

AGREEMENT FOR ATTORNEY SERVICES

(Contingency Fee Agreement for
Partition of Real Property)

This *Agreement for Attorney Services* ("AGREEMENT") is entered into in the State of California and is effective as of the last date of execution set forth herein below ("EFFECTIVE DATE"), by and between Law Offices of Eugene E. Kinsey (hereinafter "ATTORNEY") and _____, (hereinafter collectively "CLIENT") (collectively the "PARTIES" and each singularly a "PARTY").

RECITALS

- A. CLIENT is the owner of a _____% interest in real property located at _____, California (hereinafter the "PROPERTY") and more particularly described as follows:

[INSERT LEGAL DESCRIPTION]

The Assessor's Parcel number of the PROPERTY is _____

- B. The following other persons and entities (hereinafter "CO-OWNERS") hold the following title interests in the PROPERTY:

Name	% Interest

- C. CLIENT has demanded of the CO-OWNERS that they either purchase CLIENT'S interest in the PROPERTY or sell it and to equitable divide the proceeds of sale among all persons and entities with interests in the PROPERTY. The CO-OWNERS have refused either to purchase CLIENT'S interest in the PROPERTY or to agree to sell it.
- D. CLIENT desires to retain ATTORNEY to prosecute a legal action in the California Superior Court, County of _____ seeking partition and sale of the PROPERTY and for such other causes of action as may be appropriate including but not limited to accounting, breach of contract, breach of fiduciary duty and/or ouster.

NOW THEREFORE, in consideration of the mutual conditions, covenants, and promises of the PARTIES, each to the other agree as follows:

AGREEMENT

ATTORNEY and CLIENT hereby agree that ATTORNEY will provide legal services to CLIENT on the terms set forth below.

1. CONDITIONS

This Agreement will not take effect, and Attorney will have no obligation to provide legal services, until: (a) Client returns a signed copy of this Agreement; (b) Client pays the initial deposit for costs, if any, called for under Paragraph 7; and (c) Attorney acknowledges acceptance of representation by counter-signing this Agreement and returning a fully executed copy to Client.

2. SCOPE OF SERVICES AND ATTORNEY'S DUTIES

CLIENT hires ATTORNEY to provide legal services in the following matter:

_____.

ATTORNEY will provide those legal services reasonably required to represent CLIENT. Attorney will take reasonable steps to keep CLIENT informed of progress and to respond to CLIENT'S inquiries. If a court action is filed, ATTORNEY will represent CLIENT through trial and post-trial motions. This Agreement does not cover representation on appeal or in collection proceedings after judgment or proceedings regarding renewal of a judgment. A separate written agreement for these services or services in any other matter not described above will be required. ATTORNEY is representing CLIENT only in the matter described above.

3. EXCLUDED SERVICES

ATTORNEY'S representation does not include independent or related matters that may arise, including, among other things, claims for property damage, workers' compensation, or claims for reimbursement (subrogation) by any insurance company for benefits paid under an insurance policy.

4. CLIENT'S DUTIES

CLIENT agrees to be truthful with ATTORNEY and not to withhold information. Further, CLIENT agrees to cooperate, to keep ATTORNEY informed of any information or developments which may come to CLIENT'S attention, to abide by this Agreement, to pay ATTORNEY'S bills, if any, on time, and to keep ATTORNEY advised of CLIENT'S address, telephone number and whereabouts. CLIENT will assist ATTORNEY by timely providing necessary information and documents. CLIENT agrees to appear at all legal proceedings when ATTORNEY deems it necessary, and generally to cooperate fully with ATTORNEY in all matters related to the preparation and presentation of CLIENT'S claims.

5. LEGAL FEES

ATTORNEY will only be compensated for legal services rendered if a recovery is obtained for CLIENT. ATTORNEY shall advance all costs of suit and shall not recover any costs advanced by ATTORNEY unless a recovery is obtained for CLIENT or ATTORNEY. If no recovery is obtained, CLIENT will not be obligated to pay any ATTORNEY fees or costs of suit.

