herein upon the delivery to Seller of three (3) counterparts of this Agreement, which have been duly executed by Purchaser. Such offer may be accepted only by Seller's delivery of all three (3) fully executed counterparts to Escrow Agent within two (2) business days after the date of this Agreement. The date of receipt by Escrow Agent of three (3) fully executed counterparts of this Agreement shall be the "Effective Date" for the purposes hereof and Escrow Agent shall write such date on all three (3) counterparts hereof and shall return one (1) counterpart to Purchaser and one (1) counterpart to Seller, and shall retain one (1) counterpart for its files. Notwithstanding Seller's execution of this Agreement as provided herein, this Agreement shall be subject in all respects to the terms and conditions this Agreement.

ARTICLE IX REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 **Representations and Warranties of Purchaser.** Purchaser represents and warrants to Seller all of the following, as of the date hereof and as of the date of the Closing; and all representations and warranties of Purchaser in this Agreement shall survive the Closing and any termination of this Agreement:

9.1.1 **Authority.** The execution, delivery and performance of this Agreement by Purchaser have been duly authorized and approved by all requisite action, and no other authorizations or approvals, whether of governmental bodies or otherwise, will be necessary in order to enable Purchaser to enter into or to comply with the terms of this Agreement.

9.1.2 **Binding Effect of Documents.** This Agreement and all other documents and certificates executed and delivered by Purchaser in connection with the transactions contemplated by this Agreement constitute legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms. Neither this Agreement

nor anything provided to be done under this Agreement violates or shall violate any statute, ordinance, contract, document, understanding, agreement or instrument to which Purchaser is a party or by which it is bound.

9.1.3 **Accuracy of Representations and Warranties.** Each of the representations and warranties of Purchaser contained in this Agreement and in any document or certificate delivered in connection herewith (including all information previously furnished by Purchaser to Seller) is at the date hereof and as of the date of the Closing shall be true and correct in all material respects.

9.1.4 **No Conflicts of Interest.** It is important for Seller to ensure that any potential conflicts of interest involving Purchaser and Seller that may exist, or may appear to exist, are fully disclosed and considered by the parties prior to execution of this Agreement. Purchaser acknowledges that, prior to the execution of this Agreement, it has disclosed to Seller any potential conflicts of interest between Seller and Purchaser. In addition, Purchaser hereby represents and warrants to Seller, without any qualification as to Purchaser's knowledge, that no city officers, officials or employees have a financial interest in this Agreement in contravention of California Government Code Sections 1090-1098.

9.2 **Seller's Representations and Warranties.** In consideration of Purchaser entering into this Agreement, and as an inducement to Purchaser to purchase the Property, Seller makes the following representations and warranties, each of which is material and is being relied upon by Purchaser (and the continued truth and accuracy of which shall constitute a condition precedent to Purchaser's obligations hereunder):

9.2.1 **Authorization.** This Agreement has been duly and validly authorized, executed and delivered by Seller, and no other action is requisite to the execution and delivery of this Agreement by Seller. Seller has full right and authority to enter into and consummate this Agreement and all related documents. Each person executing this Agreement on behalf of Seller hereby represents that the execution of this Agreement has been duly authorized by the party on whose behalf the person is executing this Agreement.

9.2.2 **Threatened Actions.** To the best of Seller's actual knowledge, without investigation, there are no actions, suits, investigations or proceedings pending against or threatened or affecting the Property, whether in law or equity or before any governmental authority.

9.2.3 **Third Party Consents.** To the best of Seller's actual knowledge, without investigation, except as otherwise provided herein, no consents or waivers of, or by, any third party are necessary to permit the consummation by Seller of the transactions contemplated pursuant to this Agreement.

9.2.4 **Condemnation.** To the best of Seller's actual knowledge, without investigation, there are no pending or threatened proceedings in eminent domain or otherwise, which would affect the Property or any portion thereof.

