

North Bay Association of REALTORS®  
**NAPA COUNTY DISCLOSURES AND DISCLAIMERS ADVISORY**

All Original Content © 2001-2019 North Bay Association of REALTORS®

**USE OF FORM: This form is intended for use only in Napa County, and only with the current California Association of REALTORS® form “Statewide Buyer and Seller Advisory” (SBSA). Please read it carefully, whether in electronic or hard copy form, along with all other local advisories and local disclosures, agent and broker disclosures, and all Seller disclosures relating to the Property.**

**TABLE OF CONTENTS**

1. INTRODUCTION ..... 2

2. MARKET CONDITIONS ADVISORY ..... 3

3. GENERAL PROPERTY ADVISORIES ..... 4

3.1. EXISTING HOUSING STOCK ..... 4

3.2. FLOORS AND WALLS ..... 4

3.3. TEMPERED GLASS ..... 5

3.4. FIREPLACES; WOOD-BURNING APPLIANCES ..... 5

3.5. LAND USE AND CONSTRUCTION-RELATED LAWS ..... 5

3.6. LOCAL CONDITIONS: FACILITIES AND EVENTS ..... 6

3.7. SQUARE FOOTAGE AND LOT SIZE ..... 7

3.8. TREES AND VEGETATION ..... 7

3.9. RIVER, CREEK, WETLAND, AND LEVEE PROTECTION ..... 7

3.10. FLOOD ADVISORY ..... 8

3.11. SEPTIC SYSTEM/WASTEWATER TREATMENT SYSTEM REGULATIONS ..... 8

3.12. STORAGE TANKS ..... 8

3.13. ENVIRONMENTAL HAZARDS ..... 8

3.14. CONDOMINIUMS, COMMON INTEREST DEVELOPMENTS & HOMEOWNERS' ASSOCIATIONS ..... 9

3.15. PLASTIC PIPE ..... 10

3.16. INSURANCE ..... 10

3.17. C.L.U.E. REPORTS OF INSURANCE CLAIMS ..... 10

3.18. TITLE INSURANCE AND PRELIMINARY REPORTS ..... 10

3.19. CHANGING LOCKS, GARAGE/GATE OPENERS, AND ALARMS ..... 11

3.20. ONLINE INFORMATION ..... 11

3.21. ONLINE PHOTOS ..... 11

3.22. PROBATE SALES AND COURT CONFIRMATION ..... 11

3.23. PERSONAL PROPERTY AND STAGING ITEMS ..... 12

3.24. WATER HEATERS ..... 12

3.25. SMOKE ALARMS AND CARBON MONOXIDE DETECTORS ..... 12

3.26. ANIMALS ..... 12

4. FEDERAL, STATE AND REGIONAL CONDITIONS ADVISORIES. .... 13

4.1. GEOLOGIC CONDITONS ..... 13

4.2. WET WEATHER CONDITIONS ..... 13

4.3. CLIMATE CONDITIONS ..... 14

4.4. PERMIT ISSUES ..... 14

4.5. NONCONFORMING USES, ROOMS, ALTERATIONS OR ADDITIONS ..... 14

4.6. CODE COMPLIANCE AND ENFORCEMENT ..... 15

4.7. UNDERGROUND UTILITIES ..... 15

4.8. CRIME ..... 15

4.9.	DROUGHT ADVISORY .....	15
4.10.	WATER-CONSERVING PLUMBING FIXTURES .....	16
4.11.	REAL PROPERTY TAXES AND ASSESSMENT DISTRICTS .....	16
4.12.	FIRPTA .....	16
4.13.	RENTAL PROPERTY FAIR HOUSING .....	17
4.14.	SCHOOLS .....	18
4.15.	NEW CONSTRUCTION WARRANTIES, DEFECTS AND LAWSUITS .....	18
4.16.	PRIVATE ROADS; EASEMENTS AND MAINTENANCE .....	18
4.17.	POTENTIAL INCREASE IN OWNERSHIP COSTS AND/OR REDUCTION IN SERVICES .....	18
4.18.	COASTAL CONDITIONS .....	19
4.19.	ENDANGERED SPECIES ACT .....	19
5.	COUNTY AND CITY ADVISORIES .....	19
5.1.	RIGHT TO FARM ORDINANCE .....	19
5.2.	ROAD, HIGHWAY AND FLOOD CONTROL WORK: .....	20
5.3.	VIEWSHED PROTECTION ORDINANCE .....	21
5.4.	SEWER LATERAL ORDINANCES .....	21
5.5.	NO-SMOKING AND SECOND-HAND SMOKE ORDINANCES .....	21
5.6.	LOCAL RENT CONTROL AND EVICTION LAW ISSUES .....	21
6.	ATTORNEY AND ACCOUNTANT RECOMMENDATIONS .....	22
7.	ACKNOWLEDGEMENTS REGARDING BROKERS AND AGENTS: .....	22
8.	ELECTRONIC SIGNATURES .....	23
9.	WIRE FRAUD SCAM ALERT .....	23

## 1. INTRODUCTION

This Advisory provides general information about selling and buying real property in Napa County and is effective as of December, 2018. It is not intended to be a comprehensive guide to buying real estate nor is it designed to alarm Buyers and Sellers. It does not limit any legal duty of real estate brokers; however it does point out some limitations on real estate brokers' duties. This Advisory points out that when purchasing something as important and valuable as real estate, Buyers have a legal responsibility to protect themselves by taking special precautions to investigate the issues detailed in this Advisory and any other issues which impact the use, value or desirability of the Property. Consult with the appropriate experts and/or governmental agencies. Do not just rely on real estate brokers or Sellers as sources for all information. When Buyers have questions, doubts or concerns, they should conduct their own Investigation with their own chosen professionals. For more information about Napa County, Buyers can go online at: <http://www.countyofnapa.org/>

The information in this Advisory may change over time and/or new issues may develop due to actions taken at the federal, state, county, city and/or private, local level. Some of the issues that are covered in this Advisory are point of sale or retrofit requirements that may also get triggered by remodeling efforts or efficiency requirements. Sellers and Buyers should investigate the applicability of these requirements to the past, present and future sale, purchase, ownership and/or development of the Property.

- Sellers must understand the importance and significance of their disclosure obligations. Sellers need to take the time to carefully and fully complete all aspects of the disclosure documents. Sellers must disclose anything that is known to the Sellers that materially affects the value or desirability of the Property. Sellers who need help in completing their disclosure obligations should consult with their own attorney; Brokers cannot determine the legal sufficiency of any disclosure.
- Whether documents are signed electronically or in hard copy, Sellers and Buyers should read this Advisory in conjunction with a careful review of all disclosures required by Sellers and by the real estate Brokers involved in the transaction including, without limitation, the Transfer Disclosure Statement and the Supplemental Property Questionnaire, if provided by Seller.

- Buyers are responsible for conducting their own investigations into the issues discussed in this Advisory as well as those issues that are not referenced below to the extent that those additional issues may affect the Buyers' determination of the use, value, desirability or development of the Property. That investigation should take place prior to the Buyer's removal or waiver of any inspection contingency. Buyers are urged to:
  - Carefully read the information contained in any advisories, disclosures, inspections, and/or reports that Buyers receive from any source.
  - Conduct additional/further investigations and inspections regarding any issues that concern Buyers which are raised in those advisories, disclosures, inspections, and/or reports received by Buyers from any source.
  - Thoroughly and thoughtfully inspect and evaluate the Property and, in so doing, meet Buyers' obligation to protect themselves, including those facts which are known to or within the diligent attention and observation of the Buyers.
- Buyers need to inquire into other or additional matters (beyond those contained in this Advisory) to the extent that those additional issues affect the Buyers' determination of the use, value, desirability or development of the Property.
- Buyers must bear in mind that a Property may suffer defects and deficiencies of which neither Sellers nor Brokers are aware. Buyers should also recognize that not all issues can be objectively determined and some issues can have varying impacts on different people since some people may be more sensitive than others.
- Buyers are urged to engage licensed professionals to evaluate all aspects of the Property and to consult all appropriate governmental agencies. Buyers' right to conduct certain types of investigations may be limited by the Purchase Agreement.
- Any representations about the issues in this Advisory made by third parties have not been verified by Brokers and need to be independently confirmed by Buyers.
- Although licensed to list, sell and lease real estate, Brokers may not have expertise on the issues in this Advisory.

This Advisory is not meant to be a complete source of information on all matters which can become issues in real property purchase and sale contracts. Given Buyers' legal duty to exercise reasonable care to protect themselves regarding facts that are known to them or within their diligent attention or observation, Buyers are urged to investigate, without limitation, the items in the following paragraphs of this Advisory as well as the condition of the foundation, roof, plumbing, heating air conditioning, electrical, mechanical, energy efficiency, security, appliances/personal property, pool/spa, and all other systems and components.