The fee to be paid to ATTORNEY will be a percentage of the value of everything recovered by ATTORNEY for CLIENT including, but not limited to, the total value of all money, non-

monetary proceeds, personal property, damages, attorney fee awards, and/or real property (the "TOTAL RECOVERY") after deduction and reimbursement of COSTS OF SUIT advanced by ATTORNEY pursuant to Paragraph 7A (the "CLIENT'S RECOVERY") depending on the stage at which the settlement or judgment is reached. If another party is ordered by the court to pay CLIENT'S Attorney's fees and/or costs, that award will be part of CLIENT'S RECOVERY.

The portion of CLIENT'S RECOVERY to be paid to ATTORNEY after deduction of COSTS OF SUIT advanced by ATTORNEY pursuant to Paragraph 7A shall be calculated as follows:

- (a) If a Claim or Lawsuit is resolved before filing of an arbitration, lawsuit or other formal proceeding, the fee shall be twenty-five percent (33.33%) of CLIENT'S RECOVERY.
- (b) If a Claim or Lawsuit is resolved after the initiation of an arbitration, lawsuit, or other formal proceedings, the fee shall be thirty-three and one-third (33.33%) of CLIENT'S RECOVERY.
- (c) If the matter is resolved on or before ninety (90) days before the date initially set for the trial of a Lawsuit or arbitration hearing, the fee shall be forty percent (40%) of CLIENT'S RECOVERY.
- (d) If the matter is resolved after trial of a Lawsuit or arbitration of a Claim, the fee shall be fifty percent (50%) of CLIENT'S RECOVERY.

In the event of Attorney's discharge or withdrawal as provided in Paragraph 12, CLIENT agrees that, upon payment of the settlement of a dispute by way of agreement, settlement of a Lawsuit, or arbitration award in CLIENT'S favor, ATTORNEY shall be entitled to be paid a reasonable fee for the legal services rendered. Such fees shall be determined by considering the following factors:

- (a) The actual number of hours expended by ATTORNEY in performing legal services for Client;
- (b) ATTORNEY'S hourly rate;
- (c) The extent to which ATTORNEY'S services have contributed to the result obtained;
- (d) The amount of the fee in proportion to the value of the services performed;
- (e) The amount of recovery obtained;
- (f) The time limitations imposed on ATTORNEY by CLIENT or by the circumstances;
and
- (g) The experience and ability of personnel performing the services.

In the event recovery consists of payments to be made over a period of time, or noncash equivalent property, the contingency fee shall be based on the present cash value of the NET RECOVERY as determined by generally recognized accounting and appraisal standards. The contingency fee shall be paid out of the first funds or property received by CLIENT.

All awards of attorney fees to be paid by a third party obtained on CLIENT'S behalf and all monetary sanctions awarded to ATTORNEY during the course of this engagement shall not be considered part of the CLIENT'S recovery and shall belong to ATTORNEY as additional compensation for extraordinary time and effort.)

6. NEGOTIABILITY OF FEES.

The fees set forth above are not set by law, but are negotiated between ATTORNEY and CLIENT.

7. COSTS AND LITIGATION EXPENSES.

A. COSTS INCURRED BY ATTORNEY.

ATTORNEY will incur various costs and expenses in performing legal services under this AGREEMENT. Costs and litigation expenses commonly include – but are not limited to - court fees, jury fees, service of process charges, court and deposition reporters' fees, photocopying and reproduction costs, notary fees, long distance telephone charges, messenger and other delivery fees, postage, deposition costs, travel costs including parking, travel and lodging expenses, investigation expenses, consultant and expert witness fees and expenses, mediation, arbitration and special master fees and expenses, and other similar items. ATTORNEY shall advance all costs and litigation expenses and shall receive a reimbursement of COSTS OF SUIT advanced if the ATTORNEY obtains a RECOVERY for the CLIENT.

ATTORNEY will select expert witnesses, consultants and investigators that in ATTORNEY'S judgment are necessary to aid in the preparation of CLIENT'S case and will inform CLIENT of the persons selected and their charges. CLIENT authorizes ATTORNEY to incur all reasonable costs and to hire any investigators, consultants or expert witnesses reasonably necessary in ATTORNEY'S judgment.

