

**REAL PROPERTY PURCHASE, SALE AND MAINTENANCE AGREEMENT  
AND ESCROW INSTRUCTIONS**

by and between

**GENENTECH, INC.,  
a Delaware corporation**

**as Buyer**

**and**

**CITY OF SOUTH SAN FRANCISCO  
a California municipal corporation,**

**as Seller**

\_\_\_\_\_, 2025

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**REAL PROPERTY PURCHASE, SALE AND MAINTENANCE AGREEMENT  
AND ESCROW INSTRUCTIONS**

**THIS REAL PROPERTY PURCHASE, SALE AND MAINTENANCE AGREEMENT AND ESCROW INSTRUCTIONS** (this “Agreement”) is entered into as of [REDACTED], 2025 (the “Effective Date”), by and between the City of South San Francisco, a California municipal corporation (“City” or “Seller”), and Genentech, Inc., a Delaware corporation (“Buyer”).

**RECITALS**

This Agreement is based on the following facts:

- A. WHEREAS, Buyer has a legal and/or equitable interest in certain real property located in the City of South San Francisco on the approximately 207-acre site commonly known as the Genentech Campus (the “Campus”). The Campus is more particularly described in that certain Development Agreement by and Between City of South San Francisco and Genentech, Inc. recorded in the official records of San Mateo County as Recorders Document No. [NUMBER] (“Development Agreement”).
- B. WHEREAS, an approximately 60-foot-wide public street commonly known as “DNA Way” is located entirely within the legal boundaries of the Campus, running in an approximately east/west direction, with its easternmost terminus located at its intersection with Forbes Boulevard and its westernmost terminus located at its intersection with East Grand Avenue, as more as generally depicted on the attached Exhibit A (“DNA Way”). Pursuant to the terms of this Agreement, the City intends to take all required legal action necessary to vacate the right-of-way underlying DNA Way pursuant to the Roadways Vacation (as hereinafter defined).
- C. WHEREAS, an existing, approximately [XYZ] foot wide public street commonly known as “Point San Bruno Boulevard” is located entirely within the boundaries of the Campus, running in an approximately north/south direction, with its northernmost terminus located at its intersection with the DNA Way and its southernmost terminus located at its intersection with the existing private driveway serving the Campus Site’s so-called “Building 15,” as generally depicted on the attached Exhibit A (“PSB Boulevard”). PSB Boulevard is a secondary street that provides internal Campus circulation. Pursuant to the terms of this Agreement, the City intends to take all required legal action necessary to vacate the right-of-way underlying PSB Boulevard pursuant to the Roadways Vacation (as hereinafter defined).
- D. WHEREAS, an approximately [REDACTED] foot wide portion of a public street between Allerton and DNA Way commonly known as “Cabot Road” is located entirely within the legal boundaries of the Campus, running in an approximately east/west direction, with its westernmost terminus located at its intersection with Allerton Avenue and its easternmost terminus located at its intersection with DNA Way, as more as generally depicted on the attached Exhibit A (“Cabot

Road,” with the portions of DNA Way, Cabot Road and PSB Boulevard subject to the Roadways Vacation (as hereinafter defined) collectively referred to herein as the “Roadways”). Pursuant to the terms of this Agreement, the City intends to take all required legal action necessary to vacate the right-of-way underlying Cabot Road pursuant to the Roadways Vacation (as hereinafter defined).

- E. WHEREAS, the City is the fee owner of the real property that comprises DNA Way, Cabot Road and PSB Boulevard (subject to the Roadways Vacation), as well as the existing roadway improvements situated thereupon.
- F. WHEREAS, on November 24, 2020 and December 1, 2020, the City Council of the City of San South San Francisco unanimously approved the Buyer’s Genentech Campus Master Plan Update project, which approval included, but was not limited to, adoption of the Development Agreement, certification of that certain Environmental Impact Report for the Genentech Master Plan Update (State Clearinghouse No. 2017052064), approval of that certain Genentech Master Plan Update (“Master Plan”), and approval of certain amendments to the City’s Genentech Master Plan Zoning District so as to facilitate implementation of the Master Plan.
- G. WHEREAS, the Master Plan articulates a vision for new growth and development within the Campus that fosters intensification of development and infill development by serving as a general guide for the future placement and design of individual buildings and other Campus improvements over time. Because the Master Plan is an overall development that provides the basis for future approvals, it provides for flexibility during implementation. Rather than establishing the location, size or design of individual buildings and improvements, the Master Plan authorizes such details to be developed in conjunction with future Campus-related land use approvals proposed by Buyer and approved by City in accordance with applicable law, including but not limited to the Master Plan and the City’s Municipal Code.
- H. WHEREAS, to promote the Master Plan’s stated objective of establishing an integrated and walkable Campus that implements a more pedestrian-oriented shared street concept that prioritizes people over motorized vehicles, the Master Plan contemplates the potential reconfiguration of portions of DNA Way where it passes through the central portion of the Master Plan’s “Upper Campus” planning area, thereby improving pedestrian connections between indoor spaces and outdoor spaces so as to activate the Campus core while also permitting continued service vehicle and emergency access along said portions of the existing DNA Way right-of-way through the use of special pavers or other appropriate design treatments.
- I. WHEREAS, to facilitate the design and future improvement of pedestrian-oriented circulation improvements in accordance with the Master Plan and applicable administrative or discretionary approval processes set forth in the City of South San Francisco Municipal Code, the Parties desire to enter into this Agreement to set forth the terms and conditions pursuant to

which the City would sell to Buyer the real property that comprises DNA Way, Cabot Road and PSB Boulevard.

## **AGREEMENT**

In consideration of the mutual covenants and agreements contained in this Agreement, Buyer and Seller agree as follows:

### **1. BASIC TERMS**

- 1.1 Property. The real property that Seller is selling and Buyer is buying is located on the Campus, in the City of South San Francisco, County of San Mateo, State of California. Such real property is presently improved with roadway improvements, including roadway paving, curbs, gutters and other improvements typical of a city street. The real property, together with all other property that is the subject of this Agreement, is defined more fully in Section 2.1 below. The Property does not include those certain improvements described in Exhibit G "Excluded Improvements." After closing, Seller will continue to own and maintain these Excluded Improvements. Seller and Buyer will enter into a Maintenance and Public Access License Agreement, a form of which is attached as Exhibit E, pursuant to which Buyer will reimburse Seller for the ongoing costs of maintaining the Excluded Improvements.
- 1.2 Purchase Price. The purchase price for the property (the "Purchase Price") is Twenty-Five Million Dollars (\$25,000,000.00). Within fourteen (14) business days after executing this Agreement, Buyer shall deposit five percent (5%) of the Purchase Price into Escrow in the amount of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) (the "Deposit"), on and subject to the terms described in Section 2.2 below.
- 1.3 City Costs and Fees. In addition to the Purchase Price and any other monies payable to Seller pursuant to this Agreement, Buyer shall reimburse Seller for all staff, 3rd party consultant, and attorney costs associated with preparation and execution of this Agreement and resulting conveyance, and all costs associated with processing and effectuating the Roadways Vacation. Amounts paid in reimbursement of these costs shall be nonrefundable in the event that this Agreement is terminated and/or the transaction does not Close. In addition, Buyer shall pay all standard and adopted City fees applicable to the conveyance and associated Roadways Vacation approvals/process.
- 1.4 Escrow. On or promptly after the date this Agreement is executed, an escrow (the "Escrow") shall be opened with Chicago Title Company, Commercial Services with an address of 3620 Happy Valley Rd. Ste 100, Lafayette, CA 94549, Attention: Laurie Edwards, Laurie.Edwards@ctt.com Tel: 510-350-4588, (the "Escrow Holder"). This

Agreement shall constitute both an agreement between Seller and Buyer and escrow instructions for Escrow Holder. Seller and Buyer shall promptly execute and deliver to Escrow Holder any additional escrow instructions requested by Escrow Holder which are consistent with the terms of this Agreement. Any additional instructions shall not modify or amend the provisions of this Agreement unless expressly agreed in writing by Buyer and Seller.