The real estate licensees involved in the transaction do not warrant or guarantee the accuracy of the information contained in this Advisory or the adequacy of the information contained herein as it relates to a specific real property transaction.

## **2. MARKET CONDITIONS ADVISORY**

Real estate markets are cyclical. It is impossible to predict what market conditions will be at any given time. The ultimate decision of how much to offer on any property rests with Buyers. Buyers need to decide what they are willing to pay in light of market conditions and their own financial resources. Buyers must also decide what type of offer to make in recognition of existing market conditions. Purchase price is not a simple calculation based upon square footage but an agreement as to what Buyers will pay and what Sellers will accept.

Real estate brokers traditionally recommend that Buyers protect themselves by conditioning their purchase on an inspection of the Property so that the Buyers can be assured that the Property meets

their needs. In some markets, many Buyers are choosing to forego that sage advice so that their offer is more attractive to Sellers. If, after making an offer without a property condition contingency, Buyers become aware of an aspect of the condition of the Property that affects its value or desirability, Buyers may still be required to proceed to purchase the Property or possibly pay damages to the Seller, which may be the deposit in escrow. If this is a condition that must subsequently be repaired, Buyers may have no legal recourse against any of the parties in the transaction after escrow closes, including the Seller, the brokers or the inspectors, and then the Buyers may have to pay to correct those problems.

Waiving the right to have a contingency regarding the property condition does not necessarily waive the Buyers' right to access the Property, even if the Property is being sold "AS IS". Regardless of whether there is a property condition contingency, Broker recommends that prospective Buyers have the Property thoroughly inspected by their own experts prior to the close of escrow.

The lender's approval of financing includes the lender's determination that (1) Buyers are creditworthy and can afford to make the mortgage payments and (2) that the Property appraises for at least the principal amount of the loan. Even if Buyers have obtained a pre-qualification or pre-approval letter from a lender, the lender may not ultimately approve the loan if the lender's appraiser determines that the Property's fair market value is less than the amount of the purchase price or if the Buyers' financial/employment situation has changed. If there is no financing contingency and the Property does not "appraise", Buyers may not be able to afford to make up the difference between the loan amount applied for and the loan amount actually offered by the lender. Under those circumstances, Buyers may not be able to perform on Buyers' contractual obligations. This could then result in the Buyers paying damages to the Seller. It is a serious risk for Buyers to eliminate from the Purchase Agreement their right to have a financing and/or contingency if they intend to secure a loan.

### 3. GENERAL PROPERTY ADVISORIES

- 3.1. **EXISTING HOUSING STOCK:** Many properties have been built under different building codes and may not accommodate current or future personal property items such as electric cars. Regardless of its age, Buyers should have the Property inspected by a competent property inspector and obtain additional inspections recommended in any inspection report, or as may be necessary for Buyers to determine the actual condition of the Property. The Property's components, appliances, fixtures, systems and materials may have varying degrees of remaining useful life and may be subject to failure without notice. In addition, not all components, improvements or fixtures of the Property may comply with current code, zoning, health and safety, setback requirements, religious or cultural preferences. Some homes contain appliances, products or manufactured materials, such as Chinese dry wall, which may be defective, create problems with the use or value of other aspects of the home and/or may be subject to manufacturer or governmental recall and/or a class action lawsuit. All homes include many components which require ongoing maintenance. Deferred maintenance will decrease the life span and/or functionality of many of these components. Buyers should seek reliable advice from appropriate professionals and to plan/budget for maintenance and future repairs.
- 3.2. **FLOORS AND WALLS:** The personal property of the Seller may make a visual inspection of floors and walls difficult. The existence of certain types of floor coverings, such as carpeting and rugs, as well as certain types of wall coverings, such as wallpaper and paneling, and furniture prevent inspectors and brokers from inspecting the condition of the floors and walls beneath those materials. When exposed, these areas may have a different

pattern of wear or shade of color. If Buyers wish to determine the condition of the floors and walls beneath such coverings, Buyers will need to secure the written authorization of Seller to conduct investigations with appropriate professionals since removal of floor coverings may be required.

- 3.3. **TEMPERED GLASS:** Many homes contain glass that IS NOT tempered in locations where tempered glass IS required by building regulations. Buyers are advised to have a contractor's inspection to identify the presence of any glass that is not properly tempered before removing a physical inspection contingency on a prospective purchase of real property. Buyers should consider replacing any non-tempered glass with tempered glass to reduce the risk of injury.
- 3.4. **FIREPLACES; WOOD-BURNING APPLIANCES:** Residential wood burning is the leading source of wintertime air pollution in the Bay Area and studies have confirmed there are significant health impacts from exposure to fine particulate matter found in wood smoke. The Bay Area Air Quality Management District ("BAAQMD") established the Wood Smoke Rule, Regulation 6, Rule 3 to reduce wintertime smoke pollution and protect public health. The Wood Smoke Rule requires anyone selling, renting or leasing a property in the Bay Area to disclose the potential health impacts from air pollution caused from burning wood. Fine particulate matter, also known as PM2.5, can travel deep into the respiratory system, bypass the lungs and enter the blood stream. Exposure may cause short-term and long-term health effects, including eye, nose and throat irritation, reduced lung function, asthma, chronic bronchitis, cancer and premature deaths. Exposure to fine particulates can worsen existing respiratory conditions. High PM2.5 levels are associated with increased respiratory and cardiovascular hospital admissions, emergency department visits, and even deaths. Children, the elderly and those with pre-existing respiratory or heart conditions are most at risk from negative health effects of PM2.5 exposure. Buyers should consult with a licensed professional to inspect, properly maintain, and operate a wood burning stove or fireplace insert according to manufacturer's specifications to help reduce wood smoke pollution. The Air District encourages the use of cleaner and more efficient, non-wood burning heating options such as gas-fueled or electric fireplace inserts to help reduce emissions and exposure to fine particulates. When the BAAQMD issues a Winter Spare the Air Alert during the winter season from November 1 through the end of February, it is illegal to burn wood, manufactured fire logs, pellets or any solid fuels in fireplaces, wood stoves or outdoor fire pits. To check when the air quality is unhealthy and when a Winter Spare the Air Alert is issued, call 1-877-4NO-BURN or visit [www.baaqmd.gov](http://www.baaqmd.gov) or [www.sparetheair.org](http://www.sparetheair.org).

The information in this section was provided by BAAQMD. Brokers have not verified and will not verify any of the information provided by BAAQMD.

**NOTE:** Many cities now prohibit residents from operating any wood-burning appliance that is not certified by the EPA or Air Pollution Control Districts. Some city ordinances actually may prohibit the Property from being sold or transferred unless any non-compliant "wood heater" is first removed from the Property, or rendered permanently inoperable, or replaced by a certified wood heater under a building permit. The parties must contact the jurisdiction in which the Property is located to determine whether any of these ordinances apply, and where required, to schedule an inspection of the wood heater to determine whether it is certified.

- 3.5. **LAND USE AND CONSTRUCTION-RELATED LAWS:** Federal, State, and City and County governments have enacted and/or may in the future enact laws, ordinances, regulations and amendments and revisions thereto (including voter-approved ballot measures

within these jurisdictions) which affect and may restrict land uses, development, and other conduct on the Property, including without limitation restrictions on vacation rentals, certain other uses, development, construction (including remodeling, grading and water use), demolition activities and other permissible and prohibited activities on the property (collectively "Laws"). Such Laws may also include regulations that require, among other things, setbacks between development and designated streams, creeks and wetlands, environmental mitigation measures, erosion control permits, grading permits, and other permits necessary for new development or remodeling of any structure, vineyard, earthmoving or land conversion. New and amended Laws affecting watersheds, land uses, water use and conservation, development and construction continue to be developed, proposed, revised, debated and enacted. As part of Buyer's investigation of the property, Buyer is advised to obtain the latest information regarding all such applicable Laws, whether enacted or merely proposed, that currently affect or that might in the future affect the property or the cost to make any changes or improvements to the property. Such information may be obtained by contacting all the County and city governmental agencies that may have jurisdiction over the Property and by searching in the archives of the local and statewide news media. Examples of Federal, State, County and city governmental agencies that may have information on these Laws include, but are not limited to, the U.S. Army Corps of Engineers San Francisco District at (415) 503-6795 and at <http://www.spn.usace.army.mil/regulatory/index.html> , the U.S. Fish and Wildlife Service at <http://www.fws.gov/> , the California Department of Fish and Wildlife at <https://www.wildlife.ca.gov/> , the County's or City's building and planning departments and code enforcement officials, and all the other governmental agencies described in this Disclosures and Disclaimers Advisory and in the California Association of REALTORS® Statewide Buyer and Seller Advisory ("SBSA") form.

