

EXHIBIT

"A"

ASSIGNMENT AND ASSUMPTION AND LEASE-BACK AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AND LEASE-BACK AGREEMENT (this "Agreement") is made and entered into as of this [20th day of December, 2016], by KR CC, Inc., a Delaware corporation (the "Assignor") and the City of Round Rock, Texas, a Texas local government home rule corporation (the "City").

RECITALS:

WHEREAS, Assignor, as Buyer, is the assignee of that certain Commercial Contract - Unimproved Property dated as of October 30, 2015 (the "Bison Commercial Contract", a true and correct copy of which is attached hereto as Exhibit A), with Bison Tract 79, Ltd., a Texas limited partnership, as Seller (the "Bison Seller"); and

WHEREAS, Assignor, as Buyer, is the assignee of that certain Commercial Contract - Unimproved Property dated as of December 23, 2015 (the "Krienke Commercial Contract", a true and correct copy of which is attached hereto as Exhibit B), with Keith Krienke, Mark Meredith, Greg Carter, and the Estate of Lisa M. Carter, as Seller (collectively, the "Krienke Seller"); and

WHEREAS, Assignor, as Buyer, is the assignee of that certain Commercial Contract - Unimproved Property dated as of December 16, 2015, as amended by that certain First Amendment to Commercial Contract – Improved Property dated December 21, 2015 (together, the "Keller Commercial Contract", a true and correct copy of which is attached hereto as Exhibit C), with Gladys B. Johnson, John D. Johnson, and Bertha M. Keller, as Seller (collectively, the "Keller Seller"). The Keller Commercial Contract, together with the Bison Commercial Contract, and the Krienke Commercial Contract, are collectively referred to herein as the "Commercial Contracts". The Keller Seller, together with the Bison Seller, and the Krienke Seller, are collectively referred to herein as the "Sellers"; and

WHEREAS, pursuant to the Commercial Contracts, Assignor has agreed to purchase and Sellers have agreed to sell certain real and personal property in Round Rock, Texas as further described in each commercial contract (collectively, the "Property");

WHEREAS, the Property consists of approximately 350.2 acres of land located east of Kenney Fort Boulevard and south of the Union Pacific Railroad, in Round Rock, Texas, all as further described on Exhibit D attached hereto (the "Land");

WHEREAS, concurrent with the execution hereof, Assignor, KR Acquisitions, LLC, a Delaware limited liability company ("Developer") and City have entered into that certain Master

Development Agreement (the "Master Development Agreement") pursuant to which Assignor and Developer will develop the Property;

WHEREAS, pursuant to this Agreement and the Master Development Agreement, Assignor has agreed to assign, and City has agreed to take assignment of, the Commercial Contracts and close on the purchase of the Property pursuant to such Commercial Contracts and this Agreement; and

WHEREAS, pursuant to this Agreement and the Master Development Agreement, Assignor and City have agreed to enter into that certain Ground Lease Agreement of even date herewith and as referenced in Section 3.03 of the Master Development Agreement, the form of which is attached hereto as Exhibit E (the "Ground Lease").

AGREEMENT:

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and City hereby agree as follows:

1. **Defined Terms.** Terms utilized but not defined herein, or otherwise noted, shall have the meanings set forth in the Master Development Agreement
2. **Assignment and Assumption.** Assignor hereby assigns all of its right, title and interest in and to, and delegates all of its related obligations under, the Commercial Contracts to City. City hereby assumes and agrees to be bound by the terms of the Commercial Contracts, and agrees to perform all of Assignor's obligations thereunder with regard to the Commercial Contracts as if City had been the party originally named as "Buyer" therein.
3. **Acquisition of the Property.** City hereby agrees to acquire the Property pursuant to the terms and conditions of the Commercial Contracts. Assignor shall assist and facilitate the closing on the acquisition of the Property (the "Closing") which shall occur on or before December 23, 2016, unless otherwise agreed upon the parties hereto (the "Closing Date").
4. **Lease-Back of Land.** Concurrent with the Closing, Assignor and City shall enter into the Ground Lease.
5. **Closing and Closing Deliveries for Assignment and Assumption and Lease-Back.** The Closing shall take place at the offices of First American Title Insurance Company and Austin Title Company (collectively, the "Escrow Agent") on the Closing Date. At the Closing and to the extent not previously executed and delivered, the Assignor, City and Developer, as applicable, shall execute and deliver to each of the following:

- a. This Agreement
- b. The Master Development Agreement
- c. The Ground Lease;
- d. The Memorandum of the Ground Lease (as defined in the Ground Lease)
- e. The Economic Development Program Agreement (as defined in the Master Development Agreement);

Assignor and City further agree to execute escrow instructions substantially in the form attached hereto as Exhibit F, as amended as may be necessary to enable the Escrow Agent to comply with the terms of this Agreement and the Commercial Contracts (the "Escrow Instructions").

6. Closing and Closing on Purchase of Property. At the Closing, City shall close on the acquisition of the Property pursuant to the Commercial Contracts and the Escrow Instructions. All deeds, title policies, affidavits, settlement statements, and other closing documents for the acquisition of the Property shall be approved by Assignor prior to execution of the Closing. All costs, taxes, fees or other expenses payable by the "buyer" with respect to the Closing shall be the responsibility of Assignor and shall be paid directly or funded into the Escrow Agent on or before the Closing Date for disbursement at the Closing.

7. Acceptance of the Land. City acknowledges and agrees that, upon its acquisition of the Land, it accepts the Land in an "AS IS, WHERE IS" condition and Assignor acknowledges and agrees that City has not agreed and has no obligation to make any representations or warranties as to the condition to title or physical condition of the Land and has no obligations to improve the Land, except as specifically set forth in the Master Development Agreement or herein.

8. Representations and Warranties of Assignor. Assignor represents, warrants, and covenants to City, that Assignor has full right, power, and authority to enter into this Agreement and the execute the transactions contemplated hereby, and that the signatory hereunder has full right, power, and authority to execute this Agreement.

9. Representations and Warranties of City. City represents, warrants, and covenants to Assignor, that City has full right, power, and authority to enter into this Agreement and the execute the transactions contemplated hereby, and that the signatory hereunder has full right, power, and authority to execute this Agreement.

10. Brokers. Assignor and City each hereby represent and warrant that neither party has dealt with any broker in connection with this Agreement and there are no unpaid brokerage commissions or finders' fees payable in connection herewith, except for those to be paid by Assignor to Summit Commercial, as set forth in the Commercial Contracts. Assignor shall indemnify and hold City harmless, including reasonable attorney's fees, from any claim made by any broker, including, but not limited to, any brokers, in respect of this Agreement. This indemnification shall survive the termination of this Agreement.

11. Mutual Assistance; Further Assurances. Assignor and City will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and the transactions contemplated hereby. Assignor and City agree to furnish to each other such further information, execute and deliver such other documents and do all such other acts and things as may be necessary or appropriate to evidence, document or conclude the transactions contemplated hereby

12. Counterparts. This Agreement may be executed, by original signature, facsimile or electronic signature, in counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument.

13. Headings. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement.

14. Binding Effect; Entire Agreement. This Agreement shall be binding on and inure to the benefit of Assignor and City, their respective successors and assigns. This Agreement, the Master Development Agreement, the Ground Lease and the Economic Development Program Agreement constitute the entire agreement between Assignor and City, and supersede all prior agreements, whether oral or written, covering the subject matter of this Agreement.

15. Assignment. Except as provided herein, neither party assign all or part of its rights and obligations to a third party without the express written consent of the other party unless such assignment is a collateral assignment to a lender. Assignor may assign all or part of its rights and obligations under this Agreement to an entity that is controlled by or under common control with the Assignor, and shall provide a copy of the assignment to the City within 15 days after the effective date of the assignment. The City may not assign this Agreement.

16. Amendment. This Agreement may be amended only by the mutual written agreement of Assignor and City.

17. Notice. Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, by electronic mail, or by depositing the same in the

United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

If to City:

City of Round Rock
221 E. Main Street
Round Rock, TX 78664
Attn: City Manager
Phone: (512) 218-5400
Email: citymanager@roundrocktexas.gov

With a required copy to:

Sheets & Crossfield
309 E. Main Street
Round Rock, TX 78664
Attn: Stephan L. Sheets
Phone: (512) 255-8877
Email: steve@scrllaw.com

If to the Assignor:

KR CC, Inc.
P.O. Box 590
1305 Kalahari Drive
Wisconsin Dells, WI 53965
Attn: Mary Bonte Spath
Phone: (608) 254-5320
Email: mbonte@kalahariresorts.com

With required copy to:

Shupe Ventura Lindelow & Olson, PLLC
9406 Biscayne Blvd.
Dallas, Texas 74218
Attn: Misty Ventura
Phone: (214) 328-1101
Email: misty.ventura@svlandlaw.com

Michael Best & Friedrich LLP
One South Pinckney Street, Suite 700
Madison, Wisconsin 53703
Attn: Michael S. Green
Phone: (608) 257-7482
Email: msgreen@michaelbest.com

Either party may designate a different address at any time upon written notice to the other party.

18. Interpretation. Each of Assignor and City has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any party.

19. Applicable Law. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in Williamson County, Texas.

20. Severability. In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of Assignor and City that the remainder of this Agreement shall not be affected. It is also the intention of Assignor and City that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

21. No Third Party Beneficiaries. This Agreement is not intended to confer any rights, privileges, or causes of action upon any third party.

22. No Joint Venture. It is acknowledged and agreed by the parties hereto that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture among Assignor and City. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Project or the design, construction or operation of any portion of the Project.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor and City have executed this Agreement as of the date first above written.

ASSIGNOR:

KR CC, INC.

a Delaware corporation

CITY:

CITY OF ROUND ROCK TEXAS

a Texas local government home rule corporation

By: _____
Todd Nelson, President

By: _____
Alan McGraw, Mayor

EXHIBIT A
BISON COMMERCIAL CONTRACT
[Attached hereto]

132A Parcel



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS IS NOT AUTHORIZED
©Texas Association of REALTORS, Inc. 2014

1. PARTIES: Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Bison Tract 79, Ltd.

Address: 3555 Lost Creek, Austin, TX 78735

Phone: (512) 358-7480

E-mail: Steve@MPCCommercialpartners.com

Fax: (512) 358-0901

Other: _____

Buyer: KR Acquisitions LLC, a Delaware limited liability company

Address: P.O. Box 590, Wisconsin Dells, WI 53965

Phone: (608) 254-3200

E-mail: bharmaf@x1ey.com

Fax: _____

Other: monte@calahariresorts.com

2. PROPERTY:

- A. "Property" means that real property situated in Williamson County, Texas at 132.168 Acres, Highway 79 & Kenney Fort Blvd., Round Rock, TX (address) and that is legally described on the attached Exhibit A or as follows:
R367590
R510039
R510043
R510044

- B. Seller will sell and convey the Property together with:

- (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
- (3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
(If mineral rights are to be reserved an appropriate addendum should be attached.)

3. SALES PRICE:

- A. At or before closing, Buyer will pay the following sales price for the Property:

- (1) Cash portion payable by Buyer at closing \$ 12,800,000.00
- (2) Sum of all financing described in Paragraph 4 \$ _____
- (3) Sales price (sum of 3A(1) and 3A(2)) \$ 12,800,000.00

(TAR-1802) 4-1-14

Summit Commercial Industrial Properties, Inc. 20 Chisholm Trail Round Rock, TX 78681
Phone: (512) 244-9707 Fax: (512) 244-9519 John Bolis

Produced with approval by ISPL, 10370 Fellen Road, Dallas, TX 75243-4520 www.tol.com

Page 1 of 13

132.168 Acres

Commercial Contract - Unimproved Property concerning 132.168 Acres, Highway 79 & Kenney Fort Blvd., Round Rock, TX

B. Adjustment to Sales Price: (Check (1) or (2) only.)

☐ (1) The sales price will not be adjusted based on a survey.

☒ (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of \$ 2.2232 per:

☒ (i) square foot of ☒ total area ☐ net area.