9.2.5 **Agreements.** But for aforementioned ground lease, to the best of Seller's actual knowledge, without investigation, there are no leases, licenses, easements, tenancies, possessory rights, rights of way, rights of first refusal, option rights, or other third party rights to lease, use, occupy, or purchase all or any portion of the Property and there are no other existing contracts or agreements of any kind affecting the Property entered into by Seller, or to Seller's knowledge without inquiry any predecessor in title of Seller under which any person or entity will have any rights against Purchaser or the Property after the Closing, except as may be reflected in the Condition of Title or otherwise described in this Agreement. Seller shall not grant, convey, transfer or enter into any such leases, licenses, easements, tenancies, rights, contracts, or agreements prior to the Closing (except to Purchaser in accordance with the terms of this Agreement) without the prior written approval of Purchaser, which Purchaser may withhold in its sole discretion.

9.2.6 **Maintenance Contracts.** There are no maintenance, service or similar agreements (whether oral or written) affecting or relating to the Property that will remain in effect after Closing.

9.2.7 **Hazardous Substances.** To the best of Seller's actual knowledge, without investigation, Seller has not introduced to the Land any Hazardous Substance in a manner that constitutes a violation of any Hazardous Substances Law, or which may expose Purchaser to liability to third parties, or individually or in the aggregate poses a significant risk to human health or the environment, or which could reasonably be expected to cause any person to incur investigation, removal, remediation or other cleanup costs under any Hazardous Substances Law. To the best of Seller's actual knowledge, there has been no proceeding or inquiry instituted or threatened by any governmental authority with respect to the presence of Hazardous Substances on the Land or any portion thereof. Nothing in this Section imposes any responsibility on Seller for any matter disclosed to Purchaser by its own investigation of the Property or any matter disclosed in any reports provided by its own agents or by Seller.

9.2.8 **No Prior Conveyance.** Seller has not previously conveyed, and shall not convey after the date of this Agreement, except to Purchaser in accordance with the terms of this Agreement, any of the water rights which are appurtenant or attributable to the Property, or which (to the extent owned by Seller) are used in the operation of the Property.

ARTICLE X DUE DILIGENCE PERIOD

10.1 **Inspection.** Purchaser shall have until 5:00 p.m. on the sixtieth (60th) day following the Effective Date, to inspect the Property and all matters relating to the Property that Purchaser deems necessary or advisable, and to determine, in Purchaser's reasonable discretion, whether or not to proceed with the transactions contemplated herein (such period is referred to herein as the "Due Diligence Period"). If Purchaser, in its reasonable discretion, is not satisfied with any aspect of the Property, and if Purchaser and Seller have not reached a written agreement in settlement thereof on or before the last day of the Due Diligence Period, then Purchaser shall deliver to Seller and Escrow Agent a termination notice, to be received by Seller on or before the last day of the Due diligence Period, informing Seller of Purchaser's desire to terminate this

Agreement. If such notice is properly delivered, then Escrow Agent shall immediately return the Deposit, together with all interest accrued thereon, to Purchaser without requiring any consent or notice from Seller and, upon Purchaser's receipt thereof, neither party hereto shall have any further rights against or obligations to the other under this Agreement, except as may be otherwise expressly provided herein. If Purchaser does not properly deliver a termination notice to Seller within the time period provided in this Section, then the inspection of the Property by Purchaser shall be deemed satisfactory to Purchaser, and Purchaser shall be deemed to have accepted the Property in its existing condition.