- 1.5 Review Periods. Buyer shall have until the 60th day after the Effective Date (the “Decision Date”) to complete all of its inspections, investigations and reviews of the property (including title reviews, soils and environmental inspections, financial and feasibility studies, and all other inspections, investigations and reviews), all in accordance with Article 3 below. Seller shall not commence any formal action in furtherance of Buyer’s Closing Conditions in Section 4.1 until after the Decision Date or Buyer’s written waiver of its right to terminate this Agreement pursuant to Section 3.4 hereof.
- 1.6 Closing Date. Escrow shall close on or the date on which all Conditions to the Closing (as defined in this Agreement, as the same may have been amended, have been satisfied, or waived by Buyer and/or Seller (the “Closing Date”). As used in this Agreement, “Closing” means the recordation of the “Deed” (as defined below) in the Official Records of San Mateo County, California.
- 1.7 Title. The title company (the “Title Company”) shall be Chicago Title Company, Commercial Services with an address of 3620 Happy Valley Road, Suite 100, Lafayette, CA 94549, Attention: Laurie Edwards.
- 1.8 Seller’s Address for Notices. All notices to be provided to Seller shall be sent to the following addresses:

City of South San Francisco  
400 Grand Avenue  
South San Francisco, CA 94080  
Attn: City Manager  
Telephone: (650) 877-8500  
Fax: (650) 829-6609

With a copy to:  
Redwood Public Law, LLP  
409 13<sup>th</sup> Street, Suite 600  
Oakland, CA 94612  
Attn: Sky Woodruff, City Attorney  
Telephone: 510-877-5840  
Email: [sky@redwoodpubliclaw.com](mailto:sky@redwoodpubliclaw.com)

- 1.9 Buyer's Address for Notices. All notices to be provided to Buyer shall be sent to the following addresses:

Genentech, Inc.  
1 DNA Way Mailstop 258A  
South San Francisco, CA 94080-4990  
Attn: Thomas Ruby  
Telephone: (650) 225-3149  
Email: Ruby.Thomas@gene.com

With a copy to:  
Holland & Knight, LLP  
560 Mission Street, Suite 1900  
San Francisco, California 94105  
Attn: Bradley Brownlow  
Telephone: (415) 743-6975  
Email: Bradley.Brownlow@hklaw.com

## 2. PURCHASE AND SALE

- 2.1 Agreement to Buy and Sell. Subject to all of the terms and conditions of this Agreement, Seller agrees to sell and convey to Buyer, and Buyer agrees to acquire and purchase from Seller:

- (i) that certain real property generally described in Section 1.1 and more particularly described on Exhibit B, together with all rights, privileges and easements appurtenant thereto, including and without limitation all minerals, oil, gas and other hydrocarbon substances thereon (the "Land"),
- (ii) all other structures located on the Land; (specifically, the improvements described in Section 1.1 above) (the "Structures") and the existing parking lot and other parking facilities (collectively, the "Improvements," and collectively with the Land, the "Real Property"),
- (iii) all development rights, air rights, water, water rights and water stock relating thereto, and any easements, rights-of-way, or other rights appurtenant thereto or used in conjunction therewith,
- (iv) all right, title and interest now or hereafter held by Seller in and to all tangible personal property (collectively, the "Personal Property") located on or about the Land or Improvements or attached thereto or used in connection with the operation, maintenance, ownership and occupancy thereof, including without



limitation all furniture, equipment, machinery, inventories, supplies, signs, cables, fiber optic wires, and other tangible personal property of every kind and nature, except to the extent such Personal Property is part of or appurtenant to improvements that are retained by Seller and not listed in Section 1.1,

- (v) all right, title and interest now or hereafter held by Seller in and to all intangible property (the "Intangible Property") in connection with the Land, the Improvements or the Personal Property, or any business or businesses now or hereafter conducted thereon or with the use thereof, all transferable licenses, permits, authorizations, approvals and certificates of occupancy issued by governmental or quasi-governmental authorities relating to the use, maintenance, occupancy and operation of the Real Property and the Personal Property, and all other intangible rights used in connection with or relating to the Land, Improvements or Personal Property or any part thereof.
- (vi) All of the foregoing of which shall be referred to in this Agreement as the "Property". Without limiting the foregoing, the parties acknowledge and agree that the Property includes certain street and roadway improvements, including asphalt roadway surfaces, curbs, gutters and sidewalks, as specified and depicted on Exhibit C ("Infrastructure Improvements").

2.2 Payment of Purchase Price. The Purchase Price (as defined in Section 1.2 above) shall be payable as follows:

- 2.2.1 Not later than the date stated in Section 1.2 above, Buyer shall deposit the Deposit into Escrow, by certified check or wire transfer of federal funds or in other immediately available funds. Except as otherwise stated in this Agreement, the Deposit shall be nonrefundable to Buyer after the Decision Date. The Deposit and all interest accrued thereon while in Escrow shall be applied to the Purchase Price at Closing.
- 2.2.2 Notwithstanding anything to the contrary stated in this Agreement, a portion of the Deposit in the amount of Fifty Thousand Dollars (\$50,000.00) (the "Nonrefundable Portion") shall be non-refundable to Buyer in the event it exercises its right to terminate this Agreement pursuant to Section 3.4 in order to provide to Seller consideration for its agreement to place the Property for sale and the opportunity cost associated with the expenditure of City resources on this transaction as opposed to expenditure on other City priorities in the event of such a termination. Accordingly, even if Buyer terminates this Agreement in a situation where Buyer is entitled to a refund of the Deposit, Buyer agrees that the Nonrefundable Portion will not be returned to Buyer, but instead will be delivered to Seller.

- 2.2.3 At least one (1) business day prior to the Closing Date, Buyer shall deposit into Escrow the balance of the Purchase Price, subject to adjustment by reason of any applicable prorations. The deposit required by this paragraph shall be made by cashier's check, wire transfer of federal funds or another immediately available form.
- 2.3 General. If this Agreement is not terminated prior to Closing in accordance with the terms hereof, Seller shall convey fee title to the Property to Buyer by a grant deed subject only to the "Permitted Exceptions" (defined below).
- 2.4 Title Insurance. At the Close of Escrow, Seller shall cause the Title Company to issue and deliver to Buyer an ALTA extended coverage form policy of title insurance, with liability and limits in the amount of the Purchase Price, insuring title to the Property as vested in Buyer, subject only to the Permitted Exceptions (the "Owner's Policy"), and such other matters as Buyer may approve in writing. Notwithstanding the foregoing, the premiums and other costs payable to the Title Company in connection with the issuance of the Owner's Policy shall be borne exclusively by Buyer.
- 2.5 Condition of Title at Closing. Upon the Closing, Seller shall convey to Buyer good, marketable and insurable fee simple title to the Property by a duly executed and acknowledged Deed, subject only to the Permitted Exceptions.
- 2.6 Independent Consideration. A portion of the Deposit equal to One Hundred and No/100 Dollars (\$100.00) (the "Independent Consideration"), which amount has been bargained for and agreed upon as consideration for Seller's execution and delivery of this Agreement, shall be delivered to Seller in the event Buyer terminates this Agreement on or before the Decision Date. The parties agree that the Independent Consideration represents a bargained-for agreement representing the executory nature of this Agreement.
- 2.7 Reserved Rights to Roadways. The conveyance of the Property to Buyer shall be made subject to a public access license (the "Reserved License") for ingress, egress, utility and other ancillary purposes in favor of the City and members of the general public to use the surface areas of the Roadways, as indicated on Exhibit A, and as may be more particularly described pursuant to the Roadways Vacation. The Reserved License shall be memorialized in Maintenance and Public Access License Agreement (the "Maintenance and License Agreement") between Seller and Buyer. The Maintenance and License Agreement shall provide, inter alia, for the initial retention of access and other public rights over certain portions of the Property as indicated on Exhibit A. If Buyer desires to terminate the Maintenance and License Agreement and the associated public access granted therein in the future, then Buyer shall seek approvals from the City pursuant to Section 7.

- 2.8 Termination of Existing and Conveyance of New Easements. As of Closing, existing easements in favor of Seller that encumber the portions of the Property subject to the Roadways Vacation shall be terminated, extinguished and released, and replaced with similar easements pursuant to the form of Public Utilities Easement attached hereto as Exhibit G identifying all necessary and required public utility easements in favor of the Seller and/or in favor of other beneficial interest holders. Such easements shall encumber Buyer's interests in the Roadways, subject, however, to Buyer's right as owner of the burdened estate thereunder to maintain, repair, and reasonably relocate the portions of the Infrastructure Improvements that are subject thereto, and to establish reasonable operating procedures and access rules with respect thereto.