☐ (ii) acre of ☐ total area ☐ net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

☐ (i) public roadways;

☐ (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and

☐ (iii) _____

(c) If the sales price is adjusted by more than _____ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

☐ A. ~~Third Party Financing: One or more third party loans in the total amount of \$ _____.~~
~~This contract~~

☐ (1) ~~is not contingent upon Buyer obtaining third party financing.~~

☐ (2) ~~is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TAR-1034).~~

☐ B. ~~Assumption: In accordance with the attached Commercial Contract Financing Addendum (TAR-1034), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.~~

☐ C. ~~Seller Financing: The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TAR-1034) in the amount of \$ _____.~~

5. EARNEST MONEY:

A. Not later than 3 days after the effective date, Buyer must deposit \$ 50,000.00 as earnest money with Austin Title (512.329.0777) (troy.conover@austintitle.com) (title company) at 1717 W. 6th, Suite 105, Austin, TX 78703 (address) Troy Conover (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 16 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of \$ _____ with the title company to be made part of the earnest money on or before:

☐ (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or

☐ (ii) _____

Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
- (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
- (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
- ☐ (a) will not be amended or deleted from the title policy.
- ☒ (b) will be amended to read "shortages in areas" at the expense of ☒ Buyer ☐ Seller.
- (3) Within 15 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 45 days after the effective date:

- ☒ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer \$5,000.00 (insert amount) of the cost of the survey at closing, if closing occurs.
- ☐ (2) ~~Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.~~
- ☐ (3) ~~Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to Buyer and the title company within 20 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for Seller to deliver an acceptable survey within the time required. Buyer will reimburse Seller (insert amount) of the cost of the new or updated survey at closing, if closing occurs.~~

C. Buyer's Objections to the Commitment and Survey:

- (1) Within _____ days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or less that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a

Commercial Contract - Unimproved Property concerning 132.168 Acres, Highway 79 & Kenney Fort Blvd., Round Rock, TX

~~special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to resolve the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.~~

- (2) ~~Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.~~
- (3) ~~Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.~~

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

B. Feasibility Period: Buyer may terminate this contract for any reason within 90 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

- ☒ (1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 1,000.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.
- ☐ (2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

- (1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.
- (2) Buyer must:
- (a) employ only trained and qualified inspectors and assessors;
 - (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
 - (c) abide by any reasonable entry rules or requirements of Seller;
 - (d) not interfere with existing operations or occupants of the Property; and
 - (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

- (3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 15 days after the effective date, Seller will deliver to Buyer: (Check all that apply.)
- ☒ (a) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - ☐ (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - ☒ (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
 - ☒ (d) copies property tax statements for the Property for the previous 2 calendar years;
 - ☒ (e) plats of the Property;
 - ☒ (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
 - ☒ (g) copy of Seller's existing boundary survey
any items checked above to the extent in Seller's possession

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (Check all that apply.)
- ☒ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
 - ☒ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied; and
 - ☐ (c) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.
- This Paragraph 7D(2) survives termination of this contract.

E. ~~Contracts Affecting Operations:~~ Until closing, Seller: ~~(1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.~~

8. LEASES:

- A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
- (1) any failure by Seller to comply with Seller's obligations under the leases;
 - (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
 - (3) any advance sums paid by a tenant under any lease;

Commercial Contract - Unimproved Property concerning 132.168 Acres, Highway 79 & Kenney Fort Blvd.,
Round Rock, TX

- (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
(5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. ~~Estoppel Certificate: Within _____ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TAR Form 1038 - Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 (if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.~~

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: Endland Properties Group, LLC

Cooperating Broker: Summit Commercial

Agent: John Endlandyk

Agent: Jim Boles

Address: 3813 Juniper Trace, Suite 104

Address: 20 Chisholm Trail

San Caba, TX 78738

Round Rock, TX 78681

Phone & Fax: (512) 994-2638

Phone & Fax: (512) 244-8707

(512) 244-9819

E-mail: _____

E-mail: jim@summit-commercial.com

License No.: _____

License No.: 0448916

Principal Broker: (Check only one box)

- ☒ represents Seller only.
☐ represents Buyer only.
☐ is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:
- (1) ☐ _____ days after the expiration of the feasibility period.
 - ☐ _____ (specific date).
 - ☒ See Special Provisions Addendum
- (2) 7 days after objections made under Paragraph 8C have been cured or waived.
- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.
- C. At closing, Seller will execute and deliver, at Seller's expense, a ☐ general ☒ special warranty deed. The deed must include a Vendor's Lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) an assignment of all leases to or on the Property;
 - (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
 - (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
 - (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.
- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the title company;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
 - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
 - (b) specifies the exact dollar amount of the security deposit;
 - (4) sign an assumption of all leases then in effect; and
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

- 11. POSSESSION:** Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. **SPECIAL PROVISIONS:** The following special provisions apply and will control in the event of a conflict with other provisions of this contract. (If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)
See attached Special Provisions Addendum.

13. **SALES EXPENSES:**

- A. **Seller's Expenses:** Seller will pay for the following at or before closing:
- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;
 - (4) preparation of the deed;
 - (5) one-half of any escrow fee;
 - (6) costs to record any documents to cure title objections that Seller must cure; and
 - (7) other expenses that Seller will pay under other provisions of this contract.
- B. **Buyer's Expenses:** Buyer will pay for the following at or before closing:
- (1) all loan expenses and fees;
 - (2) preparation of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee;
 - (6) other expenses that Buyer will pay under other provisions of this contract.

14. **PRORATIONS:**

- A. **Prorations:**
- (1) interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
 - (2) if the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the proration when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
 - (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.
- B. **Rollback Taxes:** If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. **Rent and Security Deposits:** At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental

payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. ~~If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(2) which Seller may pursue; or~~
~~(Check if applicable)~~
☐ ~~enforce specific performance, or seek such other relief as may be provided by law.~~
- B. ~~If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:~~
~~(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or~~
~~(2) extend the time for performance up to 15 days and the closing will be extended as necessary.~~
- C. ~~Except as provided in Paragraph 15B, If Seller fails to comply with this contract, Seller is in default and Buyer may:~~
~~(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or~~
~~(2) enforce specific performance, or seek such other relief as may be provided by law, or both.~~

16. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
- B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
(1) Seller and the sales price will be reduced by the same amount; or
(2) Buyer and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash-down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.
- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.

- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. ☐ Seller ☐ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: (Check only one box.)

- ☐ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TAR-1408).
- ☒ B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties' addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- ☒ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- ☒ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of

~~a mutually-acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.~~

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- D. Addenda which are part of this contract are: *(Check all that apply.)*
- ☒ (1) Property Description Exhibit identified in Paragraph 2;
 - ☐ (2) Commercial Contract Financing Addendum (TAR-1931);
 - ☐ (3) Commercial Property Condition Statement (TAR-1408);
 - ☐ (4) Commercial Contract Addendum for Special Provisions (TAR-1940);
 - ☐ (5) Notice to Purchaser of Real Property in a Water District (MUD);
 - ☐ (6) Addendum for Coastal Area Property (TAR-1915);
 - ☐ (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916);
 - ☒ (8) Information About Brokerage Services (TAR-2501); and
 - ☒ (9) Special Provisions Addendum

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

- E. Buyer ☐ may ☐ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can

receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property. The real property is described in Paragraph 2 of this contract.

- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §35.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §51.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.

28. **CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on October 30, 2016, the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT** your attorney **BEFORE** signing.

Commercial Contract - Unimproved Property concerning 132.168 Acres, Highway 79 & Kenney Fort Blvd.,
Round Rock, TX

ATTORNEYS	
Seller's attorney: <u>Rob Braunig</u>	Buyer's attorney: <u>Bruce Harms/Axley Brynaldson</u>
Address: <u>4408 Spicewood Springs Rd. #104</u>	Address: <u>Manchester Place, Suite 200</u>
<u>Austin TX 78759</u>	Address: <u>2 East Miffelin St.</u>
Phone & Fax: <u>(512) 294-3712</u>	<u>Madison WI 53703</u>
E-mail: <u>rob.braunig@brauniglawfirm.com</u>	Phone & Fax: <u>(608) 292-6735</u>
E-mail: <u>bharms@axley.com</u>	
Seller's attorney requests copies of documents, notices, and other information:	Buyer's attorney requests copies of documents, notices, and other information:
<input checked="" type="checkbox"/> the title company sends to Seller.	<input checked="" type="checkbox"/> the title company sends to Buyer.
<input checked="" type="checkbox"/> Buyer sends to Seller.	<input checked="" type="checkbox"/> Seller sends to Buyer.

ESCROW RECEIPT	
The title company acknowledges receipt of:	
<input checked="" type="checkbox"/> A. the contract on this day <u>10/30/15</u> (effective date);	
<input type="checkbox"/> B. earnest money in the amount of \$ _____ in the form of _____	
on _____	
Title company: <u>Austin Title Co.</u>	Address: <u>1717 W 6th Street, Ste 105</u>
By: <u>[Signature]</u>	<u>Austin, TX 78703</u>
Assigned file number (GF#): <u>AUT15001885</u>	Phone & Fax: <u>512-329-0777 / 512-469-5813</u>
	E-mail: <u>troy.conover@austintitle.com</u>
	<u>belinda.zapata@austintitle.com</u>
	<u>shari.vaughan@austintitle.com</u>

Tract 1, 119.28 Acre Tract, Save and Except a 1.50 Acre Tract
Tract 2, 0.037 Acre Tract
Tract 3, 4.580 Acre Tract
Tract 4, 9.771 Acre Tract

Page 1 of 7

EXHIBIT A

DESCRIPTION

FOR A 132.17 ACRE TRACT OF LAND SITUATED IN THE P. A. HOLDER SURVEY, ABSTRACT NO. 297, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A CALLED 157.385 ACRE TRACT AS DESCRIBED IN A DEED TO BISON TRACT 79, LTD. AND RECORDED IN DOCUMENT NO. 2007049657 AND AS DESCRIBED IN DOCUMENT NO. 199947747 OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY, BEING A 119.28 ACRE (TRACT 1) TRACT, SAVE AND EXCEPT BERTL TELANDER SUBDIVISION, A 1.50 ACRE TRACT, AND RECORDED IN CABINET H, PAGE 126 OF THE PLAT RECORDS OF SAID COUNTY, A 0.037 ACRE (TRACT 2) TRACT, A 4.580 ACRE (TRACT 3) TRACT, AND A 9.771 ACRE (TRACT 4) TRACT, SAID 132.17 ACRE TRACT, AS SHOWN ON THE ACCOMPANYING BOUNDARY SURVEY, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

TRACT 1

BEGINNING at a ½" iron rod with "Baker-Aicklen" cap set for the northeast corner of said 157.385 acre tract, same being the northwest corner of a called 176.78 acre tract as described in a deed to Gregory Stephen Carter and recorded in Document No. 2010072268 of the Official Public Records of said County, being on the south right-of-way line of the Union Pacific Railroad, for the northeast corner and **POINT OF BEGINNING** hereof;

THENCE with the east line of said 157.385 acre tract, same being the west line of said 176.78 acre tract, S 02° 15' 15" E for a distance of 306.45 feet to a ½" iron rod with cap found for an angle point on the east line of said 157.385 acre tract, same being the southwest corner of said 176.78 acre tract, for an angle point hereof;

THENCE continuing with the east line of said 157.385 acre tract, same being the south line of said 176.78 acre tract, N 86° 30' S2" E for a distance of 8.57 feet to an axle found for an angle point on the east line of said 157.385 acre tract, same being the northwest corner of a called 60.58 acre tract as described in a deed to Ernest Nelson Johnson, et al. and recorded in Document No. 2003035323 of the Official Public Records of said County;

THENCE continuing with the east line of said 157.385 acre tract, same being the west line of said 60.58 acre tract, S 02° 09' 49" E passing at a distance of 2771.35 feet a ½" iron rod with "Baker-Aicklen" cap found, continuing for a total distance of 3267.63 feet to a calculated point in the centerline of Brushy Creek, for the southeast corner of said 157.385 acre tract, same being

Tract 1, 119.28 Acre Tract, Save and Except a 1.50 Acre Tract
Tract 2, 0.037 Acre Tract
Tract 3, 4.580 Acre Tract
Tract 4, 9.771 Acre Tract

Page 2 of 7

the southwest corner of said 60.58 acre tract, same being an angle point on the north line of Lot 46, Block F, Sonoma Section 12, a subdivision recorded in Cabinet Z, Slides 347 - 348 of the Plat Records of said County, for the southeast corner hereof;

THENCE with the south line of said 157.385 acre tract, same being the approximate centerline of said Brushy Creek, in part with the north line of said Lot 46 and in part with the north line of a called 1.764 acre tract as described in a deed to the City of Round Rock, Texas and recorded in Document No. 2013056475 of the Official Public Records of said County, the following four (4) courses and distances:

- 1) S 70° 05' 58" W for a distance of 138.30 feet to a calculated angle point hereof,
- 2) S 58° 48' 31" W for a distance of 700.00 feet to a calculated angle point hereof,
- 3) S 67° 48' 31" W for a distance of 240.00 feet to a calculated angle point hereof, and
- 4) S 53° 00' 31" W for a distance of 137.67 feet to a calculated point set for the northwest corner of said 1.764 acre tract, being on the east right-of-way line of Kenney Fort Boulevard (right-of-way width varies), for the southwest corner hereof;

THENCE through the interior of said 157.385 acre tract, same being the east right-of-way line of said Kenney Fort Boulevard, the following nine (9) courses and distances:

- 1) N 03° 27' 24" W for a distance of 497.11 feet to a ½" iron rod with "Baker-Aicklen" cap set for an angle point hereof,
- 2) N 86° 32' 36" E for a distance of 58.31 feet to an iron rod with "SAM" cap found for an angle point hereof,
- 3) N 03° 27' 24" W for a distance of 244.21 feet to a ½" iron rod with "Baker-Aicklen" cap set for an angle point hereof,
- 4) N 19° 11' 07" W for a distance of 376.67 feet to a ½" iron rod with "Baker-Aicklen" cap set for an angle point hereof,
- 5) N 26° 22' 37" W for a distance of 1455.20 feet to a ½" iron rod with "Baker-Aicklen" cap set for an angle point hereof,

Tract 1, 119.28 Acre Tract, Save and Except a 1.50 Acre Tract
Tract 2, 0.037 Acre Tract
Tract 3, 4.580 Acre Tract
Tract 4, 9.771 Acre Tract

Page 3 of 7

- 6) N 22° 48' 02" W for a distance of 160.31 feet to a 1/2" iron rod with "Baker-Aicklen" cap set for an angle point hereof,
- 7) N 26° 22' 37" W for a distance of 114.86 feet to a 1/2" iron rod with "Baker-Aicklen" cap set for an angle point hereof,
- 8) N 23° 12' 25" W for a distance of 254.69 feet to a 1/2" iron rod with "Baker-Aicklen" cap set for an angle point hereof, and
- 9) N 02° 18' 18" W for a distance of 323.08 feet to a 1/2" iron rod with "Baker-Aicklen" cap set on the north line of said 157.385 acre tract, same being the intersection of the east right-of-way line of said Kenney Fort Boulevard and the south right-of-way line of said Union Pacific Railroad, for the northwest corner hereof, from which a calculated point for the northwest corner of said 157.385 acre tract, same being the northeast corner of a called 107.17 acre tract as described in a deed to the Hickox Family Limited Trust and recorded in Document No. 2006053683 of the Official Public Records of said County bears, S 63° 35' 42" W for a distance of 21.91 feet;

THENCE with the north line of said 157.385 acre tract, same being the south right-of-way line of said Union Pacific Railroad, N 63° 35' 42" E for a distance of 2121.70 feet to the POINT OF BEGINNING hereof and containing 119.28 acres of land.