- 3.6. **LOCAL CONDITIONS: FACILITIES AND EVENTS:** Buyer and Seller are advised that many properties that were not directly impacted by the October 2017 fires that destroyed thousands of homes in Sonoma, Napa, and Mendocino Counties are and will continue to be impacted by those fires. The Property may also be directly or indirectly impacted by other disasters and naturally occurring events such as earthquakes and weather events. Such impacts may include but are not limited to visual impacts on the Property and/or neighborhood, and noise, traffic, vibrations, dust, odors, and other effects of rebuilding or repair efforts. Buyer and Seller are further advised that local amenities, facilities and services which may benefit or add to the richness of the community may also produce noise, vibration, dust, odors, traffic delays and detours, and other effects and inconveniences at various times. Such local amenities, facilities and services include but are not limited to public and private construction projects, horse race tracks and motor vehicle speedways, casinos, airports, fairgrounds located in various cities and towns, cycling, running, and other athletic events, parades, farmers' markets, concert halls and performing arts centers, and other venues for public and private events, music and performances throughout the County, which venues include but are not limited to wineries, public and private parks, fields, schools, and other public and private properties. The perception of how these events and conditions may affect the parties or the Property and use thereof are subjective: what bothers one person may not be noticed by or may be acceptable to others. Buyer is advised to personally visit the Property at various times of day and night and to investigate the local conditions, including without limitation: the effects of fires, other disasters and naturally occurring events, and any sources of and amounts of noise, traffic, vibration, dust, odors, or other effects of local conditions, amenities, facilities, and services to determine whether their potential effects are acceptable to Buyer and/or will impact the value, desirability, development, use and enjoyment of the Property.

- 3.7. **SQUARE FOOTAGE AND LOT SIZE:** Different sources of size information including but not limited to Sellers and Appraisers often provide different square footage or lot size numbers for a property; public records may be, and often are, inaccurate and thus there are frequently discrepancies in the advertised sizes. Buyers are advised that square footage and/or lot size numbers, which may be obtained from various sources such as public records, Multiple Listing Service, and others and are provided to Buyers regarding the Property are not, and will not be, verified by Sellers or the real estate agents. If the square footage or lot size of the property is an important consideration in Buyers' decision to purchase the Property, then Buyers must independently conduct Buyers' own investigation through appropriate professionals and rely solely on that data.
- 3.8. **TREES AND VEGETATION:** ***Protected Trees.*** Most cities and counties have an ordinance that requires property owners to obtain a permit prior to removing Protected Trees from their property. Protected Trees are defined within the code of each city. Removing or damaging any Protected Tree without the proper permit constitutes an infraction. In addition to the cost of the infraction, violators may be liable for damages. A City may place a lien on the Property if imposed fees are not paid on a timely basis. That lien may subsequently be added to the county property tax bill. ***Hazardous Trees:*** Some cities and counties define hazardous tree conditions within their Building Codes and address ways of mitigating those conditions on both private and public property. There are often stringent time frames for responding to hazardous tree claims. If hazardous tree claims are not resolved privately, a claimant may, as a last resort, pursue the claim through the court system. ***View Ordinances:*** Some cities and counties have view ordinances that restrict the height of trees so that trees do not unreasonably obstruct the view that existed at the time of purchase of the property. Certain trees that are part of the natural habitat can be exempt from this law. Often a view property will have recently trimmed trees and shrubs revealing the view. Buyers should take note that maintaining that view could entail not only trimming foliage on their own property, but also enlisting the cooperation of their neighbor to keep their foliage trimmed, usually at the Buyers' expense. Cities do not take an active role in these issues; rather they encourage the private resolution of such disputes. Each jurisdiction may have a different mechanism for handling these situations, and Buyer is encouraged to review the city or county codes during their inspection period. ***Diseased Trees/Vegetation:*** Trees and other vegetations on the Property are susceptible to diseases, including without limitation Sudden Oak Death Syndrome, and other problems that cannot be detected by Brokers. ***Arborist Consultation Recommended:*** Buyers are encouraged to seek the advice of a qualified, licensed and/or certified arborist for any questions regarding trees or other vegetation that are on the Property or on neighboring properties.
- 3.9. **RIVER, CREEK, WETLAND, AND LEVEE PROTECTION:** Many properties are impacted by creeks, channels, streams, wetlands, levees, and/or culverts (a man-made structure used to enclose a flowing body of water which is usually designed to allow water to pass underneath a road or other structures). If the Property includes, abuts or is located near a such features, Buyer should investigate the possibility of flooding and/or water intrusion or other nuisances that may result from proximity to those water sources by contacting appropriate experts. Brokers cannot determine these issues. In addition, some counties and cities have enacted regulations regarding creeks and culverts making maintenance of these creeks and culverts the responsibility of adjacent property owners. Such expenses can be considerable. Buyer should review local ordinances and maps with government agencies and

Buyer's own experts regarding these issues and before commencing any work in, over or near any river, creek, channel, stream, wetland, culvert, or levee.

- 3.10. **FLOOD ADVISORY:** Flood insurance rates are increasing due to many factors. The 2012 federal Biggert-Waters Flood Insurance Reform Act eliminated many subsidies for properties in flood zones as determined by the Federal Emergency Management Administration ("FEMA") which financially supports flood insurance. FEMA has experienced extraordinary expenses dealing with multiple natural disasters. Under the "Homeowner Flood Insurance Affordability Act of 2014," properties in flood zones, designated in a NHD report, will experience annual premium increases which could be as much as 18% to 25% per year. For details of how these issues will affect a property, go to:

<http://www.realtor.org/articles/senate-passes-flood-insurance-with-house-amendments> or  
<https://www.floodsmart.gov/floodsmart/>

- 3.11. **SEPTIC SYSTEM/WASTEWATER TREATMENT SYSTEM REGULATIONS:** If the Property has a septic system, it is essential that Buyer secured a current, written report detailing the inspection of the tank and the leach field lines by a licensed, competent professional to determine the condition of the system as well as the adequacy of the system for Buyers' specific needs. Visual inspection of the tank alone is insufficient. Brokers do not have the necessary expertise to make those determinations. Expansion or remodeling of the dwelling may be restricted due to the condition of the septic system. Securing approval for changes in the dwelling may be conditioned upon testing, removal, repair, or other changes to the system which may be expensive. The septic system may not be in compliance with current or future code requirements and code compliance may be required for any future work done on the Property. Buyer should investigate these issues with appropriate experts. Brokers cannot determine these issues. Buyers can get more information about OWTS/Septic System regulations by contacting the County Building, Planning, and Health Departments, and the State Water Resources Control Board, 1001 I Street, Sacramento, California 95814 or at Post Office Box 100, Sacramento, California 95812; (916) 341-5455 and by reviewing the SWRCB's website:

[http://www.waterboards.ca.gov/water\\_issues/programs/owts/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/owts/index.shtml)

- 3.12. **STORAGE TANKS:** Many ranches, farms, and some older homes in this area may have or have had an above-ground or underground storage tank ("UST") for the fuel for farm vehicles, machinery, for home heating oil, or other purposes. The California State Water Resources Control Board and its regional offices (the "Water Board"), in conjunction with city and/or county fire officials, regulate tanks used for storing flammable or combustible liquids, whether or not such tanks are currently in use. Buyer is advised to consult with appropriate experts to determine whether there such storage tanks are located on the surface or underground on the Property, and to consult with such experts and all city, county and state agencies with authority when storage tanks are present on the property, to determine applicable requirements. Regulations may require inspection, testing, removal, and soil and/or groundwater clean-up of any toxic material that may have leaked from the tank. Buyer and Seller are advised to speak directly to the Water Board, City or County Fire Department, and Building Department concerning specific regulations affecting above-ground tanks or USTs.
- 3.13. **ENVIRONMENTAL HAZARDS:** The presence of certain environmental hazards, such as lead-based paint and other lead contaminants, asbestos, formaldehyde, radon, methane, or other gases, fuel oil or chemical storage tanks, contaminated soil or water,

hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, urea formaldehyde, tri-chloro-ethane (a.k.a."TCE"), and/or other conditions and materials may adversely affect the Property and may cause health problems to people and animals. Buyers should have qualified experts inspect the Property for existing and potential hazards during Buyers' inspection contingency period. Not all inspectors are licensed and licenses are not available for all types of inspection activities. Buyers and Sellers should also read the pamphlets entitled, "Residential Environmental Hazards: A Guide for Homeowners, Homebuyers, Landlords and Tenants" and "Protect Your Family from Lead in Your Home." Some of the third-party Natural Hazards Disclosure ("NHD") companies may provide information regarding environmental hazards that are mapped by the federal government, state or local entities such as Super Fund Clean-Up sites. Buyers should consider discussing with the NHDS provider what environmental disclosures and maps may be available.