### 3. FEASIBILITY REVIEW PERIOD

#### 3.1 Deliveries by Seller.

- 3.1.1 Contemporaneous with the Opening of Escrow, Escrow Holder shall deliver to Buyer a copy of a current preliminary title report issued by the Title Company showing the condition of title to the Property, accompanied by copies of all documents referred to in the report (collectively, the "PTR").
- 3.1.2 In order to facilitate Buyer's review and evaluation of the Property, Seller shall provide or make available to Buyer copies of all other non-privileged, actually known and reasonably available documents and materials that materially relate to the Property and are in Seller's possession. Seller shall deliver the foregoing items within a reasonable period of time following receipt of Buyer's written request therefor, it being understood and agreed that Buyer's review pursuant to Section 3.3 may not be reasonably completed prior to the Decision Date if Seller's delivery of the items described herein is delayed. In the event that a non-privileged, actually known item is reasonably available and not provided within fourteen (14) business days of Buyer's request for such item, then the Decision Date shall be extended an additional day for each day of delay after the fourteen-day period to afford Buyer a reasonable opportunity for review and approval.

#### 3.2 Buyer's Review of Title.

- 3.2.1 Buyer shall have fifteen (15) business days following the Opening of Escrow within which to deliver to Seller written notice of Buyer's disapproval or conditional approval of title as shown on the PTR (the "Disapproved Exceptions"). Buyer's failure to provide the notice on or before such date shall constitute Buyer's approval of the condition of title as shown on the PTR.
- 3.2.2 If Buyer timely notifies Seller of its Disapproved Exceptions by the date referenced in Section 3.2.1, Seller shall notify Buyer in writing on or before the

thirtieth (30th) day after the Opening of Escrow that: (a) Seller has removed the Disapproved Exceptions from title (or met Buyer's conditions for approval of a title exception); or (b) Seller is covenanting to do so as of or before Closing; or (c) Seller will not remove (or meet the conditions of approval of) specified Disapproved Exceptions. Failure to address Disapproved Exceptions in any notice, or failure to give such a notice, shall constitute Seller's statement that it will not remove or otherwise address the Disapproved Exceptions. If Seller covenants to remove any Disapproved Exceptions, such removal shall be a condition precedent to Closing and Buyer's obligations under this Agreement, and failure to effect such removal shall be a breach by Seller of this Agreement.

3.2.3 If Seller does not remove or covenant to remove (or meet or covenant to meet the conditions of approval of) any Disapproved Exceptions, Buyer shall have the right to terminate this Agreement on or before the Decision Date or to waive its objection to the Disapproved Exceptions in question and proceed to Closing as Buyer's sole and exclusive remedy. Buyer's failure to provide written notice of termination on or before the Decision Date shall constitute Buyer's waiver of its disapproval of the Disapproved Exceptions. In the case of Buyer's waiver (or deemed waiver) of Disapproved Exceptions, Seller shall have no obligation to remove or otherwise address the Disapproved Exceptions from title and such waived Disapproved Exceptions shall be deemed approved. If Buyer elects to terminate this Agreement, the provisions of Section 3.4 shall apply.

3.2.4 In this Agreement, the term "Permitted Exceptions" means: (a) installments of general and special real property taxes and assessments not then delinquent, (b) any encumbrance arising from the acts or omissions of Buyer, (c) public utility easements and emergency access easements acceptable to Buyer in its sole and absolute discretion, and (d) any other exception expressly approved by Buyer in writing.

### 3.3 Buyer's Review of the Property and Agreements

3.3.1 Review of Agreements. Buyer shall have until the Decision Date to review the documents and other materials delivered pursuant to Section 3.1. If on the basis of the review, or otherwise for any reason or no reason, Buyer determines in its sole and subjective discretion that the Property is not suitable for Buyer's intended use, then on or before the Decision Date, Buyer may terminate this Agreement in accordance with Section 3.4 below. Buyer's failure to provide a written termination notice on or before the Decision Date shall constitute Buyer's approval of each document and such other materials described in Section 3.1 (whether or not it was actually reviewed by Buyer).

### 3.3.2 Inspection of the Property

- (a) Nonexclusive License. Seller hereby grants to Buyer and its agents, employees, representatives or contractors (collectively, the “Buyer’s Agents”) a nonexclusive license to enter onto the Property solely for the purpose of conducting Buyer’s inspection of the Property to determine if the Property is suitable for Buyer’s purposes (the “Inspection”). Any Inspection work shall be at the sole cost and expense of Buyer. The license created under this paragraph shall expire on the Closing Date (or on the date this Agreement is terminated, if earlier than the Closing Date).
- (b) Physical Testing. Notwithstanding the foregoing, without first obtaining Seller’s prior written consent, Buyer shall only conduct a visual inspection, with no right to conduct any physical testing, boring, sampling or removal of any portion of the Property (collectively, “Physical Testing”). If Buyer wishes to conduct any Physical Testing of the Property, Buyer shall submit a work plan to Seller for Seller’s prior written approval, which Seller may modify, limit or disapprove in its sole and absolute discretion. If Seller approves a work plan, all Physical Testing shall comply strictly with the work plan that has been approved by Seller, and if Seller does not approve a work plan, Buyer shall not conduct any Physical Testing of the Property. If Buyer intends to conduct any Physical Testing, Buyer shall, prior to commencing any such Physical Testing, provide Seller with sufficient evidence to show that Buyer and Buyer’s Agents who are to enter upon the Property are adequately covered by policies of insurance insuring Buyer and Seller against any and all liability arising out of Buyer’s or Buyer’s Agents’ entry upon and Inspection of the Property, including without limitation any loss or damage to the Property, with coverage in the amount not less than \$1,000,000 per occurrence.
- (c) Indemnification. To the fullest extent permitted by law, Buyer agrees to hold harmless, defend and indemnify and hereby releases Seller and its respective successors and assigns (the “Seller’s Parties”) and the Property from and against any and all claims, demands, causes of actions, losses, liabilities, liens, encumbrances, costs or expenses (including reasonable attorneys’ fees and litigation costs) arising out of, connected with or incidental to any injuries to persons (including death) or property (real or personal) by reason of Buyer or Buyer’s Agents entry on and inspection of the Property and any Physical Testing work or activities conducted on the Property by Buyer or Buyer’s Agents.
- (d) Condition of Property. In no event shall Buyer or Buyer’s Agents have the right to place any materials or equipment on the Property (including signs

or other advertising material) until after the Closing has occurred. Buyer shall, at its sole cost and expense, clean up and repair the Property, in whatever manner necessary, after Buyer's or Buyer's Agents' entry so that the Property shall be returned to the same condition that existed prior to Buyer's or Buyer's Agents' entry.

- (e) Natural Hazards Disclosures. Buyer and Seller acknowledge that Seller may be required to disclose if Seller's Property lies within the following natural hazard areas or zones: (i) a special flood hazard area designated by the Federal Emergency Management Agency (California Civil Code Section 1103(c)(1)); (ii) an area of potential flooding (California Government Code Section 8589.4); (iii) a very high fire hazard severity zone (California Government Code Section 51178 et seq.); (iv) a wild land area that may contain substantial forest fire risks and hazards (Public Resources Code Section 4135; (v) earthquake fault zone (Public Resources Code Section 2622); or (vi) a seismic hazard zone (Public Resources Code Section 2696) (sometimes all of the preceding are herein collectively called the "Natural Hazard Matters"). Buyer and Seller hereby instruct the Escrow Holder, or an affiliate thereof (who, in such capacity, is called the "Natural Hazard Expert"), at Buyer's expense, to examine the maps and other information specifically made available to the public by government agencies for the purposes of enabling Seller to fulfill its disclosure obligations, if and to the extent such obligations exist, with respect to the natural hazards referred to in California Civil Code Section 1103 et seq. and to report the result of its examination to Buyer and Seller in writing (the "Natural Hazard Disclosure Statement"). Buyer agrees to provide Seller with a written acknowledgment of its receipt of the Natural Hazard Disclosure Statement. Notwithstanding the foregoing, Buyer's receipt of the Natural Hazard Disclosure Statement shall not be deemed to modify or otherwise affect any other express representation, warranty or covenant of Seller set forth in this Agreement, and shall not constitute a waiver of any of Buyer's rights arising out of a breach by Seller of the express representations, warranties and covenants of Seller expressly set forth in this Agreement.
- (f) Termination of this Agreement. On or before the Decision Date, Buyer shall have the right to prepare or cause the preparation of, obtain, review and approve, among other things, such studies, reports, investigations and analyses of the Property, including such soils, geological, engineering and environmental tests and reports and other inspections of the Property as Buyer shall deem necessary in order to determine whether the Property is suitable for Buyer's intended use, and to review and investigate all applicable zoning requirements, federal, state and

local laws, ordinances, rules, regulations, permits, licenses, approvals and orders. If, on the basis of the review and the Inspection described in this Section, or for any other reason or no reason, Buyer determines in its sole and subjective discretion that the Property is not suitable for Buyer's intended use, then on or before the Decision Date, Buyer may terminate this Agreement in accordance with Section 3.4. Buyer's failure to provide such notice on or before the Decision Date shall constitute Buyer's approval of the items described in this paragraph and of the condition of the Property.