10.2 **Access to Property.** During the Due Diligence Period, Seller shall provide Purchaser and Purchaser's agents with access to the Property, and all books, records and information relating thereto, to the extent that these documents are available, upon reasonable notice and during normal business hours. Purchaser shall be liable for any damage or injury to any person or property occasioned by the acts of Purchaser, its employees, agents or representatives during any such inspection, and Purchaser shall, and does hereby, indemnify, defend and hold harmless Seller and its officers, directors, agents and employees from any and all liens, claims, demands or liability resulting therefrom. Prior to entry onto the Property by Purchaser or any of Purchaser's employees, agents or representatives, Purchaser shall deliver to Seller evidence reasonably satisfactory to Seller that Purchaser maintains (i) comprehensive general liability insurance covering Purchaser's operations in the minimum amount of \$1,000,000 per occurrence, and naming Seller as an additional insured, and (ii) workers' compensation insurance covering Purchaser's employees. The indemnification by Purchaser contained in this Section shall survive the Closing and any termination of this Agreement, as the case may be.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 **Broker's Commission.** The parties hereto acknowledge that this transaction involved the assistance of a real estate broker, William Collazo, DRE License No. 00516712 ("Broker"), that assisted the Purchaser. Purchaser shall be responsible for the entirety of the Broker's commission, finder's fee, or other compensation owed to Broker. Seller shall not be responsible for any payment or compensation to the Broker. All payments and compensation shall be paid from proceeds outside of escrow and under no circumstances shall such monies be deducted or assessed from the Purchase Price. Purchaser shall also defend, indemnify, and hold harmless Seller from any and all claims for any broker's commissions or similar compensation that may be payable to the Broker. The provisions of this Section shall survive the Closing and/or the termination of this Agreement.

11.2 **Notices.** All notices, demands or requests required or permitted to be given pursuant to this Agreement shall be in writing. If not otherwise provided hereunder, all notices, demands or requests to be sent to any party hereto shall be deemed to have been properly given or served by delivering the same personally to each party, by sending the same through a nationally recognized overnight courier service, or by depositing the same in the United States mail, addressed to such party, postage prepaid, and registered or certified with return receipt requested, at the addresses for such parties listed below:

Seller: Metropolitan Water District of Southern California
Post Office Box 54153
Los Angeles, California 90054-0153
Attention: John Clairday, Manager
Real Property Development and Management Group

Purchaser: Suncor Care, Inc.
406 East Vanderbilt Way
San Bernardino, CA 92408
Attention: Claudia Kano

All notices, demands and requests shall be effective when personally delivered to the addressee or received by overnight courier, or upon the third day after being deposited in the United States mail in accordance with the foregoing.

11.3 **Time.** Time is of the essence in this Agreement and each and every provision of this Agreement.

11.4 **Binding Effect.** This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns. Purchaser shall not assign Purchaser's rights under this Agreement, in whole or in part, without the prior written consent of Seller, which may be withheld for any reason in Seller's sole and absolute discretion. Any purported assignment of Purchaser's interest in this Agreement in violation of this provision shall be null and void and shall vest no rights or interests in the purported assignee.

11.5 **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute one Agreement, binding on all parties hereto.

11.6 **Severability.** If all or any portion of any of the provisions of this Agreement shall be declared invalid, illegal or unenforceable by laws applicable thereto, then the performance of said offending provision or provisions shall be excused by the parties hereto and such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

11.7 **Captions.** The titles or captions of the provisions of this Agreement are merely for convenience of reference and are not representations of matters included or excluded from such provisions.

11.8 **Entire Agreement.** THE PARTIES HERETO EXPRESSLY ACKNOWLEDGE AND AGREE THAT, WITH REGARD TO THE SUBJECT MATTER OF THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREIN, (1) THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES HERETO AND (2) THIS AGREEMENT, INCLUDING THE DEFINED TERMS AND ALL ATTACHMENTS AND ADDENDA, IF ANY, ATTACHED HERETO, (a) EMBODIES THE FINAL AND

COMPLETE AGREEMENT BETWEEN THE PARTIES, (b) SUPERSEDES ALL PRIOR AND CONTEMPORANEOUS NEGOTIATIONS, OFFERS, PROPOSALS, AGREEMENTS, COMMITMENTS, PROMISES, ACTS, CONDUCT, COURSE OF DEALING, REPRESENTATIONS, STATEMENTS, ASSURANCES AND UNDERSTANDINGS, WHETHER ORAL OR WRITTEN, AND (c) MAY NOT BE VARIED OR CONTRADICTED BY EVIDENCE OF ANY SUCH PRIOR OR CONTEMPORANEOUS MATTER OR BY EVIDENCE OF ANY SUBSEQUENT ORAL AGREEMENT OF THE PARTIES HERETO.

11.9 **No Modifications Except in Writing.** No modification hereof shall be binding unless set forth in writing and signed by the party or parties to be bound by the modification.