SAVE AND EXCEPT

A 1.50 ACRE TRACT OF LAND SITUATED IN THE P. A. HOLDER SURVEY, ABSTRACT NO. 297, WILLIAMSON COUNTY, TEXAS, BEING ALL OF BERTL TELANDER SUBDIVISION, A SUBDIVISION RECORDED IN CABINET H, PAGE 126 OF THE PLAT RECORDS OF SAID COUNTY AND IN A CORRECTION DEED RECORDED IN DOCUMENT NO. 1986037348 OF THE OFFICIAL RECORDS OF SAID COUNTY

TRACT 2

BEGINNING at a 1/2" iron rod with "Baker-Aicklen" cap set on the intersection of the west line of said 157.385 acre tract and the west right-of-way line of said Kenney Fort Boulevard, being on the east line of said 107.17 acre tract, for the north corner and POINT OF BEGINNING hereof, from which a calculated point for the northwest

Tract 1, 119.28 Acre Tract, Save and Except a 1.50 Acre Tract
Tract 2, 0.037 Acre Tract
Tract 3, 4.580 Acre Tract
Tract 4, 9.771 Acre Tract

Page 4 of 7

corner of said 157.385 acre tract, same being the northeast corner of said 107.17 acre tract bears, N 02° 18' 16" E for a distance of 662.65 feet;

THENCE through the interior of said 157.385 acre tract, with the west right-of-way line of said Kenney Fort Boulevard, S 28° 43' 51" E for a distance of 59.14 feet to a 1/4" iron rod with "Baker-Aicklen" cap set on the north corner of a called 0.158 acre tract as described as Tract 3 in a deed to the City of Round Rock and recorded in Document No. 2011041098 of the Official Public Records of said County, for an angle point hereof;

THENCE continuing through the interior of said 157.385 acre tract, with the north line of said 0.158 acre tract, the following two (2) courses and distances:

- 1) S 17° 19' 17" W for a distance of 55.31 feet to a 1/2" iron rod with "Baker-Aicklen" cap set for an angle point hereof, and
- 2) S 62° 42' 23" W for a distance of 8.54 feet to an iron rod with "SAM" cap found on the west line of said 157.385 acre tract, same being the east line of said 107.17 acre tract, for the northwest corner of said 0.158 acre tract, for an angle point hereof;

THENCE with the west line of said 157.385 acre tract, same being the east line of said 107.17 acre tract, N 02° 18' 16" W for a distance of 108.67 feet to the **POINT OF BEGINNING** hereof and containing 0.037 acre of land.

TRACT 3

BEGINNING at an iron rod with "SAM" cap found on the west line of said 157.385 acre tract, same being the east line of said 107.17 acre tract, for the southwest corner of said 0.158 acre tract, for the northwest corner and **POINT OF BEGINNING** hereof, from which a calculated point for the northwest corner of said 157.385 acre tract, same being the northeast corner of said 107.17 acre tract bears, N 02° 18' 16" E for a distance of 858.82 feet;

THENCE through the interior of said 157.385 acre tract, with the south line of said 0.158 acre tract, the following two (2) courses and distances:

- 1) N 63° 36' 32" E for a distance of 46.58 feet to a 1/2" iron rod with "Baker-Aicklen" cap set for an angle point hereof, and

Tract 1, 119.28 Acre Tract, Save and Except a 1.50 Acre Tract
Tract 2, 0.037 Acre Tract
Tract 3, 4.580 Acre Tract
Tract 4, 9.771 Acre Tract

Page 5 of 7

- 2) S 71° 13' 19" E for a distance of 56.41 feet to a 1/4" iron rod with "Baker-Aicklen" cap set on the southeast corner of said 0.158 acre tract, same being on the west right-of-way line of said Kenney Fort Boulevard, for the northeast corner hereof;

THENCE continuing through the interior of said 157.385 acre tract, with the west right-of-way line of said Kenney Fort Boulevard, S 26° 22' 37" E for a distance of 698.13 feet to a 1/2" iron rod with "Baker-Aicklen" cap set for the northeast corner of a called 0.864 acre tract and described as Tract 4 in said Document No. 2011041098, for the east corner hereof;

THENCE continuing through the interior of said 157.385 acre tract, with the north line of said 0.864 acre tract, the following two (2) courses and distances:

- 1) S 18° 37' 23" W for a distance of 56.41 feet to a 1/4" iron rod with "Baker-Aicklen" cap set for an angle point hereof, and
- 2) S 63° 37' 08" W for a distance of 392.71 feet to a 1/4" iron rod with "Baker-Aicklen" cap set on the west line of said 157.385 acre tract, same being the east line of said 107.17 acre tract, for the northwest corner of said 0.864 acre tract, for the southwest corner hereof, from which a 1/2" iron rod found bears, S 63° 37' 08" W for a distance of 1.23 feet;

THENCE with the west line of said 157.385 acre tract, same being the east line of said 107.17 acre tract, N 02° 18' 16" W for a distance of 848.86 feet to the POINT OF BEGINNING hereof and containing 4.580 acres of land.

TRACT 4

BEGINNING at a calculated point on the west line of said 157.385 acre tract, same being the east line of said 107.17 acre tract, for the southwest corner of said 0.864 acre tract, for the northwest corner and POINT OF BEGINNING hereof, from which an iron rod with "SAM" cap found bears, S 63° 37' 14" W for a distance of 1.43 feet;

THENCE through the interior of said 157.385 acre tract, with the south line of said 0.864 acre tract, the following two (2) courses and distances:

- 1) N 63° 37' 14" E for a distance of 428.45 feet to an iron rod with "SAM" cap found for an angle point hereof, and

Tract 1, 119.28 Acre Tract, Save and Except a 1.50 Acre Tract
Tract 2, 0.037 Acre Tract
Tract 3, 4.580 Acre Tract
Tract 4, 9.771 Acre Tract

Page 6 of 7

- 2) S 71° 22' 37" E for a distance of 56.41 feet to a ½" iron rod with "Baker-Aicklen" cap set for the southeast corner of said 0.864 acre tract, same being on the west right-of-way line of said Kenney Fort Boulevard, for the northeast corner hereof;

THENCE continuing through the interior of said 157.385 acre tract, with the west right-of-way line of said Kenney Fort Boulevard, the following four (4) courses and distances:

- 1) S 26° 22' 37" E for a distance of 250.83 feet to a ½" iron rod with "Baker-Aicklen" cap set for a point of curvature hereof,
- 2) with the arc of a curve to the right, having a radius of 1441.95 feet, an arc length of 306.03 feet, a central angle of 012° 09' 37", and a chord which bears, S 21° 13' 46" E for a distance of 305.46 feet to a ½" iron rod with "Baker-Aicklen" cap set for a point of non-tangency hereof,
- 3) S 00° 08' 13" E for a distance of 360.28 feet to a ½" iron rod with "Baker-Aicklen" cap set for an angle point hereof, and
- 4) S 16° 11' 19" W for a distance of 165.80 feet to an iron rod with "SAM" cap found for the northeast corner of a called 12.1 acre tract as described in a deed to the City of Round Rock and recorded in Document No. 2013049009 of the Official Public Records of said County, same being an angle point on the west right-of-way line of said Kenney Fort Boulevard, for the southeast corner hereof;

THENCE continuing through the interior of said 157.385 acre tract, same being the north line of said 12.1 acre tract, S 88° 42' 17" W for a distance of 267.06 feet to a ½" iron rod with "Baker-Aicklen" cap set on the west line of said 157.385 acre tract, same being an angle point on the north line of said 12.1 acre tract, being on the east line of a called 4.42 acre tract as described in a deed to Thomas P. Elrod and spouse, Christel Elrod and recorded in Volume 1813, Page 540 of the Official Records of said County, for the most southerly southwest corner hereof, from which a ½" iron rod found for the southeast corner of said 4.42 acre tract bears, S 01° 25' 18" E for a distance of 100.00 feet;

THENCE with the west line of said 157.385 acre tract, same being the east line of said 4.42 acre tract, N 01° 25' 18" W for a distance of 498.30 feet to a ½" iron rod found for an angle point on the west line of said 157.385 acre tract, same being the northeast corner of said 4.42 acre tract, for an angle point hereof;

Tract 1, 119.28 Acre Tract, Save and Except a 1.50 Acre Tract
Tract 2, 0.037 Acre Tract
Tract 3, 4.580 Acre Tract
Tract 4, 9.771 Acre Tract

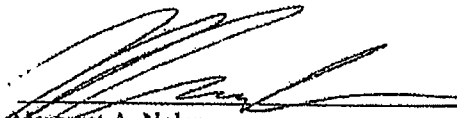
Page 7 of 7

THENCE continuing with the west line of said 157.385 acre tract, same being the north line of said 4.42 acre tract, S 89° 09' 25" W for a distance of 319.80 feet to a ½" iron rod found for an angle point on the west line of said 157.385 acre tract, same being the northwest corner of said 4.42 acre tract, being on the east line of said 107.17 acre tract, for the most westerly southwest corner hereof;

THENCE continuing with the west line of said 157.385 acre tract, same being the east line of said 107.17 acre tract, N 02° 18' 16" W for a distance of 369.49 feet to the **POINT OF BEGINNING** hereof and containing 9.771 acres of land.

Bearing basis is grid north for the Texas Central Zone (4203) NAD 83/93 HARN.

Surveyed under the direct supervision of the undersigned July 30, 2014:


Margaret A. Nolen
Registered Professional Land Surveyor No. 5589
BAKER-AICKLEN & ASSOCIATES, INC.
507 West Liberty Avenue
Round Rock, TX 78664
(512) 244-9620



Job No.: 2146-3-002-20

Filename: K:\PROJECTS\2146-3-002_CarTex Engineering Services_Bison Tract\BA-Survey\METES AND BOUNDS\Bison Tracts 1-4.doc

SPECIAL PROVISIONS ADDENDUM TO COMMERCIAL CONTRACT – UNIMPROVED
PROPERTY BETWEEN BISON TRACT 79, LTD. AND KR ACQUISITIONS, LLC

This Special Provisions Addendum (the "Addendum") is incorporated by reference into the Texas Association of Realtors Commercial Contract – Unimproved Property to which it is attached (the "Form Offer"). This Addendum and the Form Offer may herein be referred to as the "Offer". Buyer and Seller (who may herein be referred to as the "parties") agree as follows:

1. Conflicts with Form Offer. In the event of any conflict between the terms and conditions of this Addendum and the Form Offer, the terms and conditions of this Addendum shall control. Capitalized terms used herein shall have the meaning ascribed to such terms in the Form Offer unless otherwise defined herein.

2. Buyer's Due Diligence. Buyer, and its agents and contractors, shall have the right to access and enter upon the Property and to perform any inspections, reviews, sampling, testing, and evaluation of the Property for the purpose of determining the suitability of the Property for Buyer's intended use (i.e., development of a Kalahari waterpark resort hotel and convention center – the "Proposed Project"). Buyer's inspections, testing, sampling, and evaluations, which shall be conducted at Buyer's expense, shall be with regard to the environmental condition of the Property, soil conditions, utility access, ingress/egress, availability of municipal incentives, assessment of financial feasibility, availability of acceptable financing to fund the development of the Proposed Project, market conditions (including an evaluation of competing hospitality and lodging businesses), path-to-development issues (i.e., when development can occur), ability to enter into contracts to purchase adjacent parcels, and such other matters which Buyer, in its reasonably exercised discretion, deems material to its decision to acquire the Property and develop it for the purpose set forth above. In addition while this Offer is in effect Buyer shall have the right to make and pursue applications for governmental approvals, permits, licenses, zoning changes, and similar or related entitlement matters with respect to the Property ("Entitlements") provided, however, that the Buyer shall require that any such Entitlements not take effect until the closing occurs and if any Entitlements do take effect prior to the closing occurring then if closing shall not occur for any reason except for Seller's breach of this Offer, Buyer shall release all such Entitlements that Buyer has had issued for the Property and which are binding on the Property and this provision shall survive the termination of the Offer. Buyer shall also have the right to engage in discussions and negotiations with governmental authorities having jurisdiction over the Property including, without limitation, for the negotiation of development agreements, financing agreements, road access agreements, easement agreements, utility service agreements, tax agreements, and any similar or related agreements. Without limiting Buyer's rights hereunder (a) the Seller shall provide reasonable cooperation with respect to the Buyer's activities under this Section 2 including, without limitation, signing of applications for Entitlements; so long as such applications are at Buyer's cost and without liability to Seller; and (b) Seller shall ensure that Buyer shall have access to the Property so that Buyer can conduct the activities and exercise the rights contemplated under this Section 2.