### 3.4 Buyer's Termination.

3.4.1 If Buyer elects to terminate this Agreement in accordance with Sections 3.2 or 3.3, then, on or before the Decision Date, Buyer shall give Seller and Escrow Holder written notice that Buyer elects to terminate this Agreement. Buyer's failure to provide the notice by the specified deadline shall constitute Buyer's waiver of Buyer's right to terminate this Agreement for reasons for which that deadline applied and a waiver of any condition to Closing relating to such deadline, but not as to the reasons for which a later deadline applies. In the event Buyer elects to terminate this Agreement pursuant to this Section, the Escrow Holder shall return to the depositor thereof any funds and interest thereon accrued while in Escrow and materials previously placed in Escrow and remaining in Escrow; Seller shall return to Buyer any of the Deposit and interest earned thereon while in Escrow to the extent that the sums were released to Seller (minus the Nonrefundable Portion); Buyer shall deliver to Seller a duly executed and acknowledged quitclaim deed as described in Section 8.11 below; Buyer shall pay all title and escrow charges; and neither party shall thereafter have any further rights or obligations under this Agreement unless expressly provided otherwise in this Agreement.

3.4.2 The Nonrefundable Portion of the Deposit shall be released to Seller in consideration of Seller's agreement to allow Buyer to have the right to terminate this Agreement and obtain a refund of the Deposit as stated in Section 3.4 above. The parties agree that without such right to terminate, Buyer would not have entered into this Agreement, and without such payment, Seller would not have agreed to take the Property off the market during the period prior to the Decision Date.

3.5 Seller's Termination. If Seller elects to terminate this Agreement as a result of a material breach of Buyer's obligations hereunder, then, within fifteen(15) business days after the date that Seller discovers the material breach, Seller shall give Buyer and Escrow Holder written notice that Seller elects to terminate this Agreement. Seller's failure to provide the notice by the specified deadline shall constitute Seller's waiver of Seller's right to terminate this Agreement for reasons for which that deadline applied. In the

event Seller elects to terminate this Agreement pursuant to this Section, subject to Section 6.6, the Escrow Holder shall return to the depositor thereof any funds and interest thereon accrued while in Escrow and materials previously placed in Escrow and remaining in Escrow; subject to Section 6.6, Seller shall return to Buyer any of the Deposit and interest earned thereon while in Escrow to the extent that the sums were released to Seller (minus the Independent Consideration and the Non-Refundable Portion); Buyer shall deliver to Seller a duly executed and acknowledged quitclaim deed as described in Section 8.11 below; Buyer shall pay all title and escrow charges; and neither party shall thereafter have any further rights or obligations under this Agreement unless expressly provided otherwise in this Agreement.

#### 4. CONDITIONS TO CLOSING

- 4.1 Buyer's Conditions. In addition to the conditions provided elsewhere in this Agreement, the Closing and Buyer's obligation to perform under this Agreement are conditioned upon the fulfillment of each and all of the following, any of which Buyer may waive in writing in whole or in part:
- 4.1.1 Roadways Vacation. Seller shall have taken all legally required steps to finally vacate all of DNA Way, a portion of Cabot Road between Allerton and DNA Way and all of PSB Boulevard in accordance with applicable law, including but not limited to the Public Streets, Highways, and Service Easements Vacation Law, California Streets and Highways Code § 8300 et seq. (the "Roadways Vacation"), and all statutes of limitations to legally challenge the Roadways Vacation shall have expired without any such challenge being filed (or if challenged, all such challenges having been finally resolved in favor of City by a court of competent jurisdiction). Seller shall not commence any formal action in furtherance of this Condition until after the Decision Date or Buyer's written waiver of its right to terminate this Agreement pursuant to Section 3.4 hereof.
- 4.1.2 Due Performance. Due performance by Seller of all of its obligations under this Agreement and the truthfulness of each representation and warranty by Seller contained in Article 5 or any other part of this Agreement at the time the same is made and as of the Closing.
- 4.1.3 Delivery of Documents. Due performance by Seller of all of its obligations under this Agreement and the truthfulness of each representation and warranty by Seller contained in Article 5 or any other part of this Agreement at the time the same is made and as of the Closing.
- 4.1.4 Owner's Policy. The unconditional and irrevocable commitment and ability of the Title Company to issue the Owner's Policy to Buyer in form and substance satisfactory to Buyer, dated as of the date and time of the recording of the Deed



(as hereinafter defined). The Owner's Policy shall be issued with such reinsurance agreements and direct access agreements and such endorsements as Buyer shall require.

- 4.1.5 Moratoriums. That no moratorium, statute, regulation, ordinance, or federal, state, county or local legislation, or order, judgment, ruling or decree of any governmental agency or of any court is enacted, adopted, issued, entered or pending which would materially and adversely prevent Buyer's intended use of the Property.
- 4.1.6 Condemnation. That no condemnation or eminent domain action shall have been commenced to acquire the Property or any portion thereof.
- 4.1.7 Possession. That the Property shall be delivered to Buyer at Closing free and clear of any occupants or rights of possession.
- 4.1.8 Other Conditions. That all other conditions to Buyer's obligation to proceed to Closing that are expressly set forth in this Agreement shall have been satisfied or waived in writing in the manner provided in this Agreement
- 4.2 Seller's Conditions. In addition to the conditions provided elsewhere in this Agreement, the Closing and Seller's obligation to perform under this Agreement are conditioned upon the fulfillment of each and all of the following, any of which Seller may waive in writing in whole or in part:
  - 4.2.1 Due Performance. Due performance by Buyer of all of its obligations under this Agreement, including its payment of all sums due and timely reimbursement of Seller's costs, and the truthfulness in all material respects of each representation and warranty by Buyer contained in Article 5 or any other part of this Agreement at the time the same is made and as of the Closing.
  - 4.2.2 Delivery of Documents and Funds. Delivery by Buyer on or before Closing of all of the documents, funds, and other materials described in Section 6.1 below.
  - 4.2.3 Other Conditions. That all other conditions to Seller's obligation to proceed to Closing that are expressly set forth in this Agreement shall have been satisfied or waived in writing in the manner provided in this Agreement.

## 5. ADDITIONAL AGREEMENTS OF THE PARTIES

- 5.1 Representations and Warranties Buyer's Representations and Warranties. Buyer represents, warrants and covenants to and agrees with Seller as follows:

(a) Buyer's Investigation; "As Is" Purchase. Except as otherwise expressly provided in this Agreement:

(i) There are no representations or warranties of any kind whatsoever, express or implied, made by Seller in connection with this Agreement, the purchase of the Property by Buyer, the physical condition of the Property, the financial performance of the Property, the status of zoning or other planning designations for the Property, or whether the Property is appropriate for Buyer's intended use;

(ii) On or before the Decision Date, Buyer will have (or will have chosen not to have) fully investigated the Property and all matters pertaining thereto;

(iii) Buyer is not relying on any statement or representation of Seller, its agents or its representatives nor on any information supplied by Seller, its agents or its representatives, except as expressly provided in this Agreement;

(iv) Buyer, in entering into this Agreement and in completing its purchase of the Property, is relying entirely on its own investigation of the Property based on its extensive experience in and knowledge of real property in and around the Campus;

(v) On or before the Decision Date, Buyer will be aware (or will have chosen not to be aware) of all title matters; zoning and planning regulations; other governmental requirements; site and physical conditions; status of entitlements or the ability to obtain entitlements for Buyer's intended use; potential costs and procedures for operating the Property; potential costs and procedures for developing the Property and constructing Buyer's intended improvements thereon; the past and potential future financial performance of the Property; Hazardous Materials or environmental condition of the Property; soils conditions; status of permits or licenses for the Property; termites or other pests; condition of contracts relating to the Property; the suitability of the Property for Buyer's intended use; other matters affecting the use and condition of the Property; and any other contingency or other matter whatsoever; and

(vi) Buyer shall purchase the Property in its "as is" condition as of the date of Closing. Any and all representations and/or warranties that may be made by Seller in connection with this Agreement or the purchase of the Property shall terminate on the Closing Date and shall not survive Closing.