- 3.14. **CONDOMINIUMS, COMMON INTEREST DEVELOPMENTS & HOMEOWNERS' ASSOCIATIONS:** If the Property is located in a Common Interest Development, the Seller should request that the Homeowners' Association (HOA) provide all required documents regarding the HOA operation and expenses to meet the Seller's disclosure obligations under Civil Code Section 4525. Some neighborhoods have established HOAs that may charge dues and enforce their own restrictions. It is strongly recommended that Buyers receive the current HOA documents directly from the HOA rather than from any online service or from an earlier transaction. Buyers need to carefully examine all of the documents that are provided regarding the HOA and compare the documents with the list of required disclosures specified in the HOA form from the California Association of REALTORS®. If any document(s) are missing, Buyers should send a written request to the Seller that the Seller provide the missing documents and/or provide a written explanation for why the document(s) were not included with the other HOA documents. Buyers should retain the services of experts, such as attorneys, accountants or others who specialize in reviewing HOA documents to determine the adequacy of the reserves and whether or not the Property is suitable for the Buyers' intended uses.

Due to noise and other factors, a HOA may restrict the type of floor and/or wall material that can be used in certain units and/or the number of pets. Buyers should directly contact the HOA Board to determine whether or not the Property can be used for Buyers' intended purposes. Buyers should also determine whether or not the Property meets Buyers' subjective personal preferences.

Many Condominiums and other Common Interest Developments have been involved in or are presently involved in litigation regarding the design, construction, maintenance and/or condition of all or a part of the Development. Whether or not these lawsuits are successful, litigation is expensive and the cost of such legal actions may impact not only the adequacy of the HOA reserves but also the amount of current or future assessments. The existence of HOA insurance does not necessarily mean that there is insurance coverage for any given single interest or unit in the Development, an owner's remodeling or upgrade efforts, and/or the owner's contents. See Insurance information below.

Occasionally issues arise in the purchase of property in a Common Interest Development regarding parking and/or storage spaces associated with a single interest or unit in the Development. Buyers should determine for themselves whether or not the allotted parking space(s) are adequate to park the Buyers' vehicle(s) in the assigned spaces by actually parking in those spaces. Parking space(s) and storage space(s), if any, may be described in a Condominium Map or in the Preliminary Report issued by a Title Company.

The actual markings, striping and numbering of these space(s) may not accurately reflect the actual spaces and may be in conflict with the space(s) designated in the recorded documents. It is therefore crucial that Buyers personally determine that the parking and storage space(s) that are designated in the recorded documents are actually being transferred to Buyers and that those space(s) are acceptable for the Buyers' intended needs and uses of the Property.

- 3.15. **PLASTIC PIPE:** Builders in the area may have used PEX water pipes in constructing homes. This type of pipe, manufactured under the name of KITEC®, has been alleged in a class action lawsuit to be faulty and a settlement of that suit has been reached. Buyers should investigate the presence of such pipes prior to removing their inspection contingency. For additional information about this product and any litigation, go to: <http://www.kitecsettlement.com/faq.cfm>
- 3.16. **INSURANCE:** During the inspection contingency, Buyers should consult with an insurance broker to determine the cost of homeowners' insurance as well as the types of coverage that may be available and any conditions that the insurance company intends to impose. For example, many insurance companies are refusing to provide homeowners' insurance coverage unless certain retrofit requirements are met, such as installation of safety glass and/or fireplace spark arresters and a gas shut-off valve. The fact that an insurance company may require these repairs does not necessarily mean that the Seller is obligated to pay for and/or make the repairs requested by the insurer. In addition, prior claims submitted by Buyers on other properties may affect the final cost of the homeowners' insurance on the property being purchased by Buyers. Buyers should investigate these matters thoroughly prior to removing their inspection contingency.
- 3.17. **C.L.U.E. REPORTS OF INSURANCE CLAIMS:** Standard real estate disclosure forms specify that Sellers must provide Buyers with insurance claims history for the property for a period of five years preceding the sale. Sellers do not always know (or remember) the insurance claims history. Thus, for many years the Natural Hazards Disclosure Statement ("NHDS") Reports included a report used by insurance companies called C.L.U.E. The NHDS Reports no longer include the C.L.U.E. report. Because a C.L.U.E. report itself is not required, Sellers may disclose the insurance information themselves as part of the disclosure process. If Sellers want to rely on C.L.U.E. for the most accurate information regarding past insurance claims, Sellers may be able to either: (a) go online to: [https://personalreports.lexisnexis.com/homesellers\\_disclosure\\_report/agent.jsp](https://personalreports.lexisnexis.com/homesellers_disclosure_report/agent.jsp) and create an account that will enable the Sellers to order a C.L.U.E. report; or (b) contact their homeowner insurance policy broker who may be able to provide a copy. Buyers can also add to their contract offer the obligation for Sellers to provide them a C.L.U.E. report.
- 3.18. **TITLE INSURANCE AND PRELIMINARY REPORTS:** There are various types of title insurance policies with different costs and coverages, such as an ALTA Owners or Residential Policy or CLTA Policy with or without endorsement(s). There are also title insurance policies that protect the interests of a Seller who finances all or part of the purchase price. Buyer and Seller should discuss the choice of title insurance policies with a title insurance company. Buyer (and Seller where appropriate or as described above) are advised to obtain title insurance, in addition to the parties' obtaining a preliminary report from the title insurance company, to carefully review the report, obtain and review copies of all exceptions described in the report, and review all other matters which may affect title to the property, including but not limited to easements, covenants, conditions, restrictions, encumbrances and other matters, whether or not in the public record. If Buyer or Seller has any questions

regarding the state of title, whether arising from the preliminary report, the exceptions shown in the preliminary report, or other matters affecting title, the parties should consult with qualified professionals, including but not limited to title insurance companies' title officers, licensed surveyors and attorneys.

- 3.19. **CHANGING LOCKS, GARAGE/GATE OPENERS, AND ALARMS:** Seller may have given keys, garage/gate openers, combinations and/or access codes to doors, gates, alarms and other security devices on the property to third parties unknown to Buyer. In addition, Seller or Seller's Broker may have made the property available for open houses and other inspections by the general public which may compromise the security and safety of Buyers and their property. Accordingly, Buyer is advised to change or re-key all locks and re-code any and all alarms and other security devices, after close of escrow and upon Buyer taking possession of the property.
- 3.20. **ONLINE INFORMATION:** Online information regarding the Property, or the neighborhood, may exist online in various blogs, discussion boards, Facebook, Instagram, and other social media sites, etc. For example, some neighborhood associations and homeowner associations (HOA's) have official sites; whereas other unofficial sites written by third parties may exist with postings about the community. Some of the online sites offer viewers the opportunity to express opinions and air complaints. The information contained on those sites may consist of opinion, speculation, unfounded assertions or rumor, making it difficult to determine what is factual and what is not. Neither Seller nor any of the real estate licensees may be aware of, nor will they conduct a search of, such online information and they are not obligated to verify or explain the posted issues and/or commentary of third parties.
- 3.21. **ONLINE PHOTOS:** Sellers and Buyers are advised that photos of their property will be included in the MLS listings and, perhaps, on the listing broker's website. It is now common that such photos will subsequently be added to other brokers' websites, and various national listing aggregation sites such as Realtor.com, Trulia, Zillow, and others. From there, photos may be copied on to other websites as well, with or without the permission of the host site. After the close of escrow, or a termination of a listing, Sellers and Buyers are advised it is not possible for the listing or selling broker to remove these photos from websites over which they have no control.
- 3.22. **PROBATE SALES AND COURT CONFIRMATION:** An executor or administrator (the "Representative") of a probate estate may sell estate property if it is in the best interests of the estate to do so. The sale of estate real property is typically subject to Probate Court Confirmation. The Independent Administration of Estates Act ("IAEA") provides a simplified method of probating estates with limited court supervision. Under the IAEA, the Representative may list real property with a broker for a period not to exceed 90 days without prior court approval and to sell the Property without court confirmation, unless a person named in the will or other person who is entitled to receive a Notice of Proposed Action objects; in which case court confirmation will be required. The Representative's ability to sell without court supervision or approval under IAEA is not absolute and is conditioned upon there being no objections by interested persons (generally, the heirs). If there is any objection, Court Confirmation may be necessary.