3. Extension of Feasibility Period. Buyer shall have the right to extend the feasibility period (as defined in the Form Offer) provided under Section 7.B of the Form Offer as follows:

a. If Buyer deposits additional earnest money of \$50,000 with the title company on or before the date that is five (5) days after the expiration of the initial 90-day feasibility period described in Section 7.B of the Form Offer, the feasibility period will be deemed extended for an additional 90 days and the 90 days inserted in the blank in Section 7.B of the Form Offer will be deemed deleted and replaced with 180 days.

b. If Buyer extends the feasibility period for 90 days under the procedures provided in Section 3(a) above, then if Buyer deposits additional earnest money of \$50,000 with the title company on or before the date that is five (5) days after the expiration of the feasibility period as extended under Section 3(a) above, the feasibility period will be deemed extended for an additional 90 days and the 180 days inserted in the blank in Section 7.B of the Form Offer pursuant to Section 3(a), above, will be deemed deleted and replaced with 270 days.

c. If Buyer extends the feasibility period under the procedures provided in Section 3(b) above, then if the Buyer deposits additional earnest money of \$50,000 with the title company on or before the date that is five (5) days after expiration of the feasibility period as extended under Section 3(b) above, the feasibility period will be deemed extended for an additional 90 days and the 270 days inserted in the blank in Section 7.B of the Form Offer pursuant to Section 3(b), above, will be deemed deleted and replaced with 360 days.

d. Each of the ninety (90) day extensions of the feasibility period described in this Section 3 is an "Extension Period". The initial ninety (90) day feasibility period described in the Form Offer is the "Initial Feasibility Period".

4. Earnest Money.

a. In Section 5.A of the Form Offer the Buyer will have 3 business days after the effective date (as defined in the Form Offer) to deposit the initial installment of the earnest money. At the closing all earnest money that has been deposited or paid over by Buyer under this Offer shall be applied to the sales price in favor of Buyer and the Buyer shall be entitled to a credit in its favor at the closing in the amount of all the earnest money paid over or deposited by Buyer under the Offer.

b. In the event the Buyer terminates this Offer pursuant to Section 7.B of the Form Offer during the Initial Feasibility Period then all the earnest money shall be returned to the Buyer, less the \$1,000 of independent consideration provided for in the Form Offer. In such case the independent consideration of \$1,000 shall be disbursed to Seller. In the event the Buyer terminates this Offer pursuant to Section 7.B of the Form Offer during the first Extension Period \$50,000 of the earnest money shall be disbursed to Seller and \$50,000 of the earnest money shall be disbursed to Buyer. If the Buyer terminates this Offer under Section 7.B of the Form Offer during the second Extension Period \$100,000 of the earnest money shall be disbursed to Seller and \$50,000 of the earnest money shall be disbursed to Buyer. If the Buyer terminates this Offer under Section 7.B of the Form Offer during the third Extension Period then \$150,000 of the earnest money shall be disbursed to Seller and \$50,000 of the earnest money shall be disbursed to Buyer. If Buyer's failure or refusal to close the transaction contemplated by this Offer is due

to the breach or default of the Seller or the failure or nonsatisfaction of any condition precedent set forth in Section 12 of this Addendum for the benefit of Buyer, then Buyer shall have the right to a return of all the earnest money (whether deposited by Buyer or disbursed to Seller), less the \$1,000 of independent consideration. Buyer's rights under this Section 4(b) of this Addendum are in addition to, and not in limitation of, any other rights or remedies the Buyer has under this Offer including, without limitation, the rights and remedies of Buyer under Section 17 of this Addendum. If this Agreement terminates the Buyer and Seller agree to provide instructions to the title company for the disbursement of the earnest money in accordance with the foregoing provisions which obligation shall survive termination of this Offer.

5. Closing Date. The closing of the transaction contemplated by the Offer shall be on the date that is 30 days after expiration of the feasibility period. Each time one of the feasibility period extension rights under Section 3 above is exercised the date of the closing shall be re-determined based on the new duration of the feasibility period.

6. No Representations: "As Is" Purchase. This Offer, the deed Seller is to deliver at Closing, and any other documents Seller is to deliver or does deliver at the Closing are collectively the "Transaction Documents". Despite anything contained herein to the contrary the terms of this Section 6 do not (a) limit, modify, exclude, or affect any of the covenants, obligations, duties, representations, or warranties of the Seller contained in the other Sections or provisions of this Offer or in any of the other Transaction Documents (the "Other Provisions"); or (b) limit the liability of the liability of Seller for or under the Other Provisions. Except for the representations and warranties set forth in the Transaction Documents, SELLER MAKES NO WARRANTIES OR REPRESENTATIONS of any kind or character, express or implied, with respect to the Property, its physical condition, income to be derived therefrom or expenses to be incurred with respect thereto, or with respect to information or documents previously furnished to Buyer or furnished to Buyer pursuant to the Offer, or with respect to Seller's obligations or any other matter or thing relating to or affecting the same. The parties acknowledge and agree that there are no oral agreements, implied or oral warranties, or other representations made between the parties that are outside of the written terms of this Offer or the other Transaction Documents. Notwithstanding anything contained herein to the contrary, this Section shall survive the Closing or any termination of the Offer.

BUYER ACKNOWLEDGES THAT, EXCEPT FOR THE REPRESENTATIONS AND, WARRANTIES EXPRESSLY PROVIDED IN THE TRANSACTION DOCUMENTS, THE CONVEYANCE OF THE PROPERTY IS SPECIFICALLY MADE "AS-IS" AND "WHERE-IS," WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OR ANY OTHER WARRANTIES WHATSOEVER.

BUYER ACKNOWLEDGES THAT EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE IN THE TRANSACTION DOCUMENTS, (A) NEITHER SELLER NOR ANY OF ITS AGENTS HAVE MADE, AND SPECIFICALLY NEGATE AND DISCLAIM, ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, OF, AS TO,

CONCERNING, OR WITH RESPECT TO, (I) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (II) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH MAY BE CONDUCTED THEREON, (III) THE COMPLIANCE OF OR BY THE PROPERTY WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY, (IV) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, OR (V) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND (B) NEITHER SELLER NOR ANY OF ITS AGENTS HAVE MADE, AND SPECIFICALLY NEGATE AND DISCLAIM, ANY REPRESENTATIONS OR WARRANTIES REGARDING COMPLIANCE OF THE PROPERTY WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THOSE PERTAINING TO SOLID WASTE, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, OR THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS SUBSTANCES, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, AND THE REGULATIONS PROMULGATED THEREUNDER. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY PROVIDED IN THE TRANSACTION DOCUMENTS, BUYER SHALL RELY SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER OR ITS AGENTS OR CONTRACTORS. EXCEPT FOR REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN THE TRANSACTION DOCUMENTS SELLER SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR THE OPERATION THEREOF, FURNISHED BY ANY PARTY PURPORTING TO ACT ON BEHALF OF SELLER.

7. Title Objections.

a. The Buyer will have thirty (30) days after its receipt of the title commitment for the Property or Buyer's survey of the Property, whichever is later, to send to Seller any objections it has to any matters set forth in the title commitment or survey (the "Objection Period") provided that Buyer is deemed to have received the survey on the earlier to occur of (i) the date of Buyer's actual receipt of the survey, or (ii) the deadline specified in Section 6B of the Form Offer. Buyer's notice containing its objections is referred to herein as the "Objection Notice". The term "Permitted Exceptions" means any matter contained in the title commitment to which the Buyer does not object in writing within the Objection Period and any encroachment on the Property or other adverse title matter shown on the survey to which the Buyer does not object within the Objection Period.

b. After receipt of an Objection Notice, the Seller shall have the option, but not the obligation, until the date that is thirty (30) days after the date the Objection Notice is received by the Seller ("Cure Period"), to cure any of Buyer's objections. An objection will be deemed cured within the Cure Period if Seller either cures the objection within the Cure Period

in a manner reasonably acceptable to the Buyer or Seller commits in writing during the Cure Period to cure the objection prior to or at closing in a manner reasonably acceptable to Buyer. If any objection is not cured within the time periods contemplated above, then the Buyer shall have the right to terminate this Offer by giving written notice to Seller at any time on or before the thirtieth (30th) day after the expiration of the applicable cure period. If Buyer does so terminate this Offer then all earnest money, less the \$1,000 of independent consideration, shall be returned to Buyer. If the Buyer does not so terminate this Offer then (i) any matter shown on the title commitment, and (ii) any encroachment on the Property or other adverse title matter shown on the survey, to which the Buyer objected in its Objection Notice and which has not been cured within the Cure Period shall be deemed Permitted Exceptions. Further, all leases of the Property which predate this Offer and all leases of the Property made after the date of this Offer and which were made in accordance with the terms of this Offer are the "Permitted Leases". Any Permitted Leases which have terms that extend beyond the closing date ("Post Closing Leases") shall be deemed Permitted Exceptions. The Seller shall cause the title company to issue to the Buyer at closing a title commitment showing the Buyer as the insured and as the fee simple owner of the Property, the effective date of the policy as of the date of the closing, the policy amount in the amount of the sales price, and showing no exceptions to the coverage of the title insurance policy other than Permitted Exceptions. If Seller commits to cure any objected to title or survey matter in writing then Seller shall be bound and obligated under this Offer to cure such matter on or prior to the closing date and any such matter will not be deemed a Permitted Exception.

c. Despite anything to the contrary contained herein, the term Permitted Exceptions shall not include (i) any Monetary Liens or (ii) any leases other than Post Closing Leases, or (iii) any standard title exceptions that can be removed by Seller providing the Affidavits and Indemnity as to Debts, Liens, and Possession in the form contemplated by Section 11(a) of this Addendum. "Monetary Liens" means any mortgage, assignment of rents and leases, construction lien, delinquent real estate tax lien (other than for real estate taxes for the year of closing provided none are delinquent as of the closing date and other than the lien of any rollback real estate taxes that would become due as a result of the change of the use of the Property due to the acts of Buyer), fixture filing, or any other monetary lien, broker lien, or collateral security document. The term Monetary Lien does not include any of the foregoing items listed in the sentence which affect the Property due to the acts of the Buyer. The Buyer need not object under Section 7(a) of this Addendum to any Monetary Liens or any matter described in Section 7(c)(ii) or (iii).

8. Proration; Special Assessments and Real Estate Taxes. The Seller shall pay as they become due and no later than the closing date all the basic ad valorem real estate taxes for the Property in the amount payable under the existing agricultural use exemption ("Seller's Taxes") for all years prior to the year in which the closing occurs and a prorated portion of such Seller's Taxes for the year in which the closing occurs. The Seller shall also be responsible for paying as they become due and no later than the closing date all penalties, late fees, and interest for any Seller's Taxes which were due prior to or on the closing date but not timely paid by Seller. If a tax bill for Seller's Taxes for the year in which closing shall occur has not yet been issued as of the closing, the title company shall estimate Seller's Taxes at the closing based on the amount of basic ad valorem real estate taxes paid by Seller for the immediately preceding

year. The title company shall prorate the actual or estimated amount of Seller's Taxes for the year in which closing occurs as to the date of closing between the parties, and such proration shall be final and binding on the parties hereto. Buyer, and not Seller, shall pay any and all rollback real estate taxes, special assessments, standby fees, road assessments, or any other such tax, fee, or imposition, which arise after closing, or which arise before closing to the extent arising from Buyer's change of use (or intended change of use), or application for zoning, permits, or other Entitlements, it being the agreement of the parties that Seller is responsible only for the Seller's Taxes (and related penalties, late fees, and interest) which it is specifically obligated to pay under this Section 8 and Buyer is responsible for all other taxes, assessments, and impositions (including without limitation rollback taxes, special assessments, and road assessments). The parties shall not revisit any estimated prorations following the issuance of the tax bill, regardless of any variation between the estimated and actual amounts. The third to last sentence of this paragraph shall survive closing or termination of the Offer.

9. Special Warranty Deed. The special warranty deed delivered by Seller at the closing shall include a warranty that the Property is conveyed free and clear of all liens and encumbrances created during Seller's period of ownership of the Property other than Permitted Exceptions.

10. Leases. Seller represents that attached to this Addendum as part of Exhibit A are true, correct, accurate, and complete copies of all leases (including all amendments) to which all or any part of the Property is subject prior to the date of this Offer, other than any mineral leases (for which Seller makes no warranty or representation). Buyer is advised to review the Title Commitment as to any mineral leases. Seller represents that the existing leases are (a) the agricultural lease for year 2015 attached to this Addendum and (b) an oral month to month lease, with a monthly rental currently at \$1,000, with the residents named in the 2002 lease attached to this Addendum. The Seller may after the date hereof enter into additional leases affecting the Property provided that all such leases are in writing, all such leases are solely for agricultural or residential purposes, the term of any such leases after giving effect to all extension and renewal options does not exceed a year, and Seller first obtains the prior written consent of the Buyer to any such leases which the Buyer will not unreasonably withhold, condition, or delay; provided, however, Buyer's consent is not required (a) as to any agricultural leases for one year or less which are required to maintain the Property's agricultural exception for property taxes and having the following terms: the lease can be terminated by landlord upon not less than 30 days' notice to tenant and upon payment to tenant the greater of (i) all actual out-of-pocket costs of planting any crops, or (ii) the then market value of any crop that tenant has planted in that year, or (b) any residential lease which is a month to month lease. All such leases shall be deemed Permitted Leases and Post Closing Leases. Without limiting the Buyer's rights hereunder by enumeration, the Seller will not enter into any lease of all or part of the Property, while this Offer is in effect, that would limit or restrict the ability of the Buyer to conduct the activities contemplated under Section 2 of this Addendum. The Seller will provide the Buyer with copies of each written lease and the terms of each unwritten lease it makes for the Property while this Offer is in effect.