- (b) Authority. Buyer has the power and authority to own the Property and to consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by Buyer in connection with this Agreement are or when delivered shall be duly authorized, executed and delivered by Buyer and are valid, binding and enforceable obligations of Buyer. Each individual executing this Agreement on behalf of Buyer represents and warrants to Seller that he or she is duly authorized to do so.
- (c) Consents. Buyer is not required to obtain any consents or approvals to consummate the transactions contemplated in this Agreement, or shall have obtained such approvals prior to the effectiveness or necessity thereof.

## 5.2 Seller's Representations and Warranties.

- (a) Authority. Seller has the power and authority to own the Property and to consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by Seller in connection with this Agreement are or when delivered shall be duly authorized, executed and delivered by Seller and are valid, binding and enforceable obligations of Seller. Each individual executing this Agreement on behalf of Seller represents and warrants to Buyer that he or she is duly authorized to do so.
- (b) Consents. Except for the requisite approval by the City Council of this transaction, Seller is not required to obtain any other consents or approvals to consummate the transactions contemplated in this Agreement, or shall have obtained such approvals prior to the effectiveness or necessity thereof.

## 5.3 Reaffirmation. The representations and warranties of Buyer and Seller in Sections 5.1 and 5.2 are true and correct as of the date of this Agreement and shall be true and correct as of the Closing. The Closing shall constitute Buyer's and Seller's reaffirmation of those representations and warranties as of the Closing. Seller shall be entitled to rely upon Buyer's representations and warranties in Section 5.1, notwithstanding any inspection or investigation of the Property that was made or could have been made by Buyer.

## 5.4 Hazardous Material Release and Waiver

- 5.4.1 Release and Waiver. If this transaction closes and Buyer acquires title to the Property, Buyer, on behalf of itself and its successors, assigns and successors in interest, hereby releases Seller's Parties from, and waives any right to pursue the Seller's Parties for, any and all "Claims" (as defined below) (including, but not

limited to, Claims arising under any “Environmental Law” as defined below), arising out of, related in any way to, or resulting from or in connection with, in whole or in part, the actual or suspected presence, use, generation, storage, disposal, release or transport of “Hazardous Materials” (defined below) in, on, under, above, about, to, through or from the Property.

5.4.2 Waiver of California Civil Code Section 1542. In connection with the release and waiver specified in Section 5.4.1, and in connection with any other release in this Agreement, Buyer, on behalf of itself, its successors, assigns and successors-in-interest, waives the benefit 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 or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

Effective upon the Close of Escrow, by initialing below, Buyer expressly waives the benefits of Section 1542 of the California Civil Code with respect to the foregoing releases:

Buyer’s initials: \_\_\_\_\_

5.4.3 Definitions.

- (a) “Claims” means any and all claims, losses, costs, damages, injuries, penalties, enforcement actions, fines, taxes, remedial actions, removal and disposal costs, investigation and remediation costs and expenses (including, without limit, reasonable attorneys’ fees, litigation, arbitration and administrative proceeding costs, expert and consultant fees and laboratory costs), sums paid in settlement of claims, demands, obligations, liabilities, indebtedness, breaches of contract, breaches of duty or of any relationship, acts, omissions, misfeasances, malfeasance, cause or causes of action, debts, sums of money, accounts, compensations, contracts, controversies, promises, losses and expenses, of every type, kind, nature, description or character, and irrespective of how, why, or by reason of what facts, whether now existing, existing prior to the date of this Agreement or arising after the date of this Agreement, or which could, might, or may be claimed to exist, of whatever kind or name, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, each as though fully set forth at length in this Agreement.
- (b) “Hazardous Material” means (i) petroleum or any petroleum product or fraction thereof, (ii) asbestos, (iii) any substance, product, waste or other material of

any nature whatsoever which is or becomes regulated or listed by any local, state or federal governmental authority, entity or agency or pursuant to any "Environmental Law" (as defined below), including, without limitation, any substance defined as "hazardous substances," "hazardous materials," or "toxic materials" by any Environmental Law, and (iv) any substance, product, waste or other material otherwise defined in this paragraph as a Hazardous Material which may give rise to any liability under any Environmental Law or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court.

- (c) "Environmental Law" means any federal, state or local law, regulation, guideline, code, ordinance, rule, resolution, order or decree regulating the use, generation, handling, storage, treatment, transport, decontamination, clean-up, removal, encapsulation, enclosure, abatement or disposal of any Hazardous Material, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Sections 9601, et seq., the Toxic Substance Control Act, 15 U.S.C. Sections 2601 et seq., the Clean Water Act, 33 U.S.C. Sections 1251 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sections 136 et seq., the California Hazardous Waste Control Act, Health and Safety Code Sections 25100, et seq., the California Hazardous Substance Account Act, Health and Safety Code Sections 25330, et seq., the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5, et seq., California Health and Safety Code Sections 25280, et seq. (Underground Storage of Hazardous Substances), the California Hazardous Waste Management Act, Health and Safety Code Sections 25170.1, et seq., California Health and Safety Code Sections 25501 et seq. (Hazardous Materials Release Response Plans and Inventory), the California Porter-Cologne Water Quality Control Act, Water Code Sections 13000 et seq., California Health and Safety Code Section 26316, and any other 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 Material, as now or at any time hereafter in effect, all as amended or hereafter amended.

5.4.4 No Limitation to Liability. The provisions of this Section 5.4 shall not be limited in any way by any other terms of this Agreement, including, but not limited to, Section 6.6 of this Agreement (Liquidated Damages).

5.5 Condemnation. If, prior to Closing, any portion of the Property is condemned or becomes the subject of any pending or threatened condemnation action, Seller shall

promptly notify Buyer thereof, and Buyer may elect in its sole and absolute discretion to terminate this Agreement.

- 5.6 Indemnity. To the fullest extent permitted by law, Buyer shall hold harmless, indemnify and defend the Seller's Parties from and against (a) any and all Claims (other than matters caused by the negligent acts or negligent omissions of the Seller's Parties) in any way related to the Property and occurring after the Closing, or in any way related to or arising from any act, conduct, omission, contract or commitment of Buyer and/or Buyer's Agents, including Buyer's obligations pursuant to Section 5.7 below; (b) any loss or damage to Seller resulting from any inaccuracy in or breach of any representation or warranty of Buyer or resulting from any breach or default by Buyer under this Agreement; and (c) all costs and expenses, including reasonable attorneys' fees, related to any actions, suits or judgments incident to any of the foregoing.

5.7 Buyer Maintenance and Operations Obligations.

5.7.1 Maintenance of Infrastructure Improvements. From and following the Closing Date, Buyer shall, at its sole cost and expense, maintain, repair and replace the existing Infrastructure Improvements and the portions of the Property described in the Roadways Vacation in compliance with this Agreement and the Master Plan (collectively, the "Maintenance Obligations"), pursuant to the provisions of the Maintenance and License Agreement between Buyer and the City, which Maintenance and License Agreement shall provide for Buyer's performance of maintenance activities with respect to the Roadways.

5.7.2 Inspections and Report. Buyer shall conduct maintenance inspection of the Infrastructure Improvements at least once a year and shall retain proof of such inspection and make such inspection report available to City within thirty (30) days upon request.

5.7.3 Maintenance Personnel. To accomplish the Maintenance Obligations, Buyer shall either staff or contract with and hire licensed and qualified personnel to perform the Maintenance Obligations, including but not limited to the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Section 5.7.

5.8 Sales Tax Point of Sale Designation.

5.8.1 Construction. Pursuant to the authority granted by the California Department of Tax and Fee Administration (CDTFA) allowing construction contractors with contracts valued at \$5 million or more to obtain a sub-permit enabling contractors to designate the jurisdiction of the jobsite as the point of sale for sales tax allocation, Buyer shall require its contractors hired to complete future projects on the vacated portions of the Roadways to obtain such a sub-permit and allocate

sales tax directly to the City ensuring that the City will collect a larger share of local sales/use tax for projects developed on the Roadways than it would otherwise receive without this designation.

- 5.8.2 Other Sales Taxes. Buyer and Seller agree in good faith to discuss and explore additional opportunities to designate Seller as the applicable jurisdiction for future sales tax allocations related to Buyer's operations within the City.