Probate property is always sold "As-Is" and certain standard disclosure forms, such as the Real Estate Transfer Disclosure Statement, are not required. However, the

Representative must nonetheless disclose all actual knowledge of material facts affecting the value or desirability of the Property.

If Court Confirmation is required and is subject to open competitive bidding (which is true in probate, conservatorship, guardianship, receivership or bankruptcy sales), it is strongly recommended that Buyers personally appear in Court when their offer is scheduled for confirmation. Buyers should understand that in most sales requiring Court Confirmation, the Property may continue to be marketed and that their broker and others may represent other competitive bidders prior to and at the Court Confirmation hearing. Different types of courts have their own rules for how to handle the possibility of over-bids, including whether initial deposits need to be in a certain amount or whether an over-bid needs to be a specific percentage above the original offer. Any questions regarding the specific rules for the Court where the confirmation hearing is to be held should be directed to the clerk of that Court. It is also strongly recommended that Buyers consult a real estate attorney who is knowledgeable about Court Confirmation sales since real estate brokers/agents are not qualified to provide legal advice.

- 3.23. **PERSONAL PROPERTY AND STAGING ITEMS:** Sellers and Listing Brokers/Agents often engage the services of "Staging" companies to assist in presenting the Property in its best light. The furniture, furnishings and accessories provided by the staging company is removed prior to close of escrow and do not transfer to the Buyer. Standard Purchase Agreement forms specify that NO personal property is included in the sale unless specifically designated in the Agreement or an Addendum. The MLS entry, flyers and other marketing materials are NOT part of the Purchase Agreement. NONE of the staged furniture or other items (e.g. window treatments, mirrors, rugs, lamps, plants, etc.) is included in the sale. Buyers who wish to purchase any staged items should enter into a separate written agreement with the staging company.
- 3.24. **WATER HEATERS:** Under State law, all water heaters must be braced, anchored or strapped to resist falling or horizontal displacement due to earthquake motion and Sellers of Property must certify to Buyers that the bracing requirement has been satisfied. In addition, water heaters which are newly installed or moved must be raised so their ignition point is 18 inches off the ground. Many other plumbing code requirements may also apply, e.g. gas venting, pipe wrapping, temperature and pressure relief valves, drain valves, bollard protection in garages.
- 3.25. **SMOKE ALARMS AND CARBON MONOXIDE DETECTORS:** California Health and Safety Code §13113.8 requires installation of smoke alarms in residential property. If a TDS is required, the Sellers certify that the Property has (or will have prior to Close of Escrow) operable smoke alarms which are approved and installed in compliance with the State Fire Marshal's regulations and applicable local standards including installation of alarms with 10-year batteries in all bedrooms before finalizing any permitted contracting work costing \$1,000 or more. State law requires carbon monoxide detectors in living areas of residential properties that have fossil fuel burning appliances, even if those appliances are several floors below, for example, furnaces in the basement of a condominium building.
- 3.26. **ANIMALS:** Current or previous owner(s) may have had domestic and/or other indoor or outdoor animals on the Property; animals can cause damage to various aspects of the Property. Odors from animal urine or waste may be dormant for long periods and then become active because of heat, humidity or other factors such as some cleaning techniques,

or be temporarily masked by other odors such as fresh paint or new carpet. Animal urine and feces can also damage floors, floor coverings, walls, baseboards, or other components. Additionally, animals can attract fleas, ticks and other pests that can remain on the Property after the animal has been removed. Complete elimination of odors and other problems created by animals may not be possible even by professional cleaning efforts or replacing carpets, pads and other affected components. Property may be subject to local ordinances regulating the maintenance, breeding, number or type of animals permitted, or other requirements such as spaying or neutering. Buyers should investigate whether Homeowner and Common Interest Associations have imposed restrictions on animals. Neighbors may have animals that can cause problems including but not limited to noise or odors. Common pets such as dogs can bark, cats are not easily contained, and in some cases more unusual animals (e.g. poultry, exotic birds, and reptiles) may create issues that impact the value, use and enjoyment of the Property. California is home to a wide variety of animals, birds, reptiles and insect life, including but not limited to ants, bedbugs, bats, rodents, snakes and larger wild animals such as mountain lions and deer, some or all of which may enter or inhabit the Property and may be difficult to eliminate or control. These creatures can damage landscaping, might be a hazard to people, pets or other animals and may cause issues that impact the Buyers' use and enjoyment of the Property. Proximity to rural or open space areas increases the likelihood of this problem. Buyers should investigate these issues with licensed professionals, including local animal/pest control companies, and/or other qualified agencies or organizations during Buyers' inspection period.

#### 4. FEDERAL, STATE AND REGIONAL CONDITIONS ADVISORIES

##### 4.1. GEOLOGIC CONDITONS:

- **UNSTABLE HILLSIDES:** Many hillside properties are active and potentially active landslide areas. Many of the geologic forces which have shaped California over the eons are still active today. The only way to determine the nature of the soil and bedrock under a structure, and how these forces may affect those structures, is with a geologic or geotechnical inspection and report.
- **EXPANSIVE SOILS:** Some parts of the area have expansive, or adobe, soil which will expand and contract with the wet and dry seasons. This expansion and contraction can cause movement or shifting of structures and their foundations.
- **HIGH WATER TABLES:** Some parts of the County have high water tables that can intensify mold growth and compromise the stability of soil and/or foundation. In addition, high water tables may affect the use and enjoyment of the surrounding land, particularly during months of heavy rain. Buyers should consult the appropriate experts to help evaluate the effect of high water tables on the subject property and, when necessary, consider drainage modifications to protect the structure and improve the use and enjoyment of the surrounding landscape.

Reports from Natural Hazard Disclosure (NHD) companies may not contain all information from all sources regarding the Property and surrounding conditions, and cannot be relied on for all information regarding natural hazards which may affect the Property. Brokers recommend that Buyers have any Property they are purchasing inspected by a qualified geologist, geologic or geotechnical engineer, or other qualified professional.

- ##### 4.2. WET WEATHER CONDITIONS:
- At times, this area may have months with heavier than usual rainfall. During these times, hillside properties may be susceptible to earth movement and drainage problems. Properties on flatlands may be susceptible to flooding. Properties

which may not have experienced water intrusion into or under the property in the past may experience these conditions as a result of weather-related phenomena. Sellers are obligated to disclose to Buyers those material defects or conditions known to them which affect the value or desirability of the property; however, not all Sellers may be aware of recent changes in the conditions of the property or its improvements caused by unusually wet weather. Because of these factors, it is recommended that, in addition to a home inspection, Buyers have such additional inspections by inspectors or engineers regarding these conditions as Buyers may desire.

- 4.3. **CLIMATE CONDITIONS:** The Napa area exhibits several micro climates. Buyers are advised that these areas are subject to frequent strong winds, wind-driven rain, fog and mist, and direct sunlight, any of which, alone or in combination, can impact the condition of the land as well as prematurely age the interior and exterior of structures. Erosion, warping and cracking of surfaces, failed seals on dual-paned windows, loss of roof shingles, and water intrusion, among other problems, are not uncommon with such properties, and thus these properties require regular, thorough maintenance. Buyers are advised to fully investigate these conditions and the increased maintenance and repairs that may be needed for any Property located in these coastal areas.
- 4.4. **PERMIT ISSUES:** Improvements made to any property such as repairs, remodels and additions may have been built or used without all required permits. One such example would be where a second living unit (“in-law unit”) is being rented by the Seller but the required permit was not obtained for this in-law unit. An improvement that is made without the required permit can, among other things, have a negative impact on value, require a retrofit, impact habitability, preclude insurance coverage and/or result in fees, penalties, government and/or civil enforcement actions. In some cities, there may be a lower standard applied in those circumstances where the property owner is obtaining the permits, as opposed to a contractor doing so. Buyers should investigate the permit status of all structures and uses; real estate licensees are not qualified to conduct such off-site investigations.
- 4.5. **NONCONFORMING USES, ROOMS, ALTERATIONS OR ADDITIONS:** Any rooms, alterations or additions to the Property which were done without necessary permits or certificates of completion (“nonconforming improvements”) may be subject to fines, permit and construction costs, and other expenses to bring into conformity. Nonconforming improvements may be subject to removal by local building inspection and code enforcement agencies. Nonconforming rental units may be required to be vacated and possibly torn down. It may not be feasible to legalize nonconforming improvements because of zoning, permit and/or other legal or regulatory limitations. Some building inspection and code enforcement agencies may conduct random inspections of properties for permit, code and other violations while the Property is being marketed. Such nonconforming improvements may also be discovered when anyone applies for a permit to do work on the property either before or after escrow closes. Whenever nonconforming uses are discovered, the then-current owner could face expensive repairs, permit fees and other costs and/or even removal of the nonconforming improvement. While Sellers are obligated to disclose any known nonconforming improvements, Seller may not be aware of some or all illegal improvements or uses especially those that were made prior to Seller's ownership of the Property. Real estate brokers and agents are not required by law to inspect public records and cannot determine the legal status of improvements based solely on their required visual inspection of the property. Thus, Buyers are strongly urged to investigate possible nonconforming improvements by personally contacting the local building inspection and code enforcement

agencies as well as obtaining the advice of contractors, architects, engineers or other professionals regarding the status and condition of the Property prior to removing inspection contingencies.