11. Closing Deliverables. In addition to the documents to be delivered by the Seller at the closing as described in the Form Offer, at the closing the Seller shall:

a. Execute and deliver an Affidavits and Indemnity as to Debts, Liens, and Possession on a customary form indicating there are no unpaid debts for fixtures, equipment, or improvements relating to the Property; no construction liens or construction lien rights affecting the Property; no unpaid labor and materials used in the construction on the Property; no leases or parties in possession affecting the Property (other than Post Closing Leases and mineral leases which are Permitted Exceptions); and no purchase contracts for the Property or contracts to sell the Property; provided, however, Seller may except from such affidavit any such matters which were caused by the acts of Buyer.

b. Execute and deliver such other affidavits and certificates as are required so that the title company can remove the title exception on the title commitment for mechanics liens, construction liens, and/or material suppliers liens and the general exception for tenants in possession but which affidavit may disclose any applicable Post Closing Leases.

c. Deliver fully executed releases of all Lien Documents which are needed for the Property to be conveyed at the closing free of all Lien Documents. "Lien Documents" means collectively all mortgages, assignments of rents and leases, deeds of trust, other collateral security documents, construction liens, mechanics liens, or material supplier liens but does not include any liens created by the Buyer.

12. Conditions Precedent. The obligations of the Buyer to take the actions otherwise required of it at the closing are subject to and conditioned upon the satisfaction of each of the following conditions precedent listed below.

a. The Seller shall have delivered all the documents it is to deliver at the closing in duly executed form at or prior to the closing date and Seller shall have cured all title objections it has committed to cure under Section 7(b) of this Addendum.

b. The Seller shall have materially complied with all its other obligations to be performed at or prior to the closing.

c. The representations and warranties of the Seller in this Offer shall have been true and correct at the time made.

13. Documents. Copies of the documents listed on Exhibit A attached hereto and incorporated herein, to the extent they are in the possession or control of the Seller, shall be delivered to Buyer within fifteen (15) days after the effective date. If any documents that are responsive to the requests made in this Section 13 and Exhibit A come into the possession or control of Seller after the date hereof the Seller shall provide copies to the Buyer promptly. At the Closing the Seller will provide a copy of a resolution and such other documents as are reasonably required by Title Company to demonstrate that Seller is authorized to enter into this Offer.

14. Operation of the Property. Until the earlier of the closing or the termination of this Offer, Seller shall:

- a. Status of Title. Not do anything, or permit anything to be done, that would impair, alter, or modify the status of title to the Property other than recording documents which solely release liens to which the Property is subject; provided that Seller may enter into new leases in accordance with the terms of Section 10 of this Addendum.
- b. Maintenance. Maintain the Property in materially the same manner and condition as immediately prior to the effective date of this Offer and not materially alter the Property, provided however that the following will not be breaches of Section 14(b): routine maintenance, replacements, and repairs and ordinary farming activities consistent with past practices, damage and/or destruction to or of the house on the Property not caused by Seller, damage and changes caused by the elements or acts of nature, and reasonable wear and tear.
- c. Amendments. Not enter into any amendment or modification to any lease, easement, or other agreement that is binding on the Property.
- d. Transfer. Not cause or permit transfer, conveyance, sale, assignment, pledge, mortgage, lease, or encumbrance of any of the Property, other than leases made in accordance with the terms of Section 10 of this Addendum. Not enter into any contract or agreement for the purchase or sale of all or any part of the Property.

Section 14(d) above will not apply to the granting to any bona fide bank or financial institution any mortgage, deed of trust, or collateral assignment of rents and leases in the Property. Seller shall not cause or allow the aggregate amount of all liabilities secured by the Property to exceed eighty percent (80%) of the Sales Price provided, however, that this restriction in this sentence shall expire once the closing has occurred.

15. Advise Buyer. Until the earlier of the Closing or the termination of this Agreement, Seller shall notify Buyer in writing within forty five (45) days after Buyer receives any of the following:

- a. Any notice of the commencement of a lawsuit or other legal proceedings against Seller.
- b. Any notice of any pending or threatened proceeding in bankruptcy or insolvency naming Seller as debtor.
- c. Any notice of any enforcement, clean-up, removal or other governmental or regulatory enforcement action concerning any environmental contamination on the Property which is instituted, completed or threatened.

16. Contingency Savings. The parties hereto acknowledge that Buyer will expend material sums of money in reliance on Seller's obligations under the Offer in connection with negotiating and executing the Offer, furnishing the earnest money, conducting the due diligence activities contemplated by the Offer, and preparing for closing, and that Buyer would not have

entered into the Offer without the availability of the rights to perform the due diligence activities described herein. The parties, therefore, agree that adequate consideration exists (in addition to the consideration referred to in Section 7.B(1) of the Form Offer) to support each of the parties' obligations under the Offer, and Seller and Buyer each waive any and all rights to challenge the enforceability of the Offer on the basis that any of the conditions or contingencies set forth in this Offer are at Buyer's discretion or that any of the agreements contained in the Offer are illusory.

17. Remedies:

a. If Buyer fails to timely close on the purchase of the Property in accordance with the requirements of this Offer, Buyer is in default and Seller, as Seller's sole remedies, may terminate this Offer and receive the earnest money as liquidated damages. Notwithstanding the foregoing, nothing in this provision shall serve to limit Seller's right to pursue damages from Buyer under Section 7.C(3) of the Form Offer, or Sections 2, 8, and 23 of this Addendum (the "Excluded Provisions"). Buyer's liability in the aggregate when all obligations under Buyer's indemnity, defense, reimbursement, damages, and hold harmless obligations under the Excluded Provisions are aggregated together will not exceed One Million and No/100 Dollars (\$1,000,000.00).

b. Section 15.C. of the Form Offer is hereby deleted. If Seller fails to timely close on the sale and purchase of the Property in accordance with the requirements of this Offer or fails to timely perform any of its other duties to be performed by Seller at closing, Seller is in default and Buyer, as its sole remedies, may:

i. terminate this Offer and receive the earnest money as liquidated damages (including, without limitation, all earnest money previously disbursed to Seller under the terms of Sections 3 and 4 of this Addendum), less any independent consideration under Paragraph 7.B.(1); or

ii. enforce specific performance of this Offer; provided, however, that if Buyer cannot enforce specific performance, or elects to not do so, or if Seller shall have sold the Property or granted any interest therein in breach of this Offer, Buyer will be entitled to recover all earnest money paid under the terms of this Offer (including all earnest money previously disbursed to Seller under the terms of Sections 3 and 4 of this Addendum) and recover damages in the amount of all costs incurred or paid for by Buyer in Buyer's inspections, permitting, and design efforts related to Buyer's intended use of the Property, including without limitation all attorney fees, survey costs, engineering costs, inspection costs, testing costs, and other due diligence costs and/or expenses paid or incurred by Buyer in connection with this Offer (collectively "Pursuit Costs"), not to exceed ~~Two Million Five Hundred Thousand Dollars~~ One Million (\$1,000,000.00).

c. If Seller breaches any of the terms of Sections 10, 14, or 15 of this Addendum prior to the termination of this Offer or closing the Buyer's sole and exclusive remedy prior to acquiring the Property is to terminate this Offer, receive all earnest money (including, without limitation, any earnest money disbursed to Seller) less the independent

consideration, and recover from Buyer the Pursuit Costs incurred or paid for by Buyer with the Buyer's recovery of Pursuit Costs not to exceed One Million Dollars (\$1,000,000.00).

d. If Seller has breached prior to the closing any of the terms of Sections 10, 14, or 15 then once Buyer has acquired the Property, the Buyer shall be entitled to recover all damages suffered or incurred by the Buyer or the Property due to any such breach other than Buyer's Pursuit Costs.

e. Nothing in this Section 17 of the Addendum will limit either Buyer's or Seller's rights under Section 17 of the Form Offer.

18. Indemnity Limitation. The Buyer shall have no liability under the Offer, including without limitation Section 7.C(3) of the Form Offer, for any environmental, hazardous material, soil, wetland, historical, archeological, or other condition on the Property which Buyer or any of its agents or contractors discovers in connection with this Offer so long as such condition is not actually created or caused by Buyer, its agents, or contractors.

19. Counterparts. The Offer, acceptance thereof or any amendments/counteroffers with respect thereto maybe signed in counterpart and transmission by facsimile or other form of electronic transmission of executed copies of the Offer or such other documents (e.g., PDF) shall be deemed delivery and such copies shall be deemed executed originals of the Offer or such other documents.

20. Assignment. Buyer may not assign this Offer without the prior written consent of Seller, provided, however that Buyer shall have the right to assign Buyer's interest in this Offer to an affiliate of Buyer without obtaining the prior written consent of Seller upon notice to Seller of such affiliate assignment. The Buyer acknowledges and agrees that any assignment of this Offer shall not serve to release Buyer from the obligations herein.

21. Closing Statement. If any errors or omissions are made at closing with regard to the preparation of the closing statement, the terms and conditions of other closing documents or the failure to have executed and delivered a document or instrument called for by the Offer, Seller and Buyer shall make the appropriate corrections and payments due and owing to each other resulting therefrom, or execute and deliver such required documents or instruments, promptly after the discovery of any such error or omission.

22. Miscellaneous. In the event this Offer terminates prior to the closing occurring, the Buyer will provide at the request of the Seller copies of any final third party inspection, testing, or sampling reports which Buyer has received from its engineering consultants. Buyer may redact, exclude, or remove from any such reports any privileged information or any information concerning any parent or affiliate of Buyer. In addition, Buyer is not obligated to provide any market or business feasibility reports or information, market or business assessment reports or information, market study reports or information, or any similar reports or information to Seller. Sellers and Buyer agree that by signing below on this Addendum they are agreeing to be bound to the terms of the Form Offer and this Addendum and that no actual signatures or initials are required on the Form Offer.

23. Brokers.

a. At the closing the Seller will pay Summit Commercial Industrial Properties, LLC (the "Cooperating Broker") two percent (2%) of the sales price. At closing the Seller will pay Endland Properties Group, LLC (the "Principal Broker") all commissions owed to the Principal Broker in connection with the transaction contemplated by this Agreement. Seller shall be solely responsible for any commissions owed to Principal Broker due to the transactions contemplated hereby and will enter into an agreement, as to the amount of the commission owed Principal Broker, with Principal Broker prior to closing. The Seller will cause the Principal Broker to deliver at the closing a complete waiver of broker lien rights with respect to the Property.

b. The Seller represents and warrants to Buyer that, other than the Principal Broker and the Cooperating Broker Seller has not dealt with or engaged any other broker or finder in connection with the purchase and sale of the Property to which any commission or fee could be owed on account of this transaction. Buyer represents and warrants to Seller that, other than the Cooperating Broker and the Principal Broker, Buyer has not dealt with or engaged any other broker or finder in connection with the purchase and sale of the Property to which any commission or fee could be owed on account of this transaction. Seller shall indemnify, defend, and hold harmless the Buyer from and against any breach by Seller of Section 23(a) above and from and against any claim for commission arising from this transaction brought by any agent or broker claiming same through or under the Seller. Buyer shall indemnify, defend, and hold harmless the Seller from and against any claim for commission arising from this transaction brought by any agent or broker, other than the Cooperating Broker or Principal Broker, claiming through or under Buyer.

24. Sales Price. Despite anything in Section 3 of the Form Offer to the contrary, the sales price paid at closing will be the sales price determined under Section 3.B of the Form Offer rather than the price shown in Section 3.A of the Form Offer.

[Signature Page Follows]

This Offer has been signed by the Buyer as of the date first written above in this Addendum:

BUYER:

KR Acquisitions LLC

By: Todd R. Nelson
Name: Todd R. Nelson
Title: Manager

This Offer is accepted by the Seller as of the date written below:

SELLER:

Bison Tract 79, Ltd.

By: MP Commercial Partners, LLC, its
general partner

By: Steve Malachowski
Name: Steve Malachowski
Title: Managing Member
Date: 10/30/15

EXHIBIT A TO ADDENDUM

Documents

1. Any leases affecting the Property and any material correspondence related to any leases affecting the Property.
2. Copies of any notices received in connection with any purported or actual violation at the Property of any legal requirement.
3. All material documents in the possession or control of Seller relating to status or condition of the Property.
4. All reports (listed below) in the possession or control of the Seller relating to the Property (the "Reports"):
 - a. engineering
 - b. geotechnical
 - c. environmental
 - d. boundary surveys or other land surveys
 - e. zoning
 - f. and other similar studies



TEXAS ASSOCIATION OF REALTORS® RESIDENTIAL LEASE AGREEMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
©Texas Association of REALTORS®, Inc. 1997

NOTICE:

Landlord's broker, Capital Leasing (license # 0464388 0), ☐ will ~~XX~~ will not act as the property manager.
Future inquiries about this lease, rental payments, and security deposits should be directed to ☐ Landlord's broker ☒ Landlord.
Landlord's broker ☐ does ~~XX~~ does not have authority to bind Landlord to this Lease under another agreement or power of attorney.