## 6. CLOSING

### 6.1 Deposits Into Escrow

- 6.1.1 Seller's Deposits. At least one (1) business day prior to the Closing Date, Seller shall deposit into Escrow:

- (a) A grant deed conveying the Property to Buyer (the "Deed"), subject to the Permitted Exceptions, substantially in the form attached hereto as Exhibit D.
- (b) An affidavit or qualifying statement which satisfies the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and the related regulations (the "Non-Foreign Affidavit").
- (c) A Withholding Exemption Certificate, Form 593-C, or in the event that Seller is a non-California resident, a certificate issued by the California Franchise Tax Board, pursuant to the Revenue and Taxation Code Sections 18805 and 26131, stating either the amount of withholding required from Seller's proceeds or that Seller is exempt from the withholding requirement (the "Withholding Certificate").
- (d) An executed original counterpart of the Maintenance and License Agreement, substantially in the form of Exhibit E.
- (e) An executed original counterpart of the Public Utility Easements, substantially in the form of Exhibit F, identifying all necessary and required public utility easements in favor of the Seller, to be recorded immediately after Close.
- (f) An executed original of the Resolution of Vacation adopted in accordance with the procedures outlined in Streets and Highways code section 8320, et seq., to be recorded immediately before Close.

- 6.1.2 Buyer's Deposits. At least one (1) business day prior to the Closing Date, Buyer shall deposit into Escrow:

- (a) An executed original counterpart of the Maintenance and License Agreement, substantially in the form of Exhibit E.

(b) An executed original counterpart of the Public Utility Easements, substantially in the form of Exhibit F, identifying all necessary and required public utility easements in favor of the Seller, to be recorded immediately after Close.

(c) The balance of the funds necessary to pay the Purchase Price.

6.1.3 Other Deposits. Seller and Buyer shall each deposit such other instruments and funds as are reasonably required by Escrow Holder or otherwise required to close Escrow and consummate the sale of the Property in accordance with the terms of this Agreement.

6.2 Prorations. The following prorations shall be made as of 12:01 a.m. on the day the Closing occurs on the basis of a 365-day year. At least five (5) business days prior to the Closing Date, Escrow Holder shall deliver to Seller and Buyer a tentative proration schedule setting forth a preliminary determination all utility charges and other items of expense (if any) shall be prorated as of the Closing on the basis of schedules prepared by Seller for that purpose with post-closing adjustments made between Seller and Buyer by cash payment upon demand to the party entitled thereto.

6.3 Payment of Closing Costs. Closing Costs Borne by Buyer. Buyer will pay all Escrow fees (including the costs of preparing documents and instruments) and recording fees incident to and related to the transaction contemplated hereby. Buyer will also pay title insurance costs, title report costs, any , documentary transfer tax, any and all sales and use taxes required in connection with the transfer of the Property to Buyer, and any sums necessary to obtain and record any reconveyance required, and the Escrow Holder's fee and any additional charges customarily charged to buyers in accordance with common escrow practices in northern California.

6.4 Closing Escrow.

6.4.1 Escrow Holder shall hold the Closing on the Closing Date if: (i) it has received in a timely manner all the funds and materials required to be delivered into Escrow by Buyer and Seller; and (ii) it has received assurances satisfactory to it that, effective as of the Closing, the Title Company will issue the Owner's Policy to Buyer.

6.4.2 To Close the Escrow, Escrow Holder shall:

(a) Cause the Deed to be recorded and then mailed to Buyer, and deliver the Owner's Policy, Non-Foreign Affidavit and Withholding Certificate to Buyer; and



(b) Deliver to Seller the Purchase Price by wire transfer of federal funds, funds in the amount of the Purchase Price, less the amount of the Deposit to the extent released to Seller and plus or less any net debit or credit to Seller by reason of the prorations provided for in this Agreement.

(c) Cause the Public Utility Easements to be recorded and then copies mailed to Seller.

6.4.3 Pursuant to Section 6045 of the Internal Revenue Code, Escrow Holder shall be designated the closing agent hereunder and shall be solely responsible for complying with the tax reform act of 1986 with regard to reporting all settlement information to the Internal Revenue Service.

6.5 Failure to Close; Cancellation. If the Escrow Holder is not in a position to Close the Escrow on the Closing Date, then, except as provided in Section 6.6, Escrow Holder shall return to the depositor thereof any funds or other materials previously placed in Escrow. No such return shall relieve either party of liability for any failure to comply with the terms of this Agreement.

**6.6 LIQUIDATED DAMAGES THE PARTIES HAVE DETERMINED THAT IF BUYER BREACHES THIS AGREEMENT AND FAILS TO PURCHASE THE PROPERTY AS CONTEMPLATED HEREIN, THE DAMAGE TO SELLER WILL BE EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN, SUCH DAMAGE INCLUDING COSTS OF NEGOTIATING AND DRAFTING THIS AGREEMENT, COSTS OF COOPERATING IN SATISFYING CONDITIONS TO CLOSING, COSTS OF SEEKING ANOTHER BUYER UPON BUYER'S DEFAULT, OPPORTUNITY COSTS IN KEEPING THE PROPERTY OUT OF THE MARKETPLACE, AND OTHER COSTS INCURRED IN CONNECTION HERewith. IN ADDITION, BUYER WISHES TO LIMIT ITS LIABILITY IN EVENT OF ITS BREACH OF THIS AGREEMENT AND FAILURE TO PURCHASE THE PROPERTY AS CONTEMPLATED IN THIS AGREEMENT, AND SELLER HAS AGREED TO SUCH A LIMITATION. THE PARTIES THUS AGREE THAT SHOULD THIS AGREEMENT FAIL TO CLOSE DUE TO BUYER'S BREACH OF THIS AGREEMENT OR ITS WRONGFUL REFUSAL OR FAILURE TO PURCHASE THE PROPERTY CONTEMPLATED IN THIS AGREEMENT, THE SOLE AND EXCLUSIVE REMEDY OF SELLER SHALL BE TO RETAIN THE DEPOSIT FROM BUYER; ALL OTHER CLAIMS FOR DAMAGES OR CAUSES OF ACTION ARE HEREBY EXPRESSLY WAIVED BY SELLER. SAID AMOUNT WILL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY BUYER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO**

**CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THE SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. IN NO EVENT SHALL EITHER PARTY BE ENTITLED TO LOST PROFITS OR CONSEQUENTIAL DAMAGES AS A RESULT OF THE OTHER PARTY'S BREACH OF THIS AGREEMENT.**

**Initials of Buyer:**

**Initials of Seller:**

\_\_\_\_\_

- 6.7 Possession. Possession of the Property shall be delivered to Buyer upon Closing.
- 6.8 Seller's Default. If Seller defaults under its obligations under this Agreement or breaches its representations or warranties hereunder, the Deposit shall immediately be returned to Buyer, Seller shall pay all Escrow cancellation and title charges, and Buyer shall have all other rights and remedies available at law or equity, including without limitation, the remedy of specific performance.

**7. FUTURE USE, APPRAISAL, SUPPLEMENTAL PAYMENT, AND REQUIRED APPROVALS**

- 7.1 Future Use. In the future, Buyer may submit an application to the City for approval of development permits or modifications to the Master Plan, if required, to change the use of the Roadways (or portions thereof) and provide for reconfiguration and/or redevelopment of the Property for an alternative use. As part of any application for such development permits or modifications to the Master Plan that impact Vacation Areas #1, Vacation Area #3 or Vacation Area #4 (as such terms are defined below), Buyer shall under the circumstances set forth below submit an appraisal prepared pursuant to Section 7.2 of the fair market value (FMV) of the Property if developed as proposed in Buyer's application.
- 7.1.1 The Parties understand and agree that the portions of the Roadways depicted in green, pink and blue on Exhibit A and described, respectively, on Exhibit A-1 ("Vacation Area #1), Exhibit A-2 (Vacation Area #3) and Exhibit A-3 (Vacation Area #4) shall remain as publicly-accessible Roadways subject to the Maintenance and License Agreement and shall not be eligible for change in use except as set forth herein. Any application to change the use or configuration (other than minor modifications to location or configuration of the Roadways that do not result in a change to the total acreage of the Roadways provided for public access) of Vacation Area #1, Vacation Area #3 or Vacation Area #4 shall be subject to City Council approval and shall necessitate (a) an amendment to this Agreement acceptable to the parties hereto and approved by the City Council, and (b) the payment of a supplemental amount pursuant to Section 7.3

acceptable to the parties hereto and approved by the City Council based upon the FMV of such Vacation Areas, as determined by an appraisal pursuant to Section 7.2. For the avoidance of doubt, the portions of the Maintenance and License Agreement applicable to Vacation Area #1, Vacation Area #3 and Vacation Area #4 of the Roadways may not be terminated without a written amendment to this Agreement executed by both Parties and approved by the City Council. Notwithstanding the foregoing, Vacation Area #1 shall remain publicly-accessible in perpetuity to ensure access to the Wind Harp and Buyer does not intend to seek any change in use for Vacation Area #1 pursuant to this section. Further, Buyer shall not seek a change in use for Vacation Area #3 or Vacation Area #4 pursuant to this Section 7 until January 1, 2031 or later.