- 4.6. **CODE COMPLIANCE AND ENFORCEMENT:** Even if the Property is new construction, not all aspects, components and structures on the Property may comply with current code. This may be because code requirements have changed since the improvements were first constructed or, in some cases, improvements may have been made by the current owner, or even by prior owners without the knowledge of the current owner. Real estate brokers are not qualified to identify code violations. If the applicable city or county building department discovers the code violations, the current owner may be required to bring the property into current code compliance or remove or demolish the portion of the property that is in violation. Various building departments take different approaches to enforcement; some are stricter than others. Prior to removal of the inspection contingency, Buyers should have the home inspected by a qualified home inspector who can identify code violations and comment on local codes, regulations and practices regarding enforcement.
- 4.7. **UNDERGROUND UTILITIES:** Some towns and cities have begun the process of burying utility lines underground in order to remove the utility poles in the neighborhood. These projects can result in special tax assessments and set-up costs for the individual homeowners. It is recommended that Buyers investigate this issue with Pacific Gas and Electric Company ("PG&E").
- 4.8. **CRIME:** The existence of crime is a fact of urban life. Some areas experience more crime than others. Crime statistics for various areas and municipalities may rise and fall over time and the incidence of various types of criminal activity may also increase or decrease. At times, local law enforcement agencies may target designated areas for special but temporary enforcement measures. Individual criminal acts may occur in any neighborhood or may occur close to a property that is being sold while other criminal acts may occur far away. Some crimes may be reported in the local news while others are ignored by the media. Because of the ever-changing nature of the statistics and information regarding crimes, neither Seller nor brokers will independently investigate crime or criminal activity in the area of any property being purchased by any means including, but not limited to, contacting the police or reviewing any internet data bases. If criminal activity is a factor in the decision to purchase a particular property, or in a particular neighborhood, Buyers are urged to check with the local law enforcement agencies and online information, prior to removing their inspection contingency.
- 4.9. **DROUGHT ADVISORY:** Due to severe drought conditions, water usage has also been restricted by many local municipalities and water authorities. Current and future restrictions may impact the Property by limiting water usage and/or increasing water costs. These limitations may affect the quality of life at the Property and the ability to use water in the home or for landscaping, agricultural or livestock purposes. Buyers should thoroughly investigate this issue, including but not limited to: contacting the local water authority; contacting the local government including City and County authorities; and searching various public websites as to whether there are any existing or planned water limitations. Brokers do not have expertise in water usage rights or limitations, and Brokers do not have an obligation to, and will not, research any water restrictions relating specifically to the Property including but not limited to inspecting public records concerning water usage at the Property.

4.10. **WATER-CONSERVING PLUMBING FIXTURES:** Existing law calls for installation of water-conserving plumbing fixtures when the existing plumbing fixtures are “noncompliant” by certain dates, as discussed here. A noncompliant plumbing fixture means: (1) any toilet manufactured to use more than 1.6 gallons of water per flush; (2) any urinal manufactured to use more than one gallon of water per flush; (3) any showerhead manufactured to have a flow capacity of more than 2.5 gallons of water per minute; and (4) any interior faucet that emits more than 2.2 gallons of water per minute. There are various dates for compliance:

- **SINGLE-FAMILY RESIDENCES:** Under this law, a condo, even a single condo occupied by only one family, is not a single-family residential property. Until December 31, 2016, if a single-family residence is altered or improved, the installation of such fixtures must be a condition of final permit approval. However, after January 1, 2017, ALL single-family residences must comply with this law by replacing all noncompliant plumbing fixtures whether or not the property is being remodeled or sold. Starting on that date, Sellers will need to disclose to prospective buyers if the property has any noncompliant plumbing fixtures.
- **MULTI-FAMILY AND COMMERCIAL PROPERTIES:** Until December 31, 2018: As a condition of final permit approval, owners must replace all plumbing fixtures with water-conserving fixtures if (1) permits are obtained to increase the floor area by more than 10%; (2) building alterations or improvements exceed \$150,000 in costs; or (3) permits are obtained for a room with plumbing fixtures. After January 1, 2019: All multi-family and commercial properties must comply with this law by replacing all noncompliant plumbing fixtures. Also, starting on that date, Sellers will need to disclose to the prospective buyer if the property has any noncompliant plumbing fixtures.

4.11. **REAL PROPERTY TAXES AND ASSESSMENT DISTRICTS:** The Purchase Agreement addresses payment of real property taxes and assessments relating to the Property. As part of their negotiations for the Purchase Agreement, the parties may decide how to prorate such taxes and assessments; payments on bonds and assessments and their assumption by Buyers; and payment on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien on the Property. The existence of Mello-Roos and 1915 Bond districts will be outlined in a report by a Natural Hazard Disclosure (NHD) company. Most other assessment districts will be reported in the Preliminary Report from the title company. Still others may be disclosed by Seller or local disclosure. The Seller's tax bill alone does not necessarily reflect all of the costs related to taxes and assessments on real property. If there is a question as to whether an existing bond or assessment will be prorated as of the close of escrow, or whether Seller will pay off the bond or assessment at close of escrow, Buyers are advised to discuss the matter with the appropriate District prior to removal of the appropriate inspection or title contingency, and to address responsibility for payment of taxes and assessments in the negotiations for the Purchase Agreement. **Reassessment:** California property tax law requires the County Assessor to revalue real property at the time the ownership of the property changes. When the Assessor revalues the property, it does so at its market value on the date of a change in ownership (or when new construction is completed). In many cases, the sales price will be accepted by the Assessor as the market value, but not always. If Buyer disagrees with the Assessor's revaluation, Buyer should contact the local Assessor or Tax Collector's office to get information about appealing or applying for a reduced assessment.

4.12. **FIRPTA:** Federal law requires Buyers to withhold and remit to the Internal Revenue Service fifteen percent (15%) of the sales price (or 10% if the property is to be used as the Buyer's residence and the sales price is \$1,000,000 or less) if a Seller is a non-resident alien

("Foreign Investor"), unless a federal exemption applies to the Seller and/or the transaction. Sellers who are relying on the exemption that they are not classified as a Foreign Investor may avoid this federal withholding requirement one of two ways: (a) by providing Buyers with Seller's Affidavit of Nonforeign Status ("Affidavit") which is signed by each Seller under penalty of perjury and includes each Seller's Social Security Number ("SSN") or Taxpayer Identification Number ("TIN"); or (b) if the Escrow holder provides the Buyers with a Qualified Substitute Statement ("QSS") in which the Escrow holder, as the Qualified Substitute, states under penalty of perjury that the Substitute has verified the required taxpayer information.

**NOTE TO BUYERS:** Unless an exemption applies, if a Buyer does not obtain either the Seller's Affidavit or the Escrow holder's QSS, and a Foreign Investor Seller fails to pay taxes due on the sale, the IRS can assess against the Buyer the full 10 or 15 percent of the sales price that should have been withheld, or the Seller's actual tax liability in the sale, whichever is less, plus interest and penalties.

Sellers who are relying on the exemption that they are not classified as a Foreign Investor are required to provide either Buyer or the Escrow holder with a completed Seller Affidavit that includes the Seller's SSN or TIN. If after a request, Buyer does not receive either the fully completed and signed Seller Affidavit, or a properly prepared and signed QSS, then Buyer should either instruct the Escrow holder to withhold the correct percentage of the sales price, or instruct the Escrow holder to delay the closing of escrow to enable the Seller to provide the proper documentation.

Sellers and Buyers are urged to consult with their legal and tax advisors with any questions regarding FIRPTA. Sellers and Buyers cannot agree to waive these federal requirements nor can they sign any agreement that FIRPTA does not apply.