- PARTIES:** The parties to this agreement (Lease) are the owner of the Property Bison Building Materials, LTD.
(Landlord) and Ruth Anne McCune & Marvin McCune
(Tenant).
- PROPERTY:** Landlord leases to Tenant that certain real property known as 3301 Palm Valley Blvd.
(address) Williamson County (city) Texas (zip code)
or as described on attached exhibit together with all its improvements including the following non-real estate items _____
(the Property)
also described as (legal description recommended if lease is for one year or more): _____
- TERM:** This Lease commences on 5/01/02 (Commencement Date) and ends on 7/31/02 (Termination Date).
- AUTOMATIC RENEWAL AND NOTICE OF TERMINATION:** This lease will automatically renew on a month-to-month basis unless either party provides the other party written notice of termination at least thirty (30) days before the Termination Date or the end of any renewal period. VERBAL NOTICE IS NOT SUFFICIENT UNDER ANY CIRCUMSTANCES. If this Lease is automatically renewed on a month-to-month basis, either party may terminate the renewal of this Lease by providing written notice to the other party and the renewal will terminate:
 - ☐ A. on the last day of the month in which the notice is given if notice is given on the first day of the month. If the notice is given on a day other than the first day of the month, the renewal will terminate on the last day of the month following the month in which the notice is given.
 - ☒ B. on the date designated in the notice but not sooner than thirty (30) days after the notice is given and, if necessary, rent will be prorated on a daily basis.

60 days

If neither of the above choices is checked, box A will be deemed checked. Time is of the essence for providing notice of termination (strict compliance with dates by which notice must be provided is required).
- RENT:**
 - Monthly Rent:** Tenant will pay monthly rent in the amount of \$750.00 for each full month during this Lease. The first full month's rent is due and payable no later than 4/15/02. Thereafter, Tenant will pay the monthly rent on or before the first day of each month during this Lease. Weekends and holidays do not delay or excuse Tenant's obligation to timely pay rent.
 - Prorated Rent:** Tenant will pay as prorated rent from the Commencement Date to the first day of the following month the sum of \$0.00 on or before _____.
 - Place of Payment:** Tenant will pay all rent to Bison Building Materials, LTD. (name of payee) at PO Box 19849 (address) in Houston (city) Texas (state) 77224 (zip) or at such other place as Landlord may designate from time to time in writing.
 - Method of Payment:** Tenant must pay all rent timely and without demand, deduction, or offset, except as permitted by this Lease. Time is of the essence for the payment of rent (strict compliance with rental due dates is required). Tenant must pay all rent by check, money order, cashier's check, or other means acceptable to Landlord. If multiple Tenants occupy the

(TAR-2001) 10-01-97 Initialed for Identification by Tenants: R A M and Landlord: [Signature]

Page 1 of 8

Residential Lease concerning 3301 Palm Valley Blvd.

Property, Landlord may require Tenants to pay monthly rents by one check or draft. By providing written notice to Tenant, Landlord may require Tenant to pay the amounts due under this Lease by certified funds.

- E. Common Areas: Landlord is not obligated to pay any non-mandatory or user fees for Tenant's use of any common areas or facilities (such as pool or tennis courts).
- F. Rent Increases: There will be no rent increases through the Termination Date. If this Lease is renewed automatically on a month-to-month basis, Landlord may increase the rent during the renewal period by providing written notice to Tenant that becomes effective the month following the 30th day after the notice is provided.
6. LATE CHARGES: If Tenant fails to timely pay any month's rent, Tenant will pay Landlord an initial late charge of \$25.00 plus additional late charges of \$5.00 per day thereafter until rent is paid in full. If Landlord receives the monthly rent by the 5th day of the month, Landlord will waive the late charges for that month. Any waiver of late charges under this paragraph will not affect or diminish any other right or remedy Landlord may exercise for Tenant's failure to timely pay rent (including reporting late payments to consumer reporting agencies).
7. RETURNED CHECKS: Tenant will pay \$25.00 (not to exceed \$25) for each check Tenant tenders to Landlord which is returned by the institution on which it is drawn for any reason, plus initial and additional late charges until Landlord has received payment.
8. APPLICATION OF FUNDS: Landlord will apply all funds received from Tenant first to any non-rent obligations of Tenant including late charges, returned check charges, charge-backs for repairs, brokerage fees, and periodic utilities, then to rent regardless of any notations on a check.
9. PETS: THERE WILL BE NO PETS, unless authorized by a separate written pet agreement. Tenant must not permit any pet, including mammals, reptiles, birds, fish, rodents, or insects on the Property, even temporarily, unless otherwise agreed by a separate written pet agreement. If Tenant violates the pet restrictions of this Lease, Tenant will pay Landlord a fee of \$0.00 per day per pet for each day Tenant violates the pet restrictions as additional rent for any unauthorized pet. Landlord may remove or cause to be removed any unauthorized pet and deliver it to appropriate local authorities by providing at least 24-hour written notice to Tenant of Landlord's intention to remove the unauthorized pet. Landlord will not be liable for any harm, injury, death, or sickness to any unauthorized pet. Tenant is responsible and liable for any damage or required cleaning to the Property caused by any unauthorized pet and for all costs Landlord may incur in removing or causing any unauthorized pet to be removed.
10. DELAY OF OCCUPANCY: If Tenant is unable to occupy the Property on the Commencement Date because of construction on the Property or a prior tenant's holding over of the Property, Landlord will not be liable to Tenant for such delay and this Lease will remain enforceable. Landlord will abate rent on a daily basis during any delay. If Tenant is unable to occupy the Property after the third (3rd) day after the Commencement Date because of construction on the Property or a prior tenant's holding over of the Property, Tenant may terminate this Lease by giving written notice to Landlord before the Property becomes available to be occupied by Tenant, and Landlord will refund to Tenant the security deposit and any rent paid. These conditions do not apply to any delay in occupancy caused by cleaning or repairs.
11. SECURITY DEPOSIT:
- A. Security Deposit: Upon execution of this Lease, Tenant will pay a security deposit to Landlord in the amount of \$750.00. "Security deposit" has the meaning assigned to that term in §92.102 of the Texas Property Code. No interest will be paid to Tenant on the security deposit. Landlord may place the security deposit in an interest bearing account and any interest earned will be paid to Landlord or Landlord's representative. Notice: §92.108 of the Texas Property Code provides that Tenant may not withhold payment of any portion of the last month's rent on grounds that the security deposit is security for unpaid rent. Bad faith violations of §92.108 may subject Tenant to liability up to three times the rent wrongfully withheld and the Landlord's reasonable attorney's fees.
- B. Refund: Subchapter C of Chapter 92 of the Texas Property Code governs the obligations of the parties regarding the security deposit. Tenant must give Landlord at least thirty (30) days written notice of surrender before Landlord is obligated to refund or account for the security deposit. Notice: The Texas Property Code does not obligate Landlord to return or account for the security deposit until 30 days after Tenant surrenders the Property (vacating and returning all keys and access devices) and gives Landlord a written statement of Tenant's forwarding address.
- C. Deductions:
- (1) Landlord may deduct reasonable charges from the security deposit for:
- (a) unpaid or accelerated rent;

(TAR-2001) 10-01-97 Initialed for Identification by Tenants: LP Q M and Landlord: RS

Residential Lease concerning 3301 Palm Valley Blvd.

- (b) late charges;
- (c) unpaid utilities;
- (d) costs of cleaning, deodorizing, and repairing the Property and its contents for which Tenant is responsible;
- (e) pet violation charges;
- (f) replacing unreturned keys, garage door openers or other security devices;
- (g) the removal of unauthorized locks or fixtures installed by Tenant;
- (h) insufficient light bulbs;
- (i) packing, removing, and storing abandoned property;
- (j) removing abandoned or illegally parked vehicles;
- (k) costs of reletting, if Tenant is in default;
- (l) attorney fees and costs of court incurred in any proceeding against Tenant;
- (m) any fee due for early removal of an authorized keybox; and
- (n) other items tenant is responsible to pay under this Lease.

(2) If deductions exceed the security deposit, Tenant will pay to Landlord the excess within ten (10) days after Landlord makes written demand. The security deposit will be applied first to any non-rent items, including late charges, returned check charges, repairs, brokerage fees, and periodic utilities, then to any unpaid rent.

12. **UTILITIES:** Tenant will pay all connection fees, service fees, usage fees, and all other costs and fees for all utilities to the Property (for example, electricity, gas, water, wastewater, garbage, telephone, alarm monitoring systems, and cable television) except the following which will be paid by Landlord: None

Unless provided by Landlord, Tenant must, at a minimum, keep the following utilities on (if available) at all times this Lease is in effect: gas; electricity; water; wastewater; and garbage services. If Tenant fails to do so, Tenant will be in default.

13. **USE AND OCCUPANCY:**

A. **Occupant:** Tenant may use the Property as a private dwelling only. If Tenant fails to occupy and take possession of the Property within five (5) days of the Commencement Date, Tenant will be in default. The only persons Tenant may permit to reside in the Property during the term of this Lease will be (include names of all occupants): Ruth Anne McCune, Marvin McCune, Annette McCune, Michele McCune, Morgan Sprinkle and Adam Sprinkle. Tenant must promptly inform Landlord of any changes in Tenant's phone numbers (home or work) no later than five (5) days of any change. Tenant must comply with any owners' association rules or restrictive covenants affecting the Property. Tenant will pay any fines or other charges assessed against Tenant or Landlord for violations by Tenant of any owners' association rule or restrictive covenant.

B. **Prohibitions:** Tenant may not permit any part of the Property to be used for:

- (1) any activity which is a nuisance, offensive, noisy, or dangerous;
- (2) the repair of any vehicle;
- (3) any business of any type, including child care;
- (4) any activity which violates any applicable owners' association rule or restrictive covenant;
- (5) any illegal or unlawful activity; or
- (6) other activity which will obstruct, interfere with, or infringe on the rights of other persons near the Property.

C. **Guests:** Tenant may not permit any guest to stay on or in the Property longer than the lesser of:

- (1) the amount of time permitted by any owners' association rule or restrictive covenant; or
- (2) 14 days without Landlord's written permission.

14. **VEHICLES:** Tenant may not permit more than 8 vehicles (including but not limited to automobiles, trucks, recreational vehicles, trailers, motorcycles, and boats) on the Property unless authorized by Landlord in writing. Tenant may not park any vehicles in the yard. Tenant may not store any vehicles on or adjacent to the Property or on the street in front of the Property. Landlord may tow, at Tenant's expense, any improperly parked or inoperative vehicle on or adjacent to the Property in accordance with applicable state and local laws.

15. **ACCESS BY LANDLORD:** Landlord may prominently display a "For Sale" or "For Lease" or similarly worded sign on the Property during the term of this Lease or any renewal period. If Tenant fails to permit reasonable access under this paragraph, Tenant will be in default. Landlord or anyone authorized by Landlord may enter the Property by reasonable means at reasonable times without notice to:

- A. inspect the Property for condition;
- B. make repairs;

(TAR-2001) 10-01-97 Initialed for Identification by Tenants LPQW and Landlord BS

Residential Lease concerning 3301 Palm Valley Blvd.

- C. show the Property to prospective tenants, prospective purchasers, inspectors, fire marshals, lenders, appraisers, or insurance agents;
- D. exercise a contractual or statutory lien;
- E. leave written notices; or
- F. seize nonexempt property after default.

16. KEYBOX AUTHORIZATION:

A. NOTICE: A keybox is a locked container in which a key to the Property is placed. The keybox may be placed on the Property and opened with a special key, combination, or electronic card. Keyboxes make it more convenient for the Property to be shown or repaired. All persons who have the special keys, combinations, or cards may have access to the Property. The use of a keybox involves risk (such as unauthorized entry, property damage, or personal injury). If a keybox is authorized Tenant should: (i) safeguard and/or remove all jewelry and valuables; (ii) discuss advantages and disadvantages of the keybox with real estate professionals, insurance agents, or attorneys; and (iii) obtain personal property insurance. *Check one:*

☐ (1) Tenant authorizes Landlord, Landlord's property manager, and Landlord's broker to place a keybox with a key on the Property during the last _____ days of this Lease or any renewal.

☒ (2) Tenant does not authorize a keybox to be placed on the Property.

B. If a keybox is authorized, Tenant may withdraw Tenant's authorization to place a keybox on the Property by providing written notice to Landlord and paying Landlord a fee of _____ N/A as consideration for the withdrawal. Landlord will remove the keybox within a reasonable time after receipt of the notice of withdrawal and the required fee.

C. Landlord, Landlord's property manager, and Landlord's broker are not responsible to Tenant, Tenant's guests, family, or occupants for any damages, injuries, or losses arising from use of the keybox unless caused by the negligence of Landlord, Landlord's property manager, or Landlord's broker. Tenant assumes all risk of any loss, damage, or injury.