7.1.2 The Parties agree that notwithstanding the foregoing, the portion of the Roadways depicted in orange on Exhibit A and described on Exhibit A-4 (Vacation Area #2) may be subject to a proposed change in use and/or termination of the applicable portions of the Maintenance and License Agreement, subject to applicable City approvals, without change to the Purchase Price because the Purchase Price set forth herein represents the FMV of said portions of the Roadways if redeveloped as an alternative use. In light of the foregoing, the Parties agree that if Buyer submits an application to update/modify the Master Plan to redevelop Vacation Area #2, Buyer shall not be required to prepare and submit an appraisal pursuant to Section 7.2 as part of such an application, and no change to the Purchase Price shall be made.

7.2 Appraisal. The appraisal contemplated in Section 7.1 shall be an independent third party appraisal prepared by a valuation expert selected by the Parties in accordance with this Section. The appraiser shall have the requisite experience and skills necessary to prepare the appraisal and shall be selected by mutual agreement of both Parties. If the Parties cannot agree on an appraiser, then each Party shall propose an appraiser and the two shall select a third appraiser to perform the valuation. The appraisal shall be prepared using appraisal instructions jointly agreed to by the Seller and Buyer. The appraisal shall be based on the FMV of Vacation Area #1, Vacation Area #3 or Vacation Area #4, as the case may be, for the primary use proposed by Buyer in its proposed modifications to the Master Plan ("Modified Use Appraisal"). Both Parties assume that the primary use will be Office/R&D.

7.3 Amount and Timing of Supplemental Payment. If Buyer's proposed modifications to the Master Plan are approved by the City, then Buyer shall make a an additional payment of consideration hereunder (the "Supplemental Payment") to the Seller in an amount that is equal to the FMV of Vacation Area #1, Vacation Area #3 or Vacation Area #4, as the case may be, as identified in the Modified Use Appraisal, Under no circumstances shall the per square foot cost included in the Supplemental Payment be less than the per square foot cost utilized in the Purchase Price. The Supplemental Payment shall be

paid upon termination of the Reserved License for the applicable Roadway as contemplated in Section 7.4.

- 7.4 Required City Approvals and Termination of Public Access. As part of any proposed modifications to the Master Plan that result in the need to terminate or amend the Maintenance and License Agreement as to portion(s) of the Roadways proposed for alternative use, following City approval thereof, compliance with all provisions of this Section 7, and the passage of any applicable appeal or challenge periods without any such appeal or challenge (or the favorable satisfaction of any such appeal or challenge), the Maintenance and License Agreement shall terminate or be amended as to those portion(s) of the Roadways and said portion(s) will no longer be publicly accessible space. Buyer shall install prominent signage at several locations along the Roadways a minimum of ninety (90) days in advance of any closure to the public.

## 8. GENERAL PROVISIONS

- 8.1 Entire Agreement. This Agreement contains the entire integrated agreement between the parties respecting the subject matter of this Agreement and supersedes all prior understandings and agreements, whether oral or in writing, between the parties respecting the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or in writing, between or among the parties to this Agreement relating to the subject matter of this Agreement that are not fully expressed in this Agreement. The terms of this Agreement are intended by the parties as a final expression of their agreement with respect to those terms and they may not be contradicted by evidence of any prior agreement or of any contemporaneous agreement. The parties further intend that this Agreement constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceeding involving this Agreement.
- 8.2 Choice of Law; Jurisdiction; Venue. This Agreement shall be governed by the laws of the State of California. The parties to this Agreement irrevocably agree to the jurisdiction of the Superior Court of the State of California situated in the County in which the Property is located, or of the United States District Court situated in such County, and the parties agree that venue in such County is the correct and appropriate venue, for any action or other proceeding involving the rights, obligations and remedies of the parties under this Agreement.
- 8.3 Severability. If any term, covenant, condition or provision of this Agreement, or its application to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

- 8.4 Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant, condition or promise under this Agreement. The waiver by either or both parties of the time for performing any act under this Agreement shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provision in this Agreement for any remedy shall not exclude other consistent remedies unless they are expressly excluded.
- 8.5 Exhibits. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.
- 8.6 Amendments. This Agreement may be amended at any time by the written agreement of Buyer and Seller. All amendments, changes, revisions and discharges of this Agreement, in whole or in part, and from time to time, shall be binding upon the parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the parties hereto.
- 8.7 Relationship of Parties. The parties agree that their relationship is that of seller and buyer, and that nothing contained herein shall constitute either party the agent or legal representative of the other for any purpose whatsoever, nor shall this Agreement be deemed to create any form of business organization between the parties hereto, nor is either party granted any right or authority to assume or create any obligation or responsibility on behalf of the other party, nor shall either party be in any way liable for any debt of the other.
- 8.8 No Third Party Benefit. This Agreement is intended to benefit only the parties hereto and no other person or entity has or shall acquire any rights hereunder.
- 8.9 Time of the Essence. Time shall be of the essence as to all dates and times of performance, whether contained herein or contained in any escrow instructions to be executed pursuant to this Agreement, and all escrow instructions shall contain a provision to this effect.
- 8.10 Further Acts. Each party agrees to perform any further acts and to execute, acknowledge and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.
- 8.11 Recordation; Actions to Clear Title. Buyer shall not record this Agreement, any memorandum of this Agreement, any assignment of this Agreement or any other document which would cause a cloud on the title to the Property. If Buyer fails to

complete its purchase of the Property for any reason, or if this Agreement shall terminate for any reason, then Buyer shall, at no cost to Seller, promptly execute, acknowledge and deliver to Seller, all within three (3) days after written request from Seller, a quitclaim deed, in recordable form, in favor of Seller and any other documents requested by Seller to remove the cloud on title to the Property that may exist as the result of the existence of this Agreement or any escrow relating to this Agreement.

- 8.12 Assignment. Buyer shall not assign its rights or delegate its obligations hereunder without the prior written consent of Seller in each instance, which consent Seller may withhold in Seller's sole and absolute discretion. If Buyer assigns its rights or delegates its obligations hereunder in violation of this Section, Seller shall have the right to terminate this Agreement pursuant to Section 3.4 above. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to this Agreement, including without limitation any successors to Buyer's ownership of the Campus, the Property or any portion(s) thereof.
- 8.13 Attorneys' Fees. In the event of any litigation involving the parties to this Agreement to enforce any provision of this Agreement, to enforce any remedy available upon default under this Agreement, or seeking a declaration of the rights of either party under this Agreement, the prevailing party shall be entitled to recover from the other such attorneys' fees and costs as may be reasonably incurred, including the costs of reasonable investigation, preparation and professional or expert consultation incurred by reason of such litigation. All other attorneys' fees and costs relating to this Agreement and the transactions contemplated hereby shall be borne by the party incurring the same.
- 8.14 Brokers. Buyer and Seller each represent and warrant to the other that (a) they have not dealt with any brokers or finders in connection with the purchase and sale of the Property, and (b) insofar as such party knows, no broker or other person is entitled to any commission or finder's fee in connection with the purchase and sale of the Property. Seller and Buyer each agree to indemnify and hold harmless the other against any loss, liability, damage, cost, claim or expense incurred by reason of any brokerage fee, commission or finder's fee which is payable or alleged to be payable to any broker or finder because of any agreement, act, omission or statement of the indemnifying party.
- 8.15 Manner of Giving Notice. All notices and demands which either party is required or desires to give to the other shall be given in writing by personal delivery, express courier service or by email followed by next day delivery of a hard copy to the address set forth in Sections 1.8 and 1.9 above for the respective party, provided that if any party gives notice of a change of name, address or email address notices to that party shall thereafter be given as demanded in that notice. All notices and demands so given shall be effective upon receipt by the party to whom notice or a demand is being given.