11.10 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

11.11 **Termination.** If a condition to Purchaser's obligations under this Agreement is not met, then Purchaser may terminate this Agreement by written notice given to Seller on or before the Due Diligence Period, whereupon Escrow Agent shall return the Deposit, together with all interest accrued thereon, to Purchaser without requiring any consent or notice from Seller and, upon Purchaser's receipt thereof, this Agreement shall be null and void and, except as may be otherwise expressly provided herein, neither party hereto shall have any rights against or obligations to the other under this Agreement.

11.12 **Agreement Conditioned Upon Compliance with Government Code.** Purchaser acknowledges and agrees that, notwithstanding any provision to the contrary contained in this Agreement, this Agreement, and Seller's obligations hereunder, are expressly subject to and conditioned upon compliance with the Surplus Land Act.

11.13 **[Reserved]**

11.14 **Further Assurances.** In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either Seller or Purchaser, Seller and Purchaser shall perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Closing, or if necessary, after the Closing, any and all further acts, deeds and assurances as may, from time to time, be reasonably required to consummate the transactions contemplated in this Agreement.

11.15 **Agreement Not to Be Recorded.** Seller and Purchaser acknowledge and agree that neither this Agreement nor any memorandum or summary hereof shall be recorded or filed in any public records or files and any such recording or filing by any person, whether or not a party to this Agreement, shall be a violation of this Agreement and shall be considered null and void. Seller and Purchaser further acknowledge and agree that, prior to the Closing, neither Seller nor Purchaser shall disclose any material term of this Agreement to any party not affiliated with Seller or Purchaser, without the prior written consent of the other party hereto; provided, however, that in addition to any reporting requirements imposed on Seller by any applicable state or federal

law or regulation, whether presently existing or hereafter enacted or amended, Seller shall have, and hereby expressly reserves, the absolute and unconditional right to disclose, report or otherwise communicate, at any time and from time to time after the Closing, any or all of the financial, business or legal terms or conditions of the transaction contemplated by this Agreement to any person, entity, agency, department or board, whether public or private, for such purposes or reasons as Seller may deem necessary, proper, advisable or convenient, including, without limitation, the right to disclose the terms of sale to any appraiser, broker or other person under contract with or otherwise incurs legal fees to resolve a breach hereof Seller in connection with the sale, lease, or other disposition of other real estate or personal property, wherever located. Seller and Purchaser agree to notify any of their respective employees, agents, representatives or brokers involved in this transaction of this confidentiality requirement. Purchaser further acknowledges that Seller may enforce any breach of such confidentiality by seeking injunctive relief, or by suit for damages, or both, or by any other legal means.

11.16 **Attorney's Fees and Expenses.** In the event legal action is commenced to enforce or interpret, or for breach of, any provision of this Agreement, the prevailing party shall be entitled to recover from the losing party costs and expenses incurred not limited to taxable costs, and reasonable attorney's fees incurred by the prevailing party, in addition to all other relief and remedies to which the prevailing party may be entitled.

11.17 **Survival of Covenants, etc.** All agreements, conditions, and other obligations set forth in this Agreement shall survive the Closing and any doctrine that would hold that performance is deemed completed upon the closing shall not apply to this Agreement because many obligations under this Agreement are to be performed after the Closing.

11.18 **Holiday.** When performance of an obligation or satisfaction of a condition set forth in this Agreement is required on or by a date that is a Saturday, Sunday or legal holiday, such performance or satisfaction shall instead be required on or by the next business day following that Saturday, Sunday, or holiday, notwithstanding any other provisions of this Agreement.

11.19 **Attachments.** All Attachments attached to, and to which reference is made in, this Agreement are incorporated into, and shall be deemed a part of this Agreement.

11.20 **Ambiguities Not to Be Construed Against Drafting Party.** The doctrine that any ambiguity contained in a contract shall be construed against the party whose counsel has drafted the contract is expressly waived by each of the parties hereto with respect to this Agreement.