17. MOVE-IN CONDITION: Tenant has inspected and accepts the Property AS IS except for conditions materially affecting the safety or health of ordinary persons or unless expressly noted otherwise in this Lease. Landlord has made no express or implied warranties as to the condition of the Property and no agreements have been made regarding future repairs unless specified in this Lease. Tenant will complete an Inventory and Condition Form, noting any defects or damages to the Property, and deliver it to Landlord within 48 hours after the Commencement Date. Tenant's failure to timely deliver the Inventory and Condition Form will be deemed as Tenant's acceptance of the Property in a clean and good condition. The Inventory and Condition Form is not a request for maintenance or repairs. Tenant must direct all requests for repairs in compliance with paragraph 20.

18. MOVE-OUT CONDITION AND FORFEITURE OF TENANT'S PERSONAL PROPERTY: Tenant will surrender the Property in the same condition as when received, normal wear and tear excepted. "Normal wear and tear" means deterioration that occurs without negligence, carelessness, accident, or abuse. Tenant will leave the Property in a clean condition free of all trash, debris, and any personal property or belongings. If Tenant leaves any personal property or belongings in the Property after Tenant surrenders possession of the Property, all such personal property or belongings will be forfeited to and become the property of Landlord. "Surrender" means vacating the Property and returning all keys and access devices to Landlord.

19. PROPERTY MAINTENANCE:

A. Tenant's General Responsibilities: Tenant, at Tenant's expense must:

- (1) keep the Property clean and sanitary;
- (2) promptly dispose of all garbage in appropriate receptacles;
- (3) supply and change heating and air conditioning filters at least once a month;
- (4) supply and replace light bulbs and smoke detector batteries;
- (5) promptly eliminate any dangerous condition on the Property caused by Tenant or Tenant's guests;
- (6) take precautions to prevent broken water pipes due to freezing;
- (7) replace any lost or misplaced keys;
- (8) pay any periodic, preventive, or additional extermination costs desired by Tenant; and
- (9) promptly notify Landlord of all needed repairs.

B. Yard Maintenance: ☐ Landlord ☒ Tenant is responsible for all yard maintenance and will use reasonable diligence in maintaining the yard. "Yard" means all lawns, shrubbery, bushes, flowers, gardens, trees, rock or other landscaping, and other foliage on or encroaching on the Property or on any easement appurtenant to the Property, and does not include common areas maintained by an owners' association. "Yard maintenance" means such things as, but is not limited to mowing, fertilizing, trimming, and control of yard pests. Landlord, at Landlord's discretion, will be responsible for treatment

(TAR-2001) 10-01-97 Initialed for Identification by Tenants: LP and Landlord: CB

Computer generated using AutoContract™ v4.11 software, from AutoRealty Products, Inc., 1080 W. Pipeline, Suite 101, Houston, TX 77053, (800) 422-1178
The installation of AutoContract™ is licensed for use to: Joellen Meyers, and is not transferable. Use by others is a violation of federal copyright law under Title 17 U.S.C. §101.

Page 4 of 8

C:\Program Files\AutoContract\AutoContract.d
Printed 04-04-2001

for wood-destroying insects, if any. If Landlord maintains the yard, Tenant will permit Landlord and Landlord's contractors reasonable access to all parts of the yard and will remove any pet from the yard at appropriate times. Tenant will water the yard at reasonable and appropriate times.

- C. Pool or Spa Maintenance: ☐ Landlord ☒ Tenant is responsible for all pool or spa maintenance and will use reasonable diligence in maintaining the pool or spa. "Pool or spa maintenance" means cleaning, sweeping, and applying appropriate chemicals. Tenant will maintain proper water heights in the pool or spa. If Landlord maintains the pool or spa, Tenant will permit Landlord and Landlord's contractors reasonable access to the pool or spa and will remove any pet in the yard in which the pool or spa is located at appropriate times.
- D. Prohibitions: If Tenant installs any fixtures on the Property, authorized or unauthorized, such as additional smoke detectors, locks, alarm systems, cables, or other fixtures, such fixtures will become the property of the Landlord. Except as otherwise permitted by law, this Lease, or in writing by Landlord, Tenant may NOT:
- (1) remove any part of the Property or any of Landlord's personal property from the Property;
 - (2) remove, change, or rekey any lock;
 - (3) make holes in the woodwork, floors, or walls, except that a reasonable number of small nails may be used to hang pictures in sheetrock and grooves in paneling;
 - (4) permit any water furniture on the Property;
 - (5) install new or additional telephone or television cables, outlets, antennas, satellite receivers, or alarm systems;
 - (6) replace or remove carpet, paint, or wallpaper;
 - (7) install or change any fixture;
 - (8) keep or permit any hazardous material on the Property such as flammable or explosive materials which might cause fire or extended insurance coverage to be suspended or canceled or any premiums to be increased;
 - (9) dispose of any environmentally detrimental substance (e.g., motor oil or radiator fluid) on the Property;
 - (10) cause or allow any mechanic's or materialman's lien to be filed against any portion of the Property or Tenant's interest in this Lease.

20. REPAIRS:

- A. Repairs to be Paid by Tenant: Tenant will pay Landlord or any repairman Landlord directs Tenant to pay the cost to repair:
- (1) a condition caused by Tenant, an occupant, a member of Tenant's family, or a guest or invitee of Tenant;
 - (2) damage from wastewater stoppages caused by foreign or improper objects in lines that exclusively service the property;
 - (3) damage to doors, windows, or screens; and
 - (4) damage from windows or doors left open.
- B. Repairs to be Paid by Landlord: Landlord will pay the cost to repair:
- (1) a condition caused by the Landlord or the negligence of the Landlord;
 - (2) wastewater stoppages or backups caused by deterioration, breakage, roots, ground condition, faulty construction, or malfunctioning equipment; and
 - (3) a condition that is not Tenant's obligation to pay under paragraph 20A and that adversely affects the health or safety of an ordinary tenant.
- C. Items Not to be Repaired: Landlord does not warrant and will not repair or replace the following:
House is leased "as is, where is"
- D. All other repairs: Except for repairs under paragraphs 20A, 20B, and 20C, Tenant will pay Landlord or any repairman Landlord directs Tenant to pay, the first \$1,000.00 of the cost to repair any condition in need of repair, and Landlord will pay the remainder.
- E. Repair Requests and Completion of Repairs: Subchapter B of Chapter 92 of the Texas Property Code governs the rights and obligations of the parties regarding repairs. All requests for repairs must be in writing and delivered to Landlord. Tenant may not repair or cause to be repaired any condition, regardless of the cause, without Landlord's permission. All decisions regarding repairs, including the completion of any repair, whether to repair or replace the item, and the selection of repairmen, will be at Landlord's sole discretion. Landlord is not obligated to complete a repair on a day other than a business day unless required to do so by the Property Code. Landlord may require advance payment of repairs for which Tenant is liable. If Tenant fails to promptly reimburse Landlord any repair costs that Tenant is obligated to pay, Tenant will be in default. If Tenant is delinquent in rent at the time the repair notices are given, Landlord is not obligated to make the repairs.

(TAR-2001) 10-01-97 Initialed for Identification by Tenants: [Signature] and Landlord: [Signature]

- F. Trip Charges: If Landlord or a repair person is unable to access the Property after making arrangements with Tenant to complete the repair, Tenant shall pay any trip charges incurred.

21. SECURITY DEVICES AND EXTERIOR DOOR LOCKS:

- A. Subchapter D of Chapter 92 of the Texas Property Code requires the Property to be equipped with certain types of locks and security devices and will govern the rights and obligations of the parties regarding security devices. "Security device" has the meaning assigned to that term in §92.151 of the Texas Property Code. All notices or requests by Tenant for rekeying, changing, installing, repairing, or replacing security devices must be in writing. Installation of additional security devices or additional rekeying or replacement of security devices desired by Tenant will be paid by Tenant in advance and may only be installed by Landlord or Landlord's contractors after receiving a written request from Tenant.

- B. If required by Subchapter D of Chapter 92 of the Texas Property Code, Landlord has rekeyed the security devices on the Property since the date the last tenant vacated the Property or will rekey the security devices no later than seven (7) days after Tenant moves into the Property.

22. SMOKE DETECTORS: Subchapter F of Chapter 92 of the Texas Property Code requires the Property to be equipped with smoke detectors in certain locations and will govern the rights and obligations of the parties regarding smoke detectors. Requests for additional installation, inspection, or repair of smoke detectors must be in writing. Disconnecting or intentionally damaging a smoke detector or removing a battery without immediately replacing it with a working battery may subject Tenant to civil penalties and liability for damages and attorney fees under §92.2611 of the Texas Property Code.

23. LIABILITY: Unless caused by Landlord's negligence, Landlord is NOT responsible to Tenant, Tenant's guests, family, or occupants for any damages, injuries, or losses to person or property caused by fire, flood, water leaks, ice, snow, hail, winds, explosion, smoke, interruption of utilities, theft, burglary, robbery, assault, vandalism, other persons, condition of the Property, environmental contaminants (e.g., carbon monoxide, asbestos, radon, lead-based paint, etc.), or other occurrences or casualty losses. Tenant will promptly reimburse Landlord for any loss, property damage, or cost of repairs or service to the Property caused by the negligence or by the improper use by Tenant, Tenant's guests, family, or occupants. NOTICE: Tenant should secure Tenant's own insurance coverage for protection against such liabilities and losses.

24. DEFAULT AND ACCELERATION OF RENTS: If Landlord breaches this Lease, Tenant may seek any relief provided by law. If Tenant fails to timely pay all rents due under this Lease or otherwise fails to comply with this Lease, for any reason, Tenant will be in default and Landlord may terminate Tenant's right to occupy the Property by providing Tenant with at least three (3) days written notice. Notice may be by any means permitted by §24.005 of the Texas Property Code (such as mail, personal delivery, affixing notice to inside of main door). If Tenant breaches this Lease, all rents which are payable during the remainder of this Lease or any renewal period will be accelerated without notice or demand. Landlord will attempt to mitigate any damage or loss caused by Tenant's breach by attempting to relet the Property to acceptable tenants and reducing Tenant's liability accordingly. Unpaid rent and unpaid damages are reportable to credit reporting agencies. If Tenant breaches this Lease, Tenant will be liable for:

- A. any lost rent;
- B. Landlord's cost of reletting the Property including brokerage fees, advertising fees, and other fees necessary to relet the Property;
- C. repairs to the Property for use beyond normal wear and tear;
- D. all Landlord's costs associated with eviction of Tenant, such as attorney's fees, court costs, and prejudgment interest;
- E. all Landlord's costs associated with collection of rent such as collection fees, late charges, and returned check charges; and
- F. any other recovery to which Landlord may be entitled by law.

25. ABANDONMENT: If Tenant abandons the Property, Tenant will be in default. "Abandon" means Tenant fails to comply with any provision of this Lease and is absent from the Property for five (5) consecutive days.

26. HOLDOVER: If Tenant fails to vacate the Property on or before the Termination Date of this Lease or at the end of any renewal period, Tenant will pay rent for the holdover period and indemnify Landlord and/or prospective tenants for damages, including lost rent, lodging expenses, and attorneys' fees. In the event of holdover, Landlord at Landlord's option may extend this Lease up to one month by notifying Tenant, in writing. Rent for any holdover period will be two (2) times the monthly rent calculated on a daily basis and will be immediately due and payable daily without notice or demand.

27. RESIDENTIAL LANDLORD'S LIEN: Landlord will have a lien for unpaid rent against all of Tenant's nonexempt personal property that is in the Property and may seize such nonexempt property if Tenant fails to pay rent. Subchapter C of Chapter 54 of the Property Code governs the rights and obligations of the parties regarding Landlord's lien. Landlord may collect a charge for

Residential Lease concerning 3301 Palm Valley Blvd.

packing, removing, or storing property seized in addition to any other amounts Landlord is entitled to receive. Landlord may sell or dispose of any seized property in accordance with the provisions of §54.045 of the Texas Property Code.

28. **ASSIGNMENT AND SUBLETTING:** Tenant may not assign or sublet the Property without Landlord's written consent. An assignment or subletting of the Property without Landlord's written consent is voidable by Landlord. Under no circumstances will Tenant be released from Tenant's obligations in this Lease by virtue of an assignment or sublease.

29. **SUBORDINATION:** This Lease and Tenant's leasehold interest are and will be subject, subordinate, and inferior to:

- A. any lien or encumbrance now or hereafter placed on the Property by Landlord;
- B. all advances made under any such lien or encumbrance;
- C. the interest payable on any such lien or encumbrance;
- D. any and all renewals and extensions of any such lien or encumbrance;
- E. any restrictive covenant; and
- F. the rights of any owners' association affecting the Property.

NOTICE: Landlord's broker or any other broker to this transaction has NOT received any notice nor has any knowledge that Landlord is delinquent in payment of any lien against the Property or that the Property is posted for foreclosure.

30. **CASUALTY LOSS OR CONDEMNATION:** Section 92.054 of the Texas Property Code governs the rights and obligations of the parties regarding any casualty loss to the Property. Any proceeds, payment for damages, settlements, awards, or other sums paid because of a casualty loss to the Property will be the sole property of Landlord. For the purpose of this Lease, any condemnation of all or a part of the Property is a casualty loss.

31. **MILITARY:** If Tenant is or becomes a member of the Armed Forces on active duty and receives change of station orders to leave the county in which the Property is located and Tenant is not in default of this Lease, Tenant may terminate this Lease by giving Landlord thirty (30) days written notice and a certified copy of the military orders. Military orders authorizing base housing do not constitute grounds for termination unless specifically waived.