From the RECOVERY the total amount of COSTS OF SUIT advanced by ATTORNEY shall first be deducted and reimbursed to ATTORNEY. From amount of the RECOVERY remaining after repayment of COSTS OF SUIT to ATTORNEY (the "NET RECOVERY") the fee to be paid to ATTORNEY shall be calculated as provided in Paragraph 4.

B. CLIENT'S RESPONSIBILITY FOR PREVAILING PARTY OR COURT ORDERED FEES AND COSTS TO OTHER PARTY.

CLIENT understands that if CLIENT'S case proceeds to court action or arbitration and CLIENT loses or is not the prevailing party, the court may award Attorney fees as well as some or all of the type of costs enumerated in this Paragraph 6 to the winning or prevailing party or parties. Payment of such attorney fees and costs will be the sole responsibility of CLIENT.

C. RESPONSIBILITY FOR AND ALLOCATION OF SANCTIONS.

CLIENT agrees that any award of fees and costs that may be awarded as discovery or other sanctions shall not be considered part of the Client's recovery and shall belong exclusively to ATTORNEY as additional compensation for extraordinary time and effort.

The court may assess monetary sanctions, (including attorney fees and costs) against CLIENT for CLIENT'S bad faith conduct, including, but not limited to, refusal to timely provide discovery responses, refusal to comply with Court orders, or other inappropriate conduct during or even after trial. Any such award will be entirely the responsibility of Client.

8. CLIENT APPROVAL NECESSARY FOR SETTLEMENT

ATTORNEY will not make any settlement or compromise of any nature of any of CLIENT'S claims without CLIENT'S prior approval. CLIENT retains the absolute right to accept or reject any settlement.

9. LIEN

ATTORNEY shall have a lien on any and all claims that are the subject of ATTORNEY'S representation under this AGREEMENT including, but not limited to the PROPERTY. ATTORNEY'S lien is for any sums owing to ATTORNEY for any unpaid costs, or attorney's fees, at the conclusion of ATTORNEY'S services and shall file a *Notice of Lien* with the County Recorder against the PROPERTY. The lien will attach to any recovery CLIENT may obtain including, but not limited to the PROPERTY, whether by arbitration award, judgment, settlement or otherwise. An effect of such a lien is that ATTORNEY may be able to compel payment of fees and costs from any RECOVERY obtained on behalf of CLIENT even if ATTORNEY has been discharged before the end of the case. In the event ATTORNEY withdraws from representing CLIENT without cause, ATTORNEY will not be entitled to any lien for fees. The lien will exist and attach to any RECOVERY only for COSTS OF SUIT and fees due ATTORNEY by the terms of this AGREEMENT. Because a lien may affect CLIENT'S property rights, CLIENT may seek the advice of an independent lawyer of CLIENT'S own choice before agreeing to such a lien. By initialing this paragraph, CLIENT represents and agrees that CLIENT has had a reasonable opportunity to consult such an independent lawyer and—whether or not CLIENT has chosen to consult such an independent lawyer—CLIENT agrees that ATTORNEY will have a lien as specified above.

Client's initials: _____ **Attorney's initials:** _____

10. NO TAX ADVICE

ATTORNEY has not been retained to provide CLIENT with any tax advice concerning any of the services described in paragraph 2. Any documents prepared by ATTORNEY may have specific tax ramifications. To be sure CLIENT understands and is certain of all the potential tax consequences, CLIENT should consult with tax advisors regarding these matters

11. DISCHARGE AND WITHDRAWAL

CLIENT may discharge ATTORNEY at any time. ATTORNEY may withdraw with CLIENT'S consent or for good cause or if permitted under the Rules of Professional Conduct of the State Bar of California and/or applicable law. Among the circumstances under which Attorney may withdraw are: (a) with the consent of CLIENT; or (b) CLIENT'S conduct renders it unreasonably difficult for the ATTORNEY to carry out the employment effectively. Notwithstanding the discharge and provided there is a recovery, CLIENT will remain obligated to pay ATTORNEY at a reasonable rate for all services provided and to reimburse ATTORNEY for all costs advanced.