- 4.13. **RENTAL PROPERTY FAIR HOUSING:** When rental properties are offered to the public, the owner and real estate agent must act in compliance with all Fair Housing laws and regulations including, but not limited to, providing unrestricted access to potential tenants with service/companion animals. Landlords are required under Fair Housing laws to provide a "reasonable accommodation" for tenants with disabilities; in the case of tenants with disabilities, this includes allowing the tenant to occupy the rented residence with the service/companion animal. The landlord may not charge a "pet deposit" or otherwise charge the tenant for the service/companion animal in any manner different from a tenant without such an animal. Any property owner renting their property should consult with a California real estate attorney specializing in landlord/tenant and Fair Housing issues for advice on any matters related to Fair Housing and service/companion animals.

HUD has issued guidelines for housing providers, landlords and property managers in the use of criminal records in tenant selection, and when that use may be a Fair Housing violation. While it is still legal to take into consideration a criminal record of a prospective tenant in approving an application, the blanket use of criminal records to refuse to rent can be a Fair Housing violation. And the discrimination does not have to be intentional. The violation can occur if the effect of the use of criminal records results in a "disparate impact" on protected classes. Landlords are urged to consult with a qualified California landlord tenant attorney regarding the use of criminal records in tenant selection. The full HUD article can be accessed at:

[https://portal.hud.gov/hudportal/documents/huddoc?id=HUD\\_OGCGuidAppFHASandCR.pdf](https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidAppFHASandCR.pdf)

- 4.14. **SCHOOLS:** Some school districts have experienced financial and academic achievement difficulties and, as a result, may face bankruptcy, reorganization or takeover by a state administrator. Each school district has its own rules regarding school assignments, and these rules may change at any time with little notice. For these reasons, brokers cannot represent or guarantee that anyone who resides in any particular property will be able to attend any particular school or school district. These and any other factors or concerns of Buyers should be investigated by Buyers prior to removing inspection contingencies in a purchase agreement.
- 4.15. **NEW CONSTRUCTION WARRANTIES, DEFECTS AND LAWSUITS:** The Real Estate Transfer Disclosure Statement (“TDS”) requires Sellers to disclose if there are any lawsuits by or against the Sellers threatening or affecting the real property along with questions related to construction defects, citing Civil Code Sections 900, 903, 910 and 914. These codes are part of a law that is often referred to as SB800 or Title 7, which generally applies to residential real property built by a “Builder” (as defined in Section 911) and sold for the first time after January 1, 2003. Section 900 provides for a limited one-year warranty from the Builder and Builders may provide “enhanced protection agreements” which may extend the warranty period. Homeowners are required to follow all reasonable maintenance obligations and schedules communicated in writing by the Builder and product manufacturers, as well as commonly accepted maintenance practices. Failure to do so may provide a defense against a homeowner claim and Builders often require specific pre-litigation procedures and remedies in the event of a claim against the Builder. Sellers who have questions about how to answer this TDS question should consult with a California real estate attorney for advice. If the Sellers disclose any lawsuits or claims, Buyers should investigate such disclosures with a California real estate attorney. Brokers are not qualified to provide advice on these matters.
- 4.16. **PRIVATE ROADS; EASEMENTS AND MAINTENANCE:** If the property is assessed or affected by a private road that is shared with one or more other properties, Buyers need to determine the existence of a recorded private road maintenance agreement and compliance with that document. If no such agreement exists, Civil Code Section 845(s) provides that “the cost shall be shared proportionately to the use made of the easement by each owner.” Buyers should contact city/county officials and/or their attorney to evaluate their potential responsibilities.
- 4.17. **POTENTIAL INCREASE IN OWNERSHIP COSTS AND/OR REDUCTION IN SERVICES:** Due to extraordinary economic conditions in recent years, governmental and quasi-governmental entities that may provide services directly to the Property or to the community in which the Property is located (including but not limited to cities, counties, water, sewer, and other types of utility and/or assessment districts), have lost or may in the future lose revenue from what were previously thought to have been relatively stable funding sources, such as sales tax, property transfer tax, and other revenue sources. One of the possible results of these actual or potential revenue losses is that the cost of ownership of the Property, including such costs as utility rates, fees, and taxes, can increase substantially to cover budget shortfalls. Also, services provided by governmental and quasi-governmental entities may be reduced due to budget shortfalls. Buyer is advised to investigate the financial stability of governmental and quasi-governmental entities, including water, sewer, and other types of utility and assessment districts that provide service to the Property and/or to the community in which the Property is located. Such information may be obtained by contacting federal, state, county and city governmental agencies and quasi-governmental agencies such

as utility districts that may have jurisdiction over the Property, and by searching in the archives of the local and statewide news media.

- 4.18. **COASTAL CONDITIONS:** If the property is in a coastal or coastal influenced area, Buyer is advised that these areas are subject to frequent strong winds, wind-driven rain, fog, salty sea air and mist, and direct sunlight, any of which, alone or in combination, can prematurely age the interior and exterior of structures. Warping and cracking of surfaces, failed seals on dual-paned windows, loss of roof shingles, and water intrusion, among other problems, are not uncommon with such properties, and such properties require regular, thorough maintenance. Buyer is advised to fully investigate these conditions and the increased maintenance and repairs that may be needed for property in coastal areas.
- 4.19. **ENDANGERED SPECIES ACT:** Under the Federal Endangered Species Act (16 U.S.C. §§ 1531-1544) and the California Endangered Species Act (Fish & Game Code § 2050 et seq.), all species that have been listed as “endangered,” “threatened,” or in some cases species that are “candidates” for declaration as endangered or threatened are protected from, among other things, being killed or being harassed, harmed, pursued, hunted, wounded or trapped in any way. There are many species of plants and animals in Napa County that are so listed, an example being the California Tiger Salamander, which was listed as an “endangered species” in March, 2003. In addition to protecting the listed species themselves, these laws protect the designated “critical” or “essential” habitat of these species. The presence of a listed plant or animal on the property can have serious consequences for Buyer's plans, including but not limited to prohibition or limitations on building, remodeling, grading, landscaping, and agricultural, livestock, and equestrian activities, and costs relating to governmental requirements for environmental mitigation of the effects of buyer's plans or activities. Violating these laws can result in substantial fines, civil penalties, forfeiture of certain personal property, and prison sentences. Buyer should contact the U.S. Fish and Wildlife Service at <http://www.fws.gov/> and the California Department of Fish and Wildlife at <https://www.wildlife.ca.gov/> to determine if the property is within designated critical or essential habitat for any listed species. Buyer should also consider engaging qualified professionals, who may include biologists, botanists, ecologists and others experienced with application and enforcement of the Endangered Species Act and its requirements.

## 5. COUNTY AND CITY ADVISORIES

- 5.1. **RIGHT TO FARM ORDINANCE:** Napa County has determined that the highest and best use for agricultural land as defined below is to develop or preserve said lands for the purposes of agricultural operations and it will not consider the inconveniences or discomforts arising from agricultural operations to be a nuisance if such operations are legal, consistent with accepted customs and standards and operated in a non-negligent manner.

If property you own, or are purchasing, or may purchase in the future is located close to agricultural lands or within agricultural lands, you may be subject to inconveniences or discomfort arising from agricultural operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, dust, chemicals, smoke, insects, operation of machinery during any 24-hour period, aircraft operation, and storage and disposal of manure. One or more of the inconveniences described above may occur even in the case of an agricultural operation, which is in conformance with existing laws and regulations and locally accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of

living in a county with a strong rural character and a healthy agricultural sector. For purposes of this notification:

(A) "AGRICULTURAL LAND" means real property located within the boundaries of Napa County which falls into one or more of the following categories:

(1) Is designated on the Napa County General Plan as Agricultural Reserve (AR), Agriculture, Watershed and Open Space (AWOS), or Rural Residential (RR) and is included in a zoning district that is primarily or substantially devoted to agricultural uses, including but not limited to the following zoning districts: Agricultural Preserve (AP), Agricultural Watershed (AW), Residential Country (RC), Timber Preserve (TP);

(2) Is included in an overlay zoning district that is devoted primarily to agriculture;

(3) Is designated in the General Plan for an urban use but has been zoned AW or AP as an interim zone to maximize the economic use of the land while retaining the land in large parcel sizes pending eventual permanent development for urban use;

(4) While not presently zoned or designated on the General Plan for primary or substantial agricultural use, the land contains an existing agricultural operation of a type that would be obvious to an uninformed observer after a physical inspection of the property, and that operation began at a time when such use was permissible.