11.21 **Offer to Purchase.** Execution of this Agreement by Purchaser constitutes an offer to buy the Property from Seller on the terms and conditions set forth herein. Under no circumstances whatsoever, including, without limitation, any oral representations or statements, shall this Agreement be deemed an offer by Seller to sell the Property or be binding upon Seller

until executed by a duly authorized officer, employee or representative of Seller.

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement and Joint Escrow Instructions to become effective as of the Effective Date.

SELLER:

PURCHASER:

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, a metropolitan water district duly organized and existing pursuant to the Metropolitan Water District Act, as amended

SUNCOR GARE, INC.

By: [Signature]
Title: SVP
Date: 01/07/2015

By: [Signature]
John Clairday, Manager
Real Property Management
and Development Group

Date: 1-08-2015

APPROVED AS TO FORM:

By: [Signature]
Bryan M. Otake
Senior Deputy General Counsel

The undersigned, a duly authorized representative of Escrow Agent, hereby accepts this Agreement and agrees to act as Escrow Agent in accordance herewith.

PARK PLACE ESCROW

By: [Signature]
Name: Nancy Woodward
Its: Escrow Officer
Effective Date: January 9, 2015

PCN:lhm
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U.S. Postal Service™
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Domestic Mail Only

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OFFICIAL USE

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Certified Mail Fee \$ **5.7**

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ **2.3**

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$ **2.4**

Total Postage and Fees \$ **8.41**

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Sent To
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 City, Sta

**Heriberto F. Diaz, Sr. Deputy General Counsel
 Metropolitan Water District of California
 700 N. Alameda Street
 Los Angeles, CA 90012**

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) J. Maddox</p> <p>C. Date of Delivery 11-4-16</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Heriberto F. Diaz, Sr. Deputy General Counsel Metropolitan Water District of California 700 N. Alameda Street Los Angeles, CA 90012</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p>7016 0340 0000 0494 0932</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, July 2013

Domestic Return Receipt

PROOF OF SERVICE

Securities and Exchange Commission v. Robert Yang, Suncor Fontana, et al.
USDC, Central District of California – Case No. 5:15-cv-02387-SVW (KKx)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

A true and correct copy of the foregoing document(s) described below will be served in the manner indicated below:

**DECLARATION OF JOSHUA A. DEL CASTILLO IN SUPPORT OF
MOTION FOR ORDER APPROVING SETTLEMENT AGREEMENT
WITH METROPOLITAN WATER DISTRICT OF SOUTHERN
CALIFORNIA**

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – the above-described document will be served by the Court via NEF. On **February 16, 2017**, I reviewed the CM/ECF Mailing Info For A Case for this case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- **Zachary T. Carlyle**
carlylez@sec.gov,kasperg@sec.gov,karpeli@sec.gov,
blomgrene@sec.gov,pinkstonm@sec.gov,NesvigN@sec.gov
- **Stephen J. Donell**
jdelcastillo@allenmatkins.com
- **Mark T. Hiraide**
mth@msk.com,kjue@phlcorplaw.com,
hitabashi@phlcorplaw.com,eganous@phlcorplaw.com
- **Leslie J. Hughes**
hughesLJ@sec.gov,kasperg@sec.gov,pinkstonm@sec.gov,
nesvign@sec.gov
- **George D. Straggas**
George.straggas@straggasdean.com;sarah.borghese@straggasdean.com,
eric.dean@straggasdean.com
- **David J. Van Havermaat**
vanhavermaatd@sec.gov,larofiling@sec.gov,berryj@sec.vog,
irwinma@sec.gov
- **Joshua Andrew del Castillo**
jdelcastillo@allenmatkins.com

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- **David R Zaro**
dzaro@allenmatkins.com

2. **SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):** On _____, I served the following person(s) and/or entity(ies) in this case by placing a true and correct copy thereof in a sealed envelope(s) addressed as indicated below. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion for party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 (one) day after date of deposit for mailing in affidavit. Or, I deposited in a box or other facility regularly maintained by FedEx, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelopes or packages designated by the express service carrier, addressed as indicated above on the above-mentioned date, with fees for overnight delivery paid or provided for.

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **February 16, 2017** at Los Angeles, California.

/s/ Martha Diaz

Martha Diaz