Notwithstanding CLIENT'S notice of discharge, and without regard to the reasons for the withdrawal or discharge, CLIENT will remain obligated to pay ATTORNEY for all costs and expenses incurred prior to the termination and, in the event that there is any net recovery obtained by CLIENT after conclusion of ATTORNEY'S services, CLIENT remains obligated to pay ATTORNEY for the reasonable value of all services rendered from the effective date of this AGREEMENT to the date of discharge. In the event ATTORNEY voluntarily withdraws from representing CLIENT without cause, ATTORNEY waives, and will not be entitled to be paid, any fees by CLIENT but will be entitled to be reimbursed for any costs and expenses already advanced by ATTORNEY.

12. RECEIPT OF PROCEEDS

All proceeds of CLIENT'S case will be deposited into ATTORNEY'S trust account for disbursement in accordance with the provisions of this AGREEMENT.

13. DISCLAIMER OF GUARANTEE

Nothing in this AGREEMENT and nothing in ATTORNEY'S statements to CLIENT will be construed as a promise or guarantee about the outcome of this matter. ATTORNEY makes no such promises or guarantees. ATTORNEY'S comments about the outcome of this matter are expressions of opinion only, are neither promises nor guarantees, and will not be construed as promises or guarantees. Any deposits made by CLIENT or estimate of costs and expenses given by ATTORNEY will not be a limitation on costs and expenses or a guarantee that costs and expenses will not exceed the amount of the deposit or estimate. Actual costs and expenses may vary significantly from estimates given.

14. ENTIRE AGREEMENT

This AGREEMENT contains the entire agreement of the PARTIES. No other agreement, statement or promise made on or before the effective date of this AGREEMENT will be binding on the PARTIES.

15 SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

If any provision of this AGREEMENT is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire AGREEMENT will be severable and remain in effect.

16. MODIFICATION BY SUBSEQUENT AGREEMENT

This AGREEMENT may be modified by subsequent agreement of the parties only by an instrument in writing signed by both PARTIES.

17. ARBITRATION

Any dispute between the PARTIES as to attorney fees and/or costs charged under this AGREEMENT shall be resolved as follows: If a fees and/or costs dispute arises, ATTORNEY will provide Client with written notice of CLIENT'S right to arbitrate under the California State Bar Act (Bus.& Prof.C. §6200 et seq.). CLIENT and ATTORNEY may thereafter agree that the arbitration will be binding or that the dispute will ultimately be resolved by another form of binding arbitration. Any other dispute arising under this AGREEMENT or in connection with the provision of legal services by ATTORNEY, including, without limitation, any claim for breach of contract, professional negligence or breach of fiduciary duty, shall be resolved by binding arbitration in accordance with the rules of the American Arbitration Association.

BY SIGNING THIS CONTRACT IN THE SPACE PROVIDED BELOW, CLIENT ACKNOWLEDGES THAT THIS AGREEMENT TO ARBITRATE RESULTS IN WAIVER OF CLIENT'S RIGHT TO A COURT OR JURY TRIAL FOR ANY FEE DISPUTE OR MALPRACTICE CLAIM. THIS ALSO MEANS THAT CLIENT IS GIVING UP CLIENT'S RIGHT TO DISCOVERY AND APPEAL. IF CLIENT LATER REFUSES TO SUBMIT TO ARBITRATION AFTER AGREEING TO DO SO, CLIENT MAY BE REQUIRED TO ARBITRATE PURSUANT TO THE PROVISIONS OF THE LAW. CLIENT ACKNOWLEDGES THAT BEFORE SIGNING THIS CONTRACT AND AGREEING TO BINDING ARBITRATION CLIENT IS ENTITLED, AND HAS BEEN GIVEN A REASONABLE OPPORTUNITY, TO SEEK THE ADVICE OF INDEPENDENT COUNSEL. (Initials: _____)

18. EFFECTIVE DATE

This AGREEMENT will govern all legal services performed by ATTORNEY on behalf of CLIENT and will be effective as of the date of signing by all PARTIES.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM, AS OF THE DATE OF SIGNING BY ALL PARTIES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE JOINTLY AND SEVERALLY FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. THE CLIENT WILL RECEIVE A FULLY EXECUTED COPY OF THIS AGREEMENT.

EXECUTED at Seal Beach, California on _____.

CLIENT(S):

ATTORNEYS:

EUGENE E. KINSEY