(B) "AGRICULTURAL OPERATION" means all operations necessary to conduct agriculture as defined in section 18.08.040 of the Napa County Code, as such may be amended from time to time, and shall include, but not limited to, preparation, tillage, and maintenance of the soil or other growing medium, the production, irrigation, frost protection, cultivation, growing, raising, breeding, harvesting, or processing of any living organism having value as an agricultural commodity or product, and any commercial practices performed incident to or in conjunction with such operations on the site where the agricultural product is being produced, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Napa County Code Section 18.08.040 defining the term "Agriculture" provides:

"Agriculture" means the raising of crops or livestock and includes the following:

- A. Growing and raising trees, vines, shrubs, berries, vegetables, nursery stock, hay, grain and similar food crops and fiber crops;
- B. Grazing of livestock and feeding incidental thereto;
- C. Animal husbandry, including, without limitation, the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits and poultry and egg production;
- D. Sale of agricultural products grown, raised or produced on the premises.

5.2. **ROAD, HIGHWAY AND FLOOD CONTROL WORK:** For the next several years, extensive state and local public road and highway improvements and flood control projects will be taking place in Napa County. Buyer is hereby advised that these projects will cause inconvenience to people living, working, and visiting in Napa County, and that these inconveniences will include, but are not limited to, traffic congestion and delays, noise, odors, dust, and vibration from construction activities, including pile driving. Buyer is advised to consult the Napa Transportation Management Plan Coordinator's office at (707) 258-7843 and its website: [www.napatraffic.info](http://www.napatraffic.info) for information on current and planned road and

highway work, and to consult the Napa County Flood Control and Water Conservation District at (707) 259-8600 and its website: [www.napaflooddistrict.org](http://www.napaflooddistrict.org) for information on current and planned flood control work. Also, Buyer may contact the City of Napa and County of Napa combined public information hotline for information regarding public construction projects in the County. This hotline is updated approximately weekly, and can be reached at (888) 826-8627.

- 5.3. **VIEWSHED PROTECTION ORDINANCE:** The County of Napa's Viewshed Protection Ordinance (Napa County Code, Chapter 18.106 et seq.) affects real property in the unincorporated areas of Napa County. The ordinance may apply to and limit or prohibit certain types of developments, including but not limited to: improvements to existing structures and construction of new structures, grading and earthmoving activities, tentative and final parcel and subdivision maps, and to activities and structures requiring a use permit. For detailed information regarding this ordinance, Buyer is advised to contact the Napa County Conservation, Development and Planning Department's office at 1195 Third Street, Napa, CA 94559, (707) 253-4416. No warranties are given and no representations are made by the Seller or the brokers or agents of any party to this transaction regarding the applicability of the Viewshed Protection Ordinance as to the present use of the property, or as to Buyer's intended present or future use.
- 5.4. **SEWER LATERAL ORDINANCES:** The Property may be served by a sewer system that is under the jurisdiction of a Sewer District, Water District, Community Services District, or other governmental agency ("District"). Seller and Buyer are advised that many such Districts have enacted ordinances requiring that inspection/testing and repair or replacement of sewer service laterals be completed prior to any sale or other transfer of ownership of the Property. Each such ordinance has different requirements. Other governmental agencies in the County may in the future enact similar ordinances. Buyer and Seller are advised to review the language of any sewer lateral ordinance that applies to the property, and address any concerns relating to the ordinance during their negotiations of the Purchase Agreement for the sale of the property. Seller is advised to engage a qualified inspector to inspect the condition of the sewer lateral, according to the terms of the applicable ordinance and related regulations/standards, prior to entering into a Purchase Agreement for the sale of the property. Brokers and agents do not have expertise in this area and are unable to advise Buyers and Sellers regarding these ordinances, sewer lateral testing, repair or replacement, related issues, or the associated costs, which may be significant. The parties are advised to obtain the latest information regarding all such applicable ordinances, whether enacted or merely proposed, that currently affect or that might in the future affect the Property or the cost to make any changes or improvements to the property.
- 5.5. **NO-SMOKING AND SECOND-HAND SMOKE ORDINANCES:** Several counties and cities have enacted ordinances that prohibit smoking of tobacco and other substances, and in some cases e-cigarettes, in multi-unit residential units, including balconies, common areas and within certain distances of all enclosed areas. These ordinances are usually designed to limit ingestion of second-hand smoke by other residents. Other cities may enact such ordinances as well. For information on such ordinances contact the city or county website where the Property is located.
- 5.6. **LOCAL RENT CONTROL AND EVICTION LAW ISSUES:** Several cities and some counties in California have enacted or are contemplating enacting ordinances that control rents and/or the grounds for eviction of tenants. Other cities may create comparable

requirements and/or require the issuance of permits or mandate inspections prior to renting out any type of property. Buyer should investigate the existence of applicable ordinances and laws regulating their ability to rent property and to satisfy themselves as to whether that type of ordinance will impact their intended use of the Property. Determining the existence of and/or the applicability of any laws regulating the renting of property/the amount of rent, the eviction of tenants, and/or mandatory city rental health and safety inspections, is beyond the expertise of the real estate professionals.

**6. ATTORNEY AND ACCOUNTANT RECOMMENDATIONS:** In addition to the professional service providers Buyers will retain to inspect and analyze the property being purchased or sold, a situation may arise during the course of Buyers' purchase transaction that requires Buyers to either make an important decision, or select a plan of action that could result in significant legal consequences and substantial impact on Buyers' personal finances. The most prudent and best plan is to identify a certified public accountant and real estate attorney in advance of the sale or purchase of the property so that Buyers and Sellers can quickly contact and seek the proper financial and/or legal advice and guidance if needed during the transaction. If a 1031 exchange is contemplated, also contact an exchange accommodator to discuss the proper method and timing of the exchange.

**7. ACKNOWLEDGEMENTS REGARDING BROKERS AND AGENTS:**

The parties acknowledge the following regarding real estate brokers and agents ("Broker"):

- Broker does not warrant or guarantee the condition of the Property.
- Broker shall not be responsible for failure to disclose to Buyer facts regarding the condition of the property where the condition (i) is unknown to Broker or (ii) is not capable of being seen by Broker because it is in an area of the property that is reasonably and normally inaccessible to a Broker;
- Broker has not verified square footage, size of structures, acreage or boundary lines of the property; representations made by others; information received from public records, Seller or other third parties; information contained in inspection reports or in the Multiple Listing Service, or that has been copied therefrom; or statements in advertisements, flyers or other promotional material; or any other matters described in this Disclosures and Disclaimers Advisory; unless otherwise agreed in writing;
- Broker does not guarantee, and shall not be responsible for, the labor or services or products provided by others to or on behalf of Buyers or Seller and does not guarantee, and shall not be responsible for, the quality, adequacy, completeness or code compliance of repairs made by Seller or by others;
- Broker does not decide what price Buyers should pay or Seller should accept;
- Broker is not qualified to give legal, tax, insurance or title advice; and
- Brokers lack professional expertise in the areas listed above, and do not verify the results of any inspections or guarantee the performance or reports of any inspection or professional services.
- Buyers and Sellers are advised to investigate and choose their own service providers to conduct investigations and advise them on these and all matters related to the sale and purchase of real property. In these and all other matters referred to in this Disclosures and Disclaimers Advisory, Buyers and Sellers are advised to seek any desired assistance from appropriate qualified professionals. Nothing any real estate licensee may say will change the terms or effect of this Advisory. This document may be signed in counterparts.

## 8. ELECTRONIC SIGNATURES

Buyers and Sellers may be able to sign transaction documents electronically making it possible to skip from one signature line to the next and thus it is easier to ignore the terms and conditions to which a signature or initial applies. If Buyers and Sellers choose to sign documents electronically, they must be certain to take the time necessary to read each document thoroughly and only sign or initial those documents with full knowledge and consent of that which they intend to sign.

## 9. WIRE FRAUD SCAM ALERT

Recently there is a small but growing scheme in which Buyers and Sellers have received e-mails from their agent or an escrow company providing wire transfer information for money from Buyer to Escrow, or to Seller for proceeds from Escrow. Hackers intercept these e-mails and then alter the wire transfer instructions to re-direct the funds to the hacker's account with an off-shore bank. DO NOT EVER WIRE FUNDS PRIOR TO CALLING THE ESCROW OFFICER AT THE NUMBER PREVIOUSLY PROVIDED TO YOU and confirming verbal wire transfer instructions before taking steps to have the funds transferred. If you have received questionable wiring instructions, notify your bank, real estate agent and the Escrow holder, as well as the FBI at: <https://www.fbi.gov/> and the Internet Crime Complaint Center at: <http://www.ic3.gov/>

### THE UNDERSIGNED ACKNOWLEDGE RECEIPT OF ALL 23 PAGES OF THIS ADVISORY

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

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

Dated: \_\_\_\_\_  
Seller

Dated: \_\_\_\_\_  
Seller