- 8.16 Survival. The provisions of Sections 3.3.2 (Inspection of Property), 5.1 and 5.2 (Representations and Warranties), 5.3 (Reaffirmation), 5.4 (Hazardous Material Indemnification and Waiver), 5.5 (Condemnation), 5.6 (Indemnity), 6.2 (Prorations), 6.3 (Payment of Closing Costs), 6.6 (Liquidated Damages), 6.7 (Possession) and Article 8 (General Provisions) shall survive the Closing and the consummation of the transactions contemplated by this Agreement or the termination of this Agreement for any reason without the conveyance of the Property to Buyer. The provisions of Section 5.7 (Buyer Maintenance Obligations) shall survive Closing and consummation of the transactions contemplated by this Agreement.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties have cause their duly authorized representatives to execute this Agreement as of the Effective Date.

BUYER:

SELLER:

\_\_\_\_\_,'

\_\_\_\_\_,'

a \_\_\_\_\_

a \_\_\_\_\_

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_



EXHIBIT A  
“DEPICTION OF DNA WAY, CABOT ROAD, AND PSB BLVD”

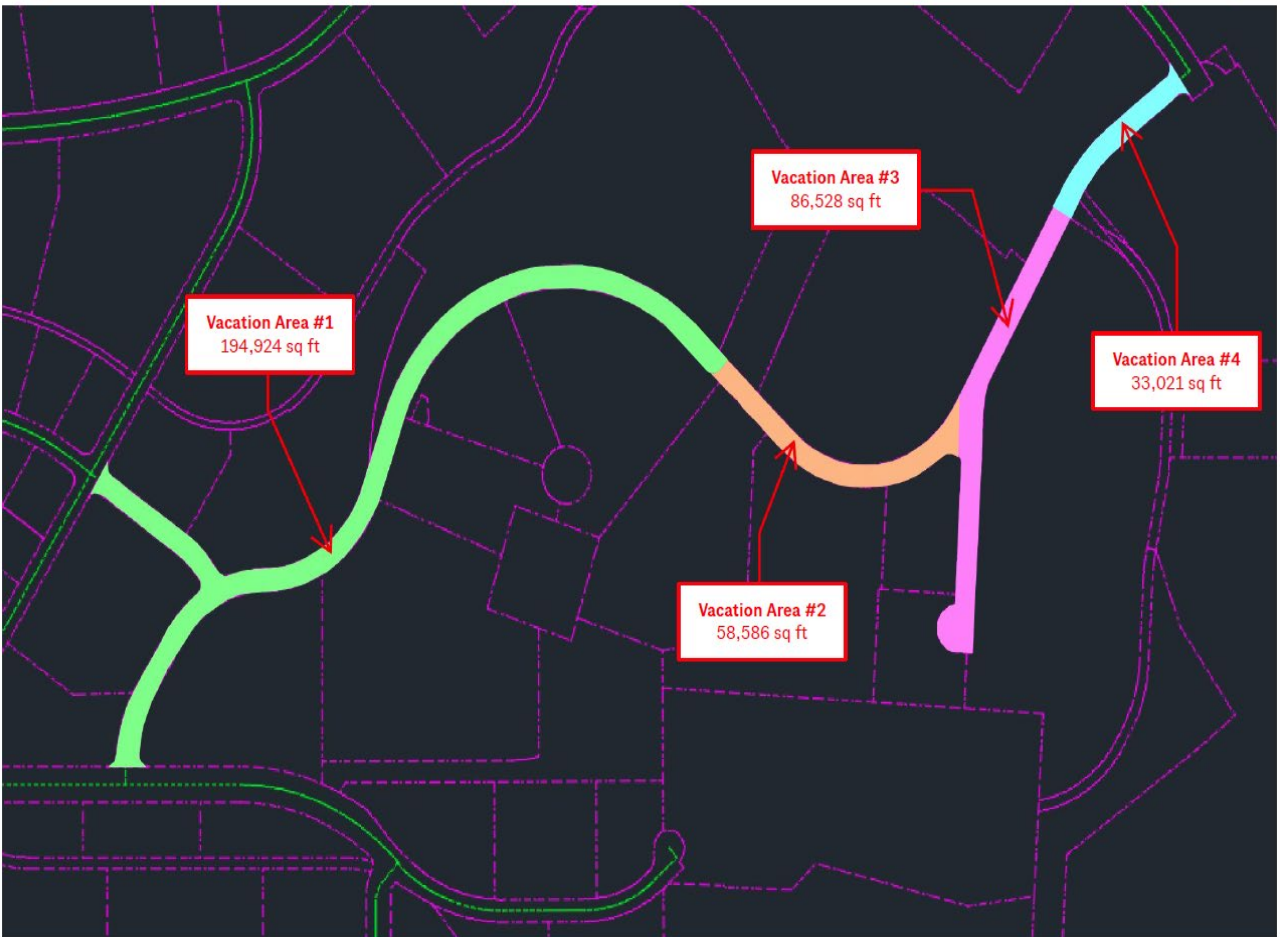




EXHIBIT A-2  
“DESCRIPTION AND DEPICTION OF VACATION AREA #3”

EXHIBIT A-3  
“DESCRIPTION AND DEPICTION OF VACATION AREA #4”

EXHIBIT A-4  
"DESCRIPTION AND DEPICTION OF VACATION AREA #2"

EXHIBIT B  
"PROPERTY DESCRIPTION"

EXHIBIT C  
“INFRASTRUCTURE IMPROVEMENTS”

1. Asphalt, Curbs, Sidewalks, & Gutter
2. Traffic Signals Located at DNA Way at Point San Bruno Blvd and 310 DNA Way
3. Rectangular Rapid Flashing Beacons (RRFB)
4. Streetlights
5. Signs and Traffic Markings

EXHIBIT D  
"GRANT DEED"

*Recording Requested by  
and when Recorded, return to:*

City of South San Francisco  
400 Grand Avenue  
South San Francisco, CA 94080  
Attention: City Manager

EXEMPT FROM RECORDING FEES PER CALIFORNIA  
GOVERNMENT CODE §§6103, 27383

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

**GRANT DEED**

**The City of South San Francisco**

**DNA Way, Portion of Cabot Road, Point San Bruno Boulevard**

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City of South San Francisco, a California municipal corporation ("**Grantor**"), hereby grants and conveys to Genentech, Inc. a Delaware limited liability company (the "**Grantee**"), the real property located in the City of South San Francisco of DNA Way, portion of Cabot Road, and Point San Bruno Boulevard (the "**Property**"), more particularly depicted and described in Exhibit A attached hereto and incorporated in this grant deed ("**Grant Deed**") by this reference.

1. The Property is conveyed subject to that certain Purchase, Sale, and Maintenance Agreement and Joint Escrow Instructions entered into by and between the Grantor and Grantee dated as of \_\_\_\_ day of \_\_\_\_ 2025 ("**PSA**").
2. This Grant Deed may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

**SIGNATURES ON FOLLOWING PAGES**



IN WITNESS WHEREOF, Grantor and Grantee have executed this Grant Deed as of this  
\_\_\_\_\_ day of \_\_\_\_\_ 2025.

**GRANTOR:**

**CITY**

CITY OF SOUTH SAN FRANCISCO,  
a municipal corporation

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

Sharon Ranals, City Manager

ATTEST:

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

Rosa Acosta, City Clerk

APPROVED AS TO FORM:

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

Sky Woodruff, City Attorney

**SIGNATURES MUST BE NOTARIZED**

**GRANTEE**

GENENTECH, INC.

a Delaware limited liability company

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

Name:

Title:

**SIGNATURES MUST BE NOTARIZED**

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

STATE OF CALIFORNIA      )

)

COUNTY OF SAN MATEO    )

On \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_, (here insert name and title of the officer), personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

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

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

STATE OF CALIFORNIA      )

)

COUNTY OF SAN MATEO    )

On \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_, (here insert name and title of the officer), personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

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

Exhibit A to Grant Deed

**LEGAL DESCRIPTION & DIAGRAM**

EXHIBIT E  
“MAINTENANCE AND PUBLIC ACCESS LICENSE AGREEMENT”

EXHIBIT F  
“PUBLIC UTILITIES EASEMENT”

EXHIBIT G  
“EXCLUDED IMPROVEMENTS”

The Property does not include any and all City-owned sewer and storm drain infrastructure located within the boundaries of the Roadways being conveyed.