32. **SPECIAL PROVISIONS:**

House is leased in "as is" condition without any expressed or implied warranty.

If children are cared for on the property, they must be the children of family members or family friends. Landlord and landlord's representatives recommend no child care on the property and are specifically excluded from any liability issues arising from any child care activity on the property.

Tenant acknowledges that rural lands and homes thereupon may by their very nature pose dangers for children and adults.

Therefore, landlord shall not be liable for any situation or problem which is not caused as a direct result of landlord's gross negligence.

33. **ATTORNEY'S FEES:** Any person who is a prevailing party in any legal proceeding brought under or related to the transaction described in this Lease is entitled to recover prejudgment interest, attorney's fees, and all other costs of litigation from the nonprevailing party.

34. **REPRESENTATIONS:** Tenant's statements in this Lease and any Application for Rental are material representations relied upon by Landlord. Each party signing this Lease states that he or she is of legal age to enter into a binding contract. If Tenant makes any misrepresentation in this Lease or in any Application for Rental, Tenant is in default.

35. **ADDENDA:** Incorporated into this Lease are the following addenda or other information:

- ☒ A. Addendum Regarding Lead-Based Paint;
- ☐ B. Landlord's Rules and Regulations or Instructions;
- ☐ C. Owners' Association Rules;
- ☒ D. Pet Agreement;
- ☐ E. Application for Rental;
- ☐ F. Lease Guaranty;
- ☐ G. Agreement Between Brokers;
- ☐ H. Inventory and Condition Form;
- ☒ I. (Other) Pamphlet: "Protect Your Family From Lead In Your Home"

(TAR-2001) 10-01-97 Initialed for Identification by Tenants, LS Q M and Landlord Q B

Computer generated using AutoContract™ v4.11 software, from AutoRealty Products, Inc., 1050 W. Pipeline, Suite 101, Rowlett, TX 75085, (800) 622-1178
As installed on AutoContract™ is licensed for use to: Joellen Meyers, and is not transferable. Use by others is a violation of federal copyright law under Title 17 U.S.C. §101.

Page 7 of 8

C:\Program Files\AutoWin\WinFile\Unlited
printed 04-04-2002

Residential Lease concerning 3301 Palm Valley Blvd.

36. AGREEMENT OF PARTIES:

- A. Entire Agreement: This Lease contains the entire agreement between Landlord and Tenant and may not be changed except by written agreement.
- B. Binding Effect: This Lease is binding upon and inures to the benefit of the parties to this Lease and their respective heirs, executors, administrators, successors, and permitted assigns.
- C. Joint and Several: All Tenants are jointly and severally liable for all provisions of this Lease. Any act or notice to, or refund to, or signature of, any one or more of the Tenants regarding any term of this Lease, its renewal, or its termination is binding on all Tenants executing this Lease.
- D. Controlling Law: The laws of the State of Texas govern the interpretation, validity, performance, and enforcement of this Lease.
- E. Severable Clauses: Should any clause in this Lease be found invalid or unenforceable by a court of law, the remainder of this Lease will not be affected and all other provisions of this Lease will remain valid and enforceable.
- F. Waiver: Landlord's past delay, waiver, or non-enforcement of acceleration, contractual or statutory lien, rental due date, or any other right will not be deemed to be a waiver of any other breach by Tenant or any other term, condition, or covenant in this Lease.

37. NOTICES: All notices under this Lease must be delivered to Tenant at the Property address and to Landlord or Landlord's representative at:

- ☒ A. the address specified in paragraph 5(c);
☐ B. _____

The terms of this Lease are negotiable among the parties. This is intended to be a legal agreement binding upon final acceptance. READ IT CAREFULLY. If you do not understand the effect of this Lease, consult your attorney BEFORE signing.

<u>Bison Brumana Investments Ltd</u> Landlord	<u>Marvin McCune</u> Date	<u>Ruth Anne McCune & Marvin McCune</u> Tenant	<u>4-5-02</u> Date
<u>4/10/02</u> Date	<u>Beth Anne McCune</u> Tenant	<u>4-5-02</u> Date	
By <u>[Signature]</u> as <u>President</u> for Landlord	Tenant	Tenant	Date



TEXAS ASSOCIATION OF REALTORS® PET AGREEMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
©Texas Association of REALTORS®, Inc. 1997

ADDENDUM TO RESIDENTIAL LEASE AGREEMENT CONCERNING THE PROPERTY AT 3301 Palm Valley Blvd.

Williamson County (city) Texas (street address)
Bison Building Materials, LTD. (Landlord) and Ruth Anne McCune & Marvin McCune (zip code) between
1 (Tenant).

A. **CONDITIONAL AUTHORIZATION:** Landlord authorizes Tenant to keep any pet described in paragraph B of this Pet Agreement on the above-referenced Property until the above-referenced Lease (the Lease) terminates. Landlord, in Landlord's sole discretion, may terminate this authorization at any time if Tenant's right of occupancy is lawfully terminated or if Tenant, Tenant's guest, or other occupant violates the pet rules described in paragraph E of this Pet Agreement.

B. **DESCRIPTION OF PET:** No pet, including mammals, reptiles, birds, fish, rodents, or insects, may be kept on the Property unless it is specifically described in this paragraph.

Type: Dog Breed: Blue Heeler Color: _____
Weight: _____ Age: _____ Gender: _____
Neutered? Yes Declawed? _____ Name of Pet: _____
Name of Owner: Marvin & Ruth Anne McCune Rabies Shot Current?: _____

Type: Dog Breed: Mixed Color: _____
Weight: _____ Age: _____ Gender: _____
Neutered? Yes Declawed? _____ Name of Pet: _____
Name of Owner: Marvin & Ruth Anne McCune Rabies Shot Current?: _____

Other (e.g. fish, birds, reptiles, etc.) and explain manner in which kept: _____

C. **CONSIDERATION:** In consideration for Landlord's authorization to Tenant to keep any pet described in paragraph B on the Property, (Check (1), (2), or (3), or any combination):

☒ (1) Tenant will pay to Landlord an additional amount of \$0.00 upon execution of this Pet Agreement as an increase in the security deposit. The increase in the security deposit is not refundable prior to the surrender of the Property by all Tenants, even if the pet has been removed. Refund of the security deposit is subject to all of the terms and conditions set forth in the Lease.

☒ (2) the total monthly rent in the Lease is increased to \$750.00.

☒ (3) Tenant will pay to Landlord a non-refundable fee in the amount of \$0.00 upon execution of this Pet Agreement.

D. **LIABILITY:** Tenant is responsible and liable for any damage to the Property caused by any pet. Tenant will pay all reasonable and necessary costs to clean, deodorize, deflea, and repair the carpets, doors, walls, draperies, wallpaper, windows, screens, furniture, appliances, sod, fences or walls, landscaping, and any other part of the Property. Tenant is liable for any personal injuries or property damage to others caused by any pet. Tenant indemnifies and holds Landlord harmless for all damages, costs of litigation, and attorney's fees for any action brought by any person against Landlord related to any act of any pet. Each Tenant who signs this Pet Agreement is jointly and severally liable for any damages or obligations under this Pet Agreement, regardless of who owns the pet(s).

(TAR-2004) 10-01-97 Initialed for Identification by Tenants: LA, RM and Landlord: RA

Pet Agreement Concerning 3301 Palm Valley Blvd.

(Property Address)

E. PET RULES: Tenant is responsible for all actions of the pet(s) and will abide by the following.

- (1) No pet may disturb the rights, comforts, or conveniences of other persons near the Property.
- (2) When outside, any pet must be confined by fences or leashes under Tenant's supervision at all times.
- (3) No pet may be tied to any fixed object on the Property.
- (4) Tenant must promptly remove any pet waste from the Property including the yard.
- (5) Tenant must immediately remove any pet offspring from the Property.
- (6) Any pet, other than a dog or cat, must be caged at all times.
- (7) Tenant must comply with all applicable statutes, ordinances, restrictions, owners' association rules, and other enforceable regulations regarding pets in effect or as amended.
- (8) Tenant must keep rabies shot current.
- (9) Tenant must abide by any amendment to these pet rules after Landlord provides written notice of such amendment to Tenant.

F. VIOLATION OF PET RULES: If any pet rule or any provision of this Pet Agreement is violated by Tenant, Tenant's guests, or other occupants, Tenant will, upon receiving written notice from Landlord, immediately and permanently remove all pets from the Property. Landlord may remove or cause to be removed any pet which is in violation of this Pet Agreement, not confined, or not authorized by this Pet Agreement and deliver such pet to appropriate local authorities by providing Tenant with at least 24-hour written notice of Landlord's intent to remove the pet. Landlord may report any non-confined or unauthorized pets to the appropriate authorities. Tenant is responsible for any cost incurred by Landlord in removing or causing any pet to be removed. Landlord is not liable or responsible for any harm, injury, sickness or death of any pet which is removed pursuant to this paragraph.

G. ACCESS BY LANDLORD: Tenant must remove or kennel any pet at any time that the pet is likely to limit or prohibit Landlord reasonable access to the Property as authorized by the Lease. During the last 30 days of the Lease or any renewal period, Tenant must remove or kennel any pet that is likely to limit or prohibit the showing of the Property to prospective tenants or purchasers.

H. SPECIAL PROVISIONS:

I. GENERAL: This Pet Agreement contains the entire agreement of the parties and both parties acknowledge that no other oral or written agreements relate to the pet(s). This Pet Agreement may only be modified in writing.

The terms of this Pet Agreement are negotiable among the parties. This is intended to be a legal agreement, binding upon final acceptance. READ IT CAREFULLY. If you do not understand the effect of this Agreement, consult your attorney BEFORE signing.

Brian Brummet-Matthews Ltd
Landlord _____ Date _____

Marvin McCune 4-5-02
Tenant Ruth Anne McCune & Marvin McCune _____ Date _____

4/10/02
Landlord _____ Date _____

Ruth Anne McCune 4-5-02
Tenant _____ Date _____

By [Signature]
as Prattman for Landlord

Tenant _____ Date _____

Tenant _____ Date _____

(TAR-2004) 10-01-97



TEXAS ASSOCIATION OF REALTORS®

ADDENDUM REGARDING LEAD-BASED PAINT

§1018, Residential Lead-Based Paint Hazard Reduction Act
For use in the lease of any residential property built before 1978.

ADDENDUM TO RESIDENTIAL LEASE AGREEMENT CONCERNING THE PROPERTY AT 3301 Palm Valley Blvd.

Williamson County

(city) Texas

(street address)

(zip code)

A. **LEAD WARNING STATEMENT:** Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors (landlords) must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees (tenants) must also receive a federally approved pamphlet on lead poisoning prevention.

B. **DISCLOSURE:**

(1) Presence of lead-based paint and/or lead-based paint hazards: [Check (a) or (b)]

☐ (a) Landlord knows of the following lead-based paint and/or lead-based paint hazards in the Property: _____

☒ (b) Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the Property (This is not a representation that the Property is free of lead-based paint but is only a statement of Landlord's knowledge).

(2) Records and reports available to Landlord: [Check (a) or (b)]

☐ (a) Landlord has provided Tenant with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the Property which are listed here: _____

☒ (b) Landlord has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the Property.

C. **TENANT'S ACKNOWLEDGEMENT:** [Tenant is to initial]

Tenant has received copies of all information listed in Paragraph B(2)(a).

Tenant has received the pamphlet entitled Protect Your Family from Lead in Your Home.

D. **AGENTS' ACKNOWLEDGEMENT:** Broker/Agent(s) have informed the Landlord of the Landlord's obligations under 42 U.S.C. 4852d and are aware of his/her responsibility to ensure compliance. Landlord must provide the tenant with the federally approved pamphlet on lead poisoning prevention, complete this addendum, disclose any known lead-based paint and/or hazard in the Property, and deliver all records and reports to Tenant pertaining to lead-based paint and/or hazards in the Property. [All Brokers/Agents are to initial]

E. **CERTIFICATION OF ACCURACY:** The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Brown Brunswick Management Ltd
Landlord

Date

Landlord

4-10-02

Date

By

as

for Landlord

Ruth Anne McCune
Tenant Ruth Anne McCune

Date

Marvin McCune
Tenant Marvin McCune

Date

Listing Broker/Agent

Date

Other Broker/Agent

Date

(TAR-2008) 10-01-97

Computer generated using AutoContract™ v4.11 software, from AutoRealty Products, Inc., 1050 W. Pipeline, Suite 101, Hurst, TX 76053, (800) 322-1178.
Its installation of AutoContract™ is licensed for use to: Joffen Meyers, and is not transferable. Use by others is a violation of federal copyright law under Title 17 U.S.C. §101.

Page 1 of 1

C:\Program Files\AutoContract\Files\Unfilled
printed 04-04-2002

Received on _____ (date) at _____ (time)



TEXAS ASSOCIATION OF REALTORS® APPLICATION FOR RENTAL

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
©Texas Association of REALTORS®, Inc. 1997.

Property Address _____
Contemplated Lease Term _____ Contemplated Move-In Date _____

How was Applicant referred to Landlord? ☐ Real Estate Company (name and agent's name) _____
at (phone) _____ ☒ Newspaper (name) _____ ☐ Just stopped by ☐ Sign ☐ Other (explain) _____

APPLICANT

1. Name: Marvin McCune
Phone: (h) 218-9131 (wk) 244-1400
Soc. Sec. # 529-50-5637 Date of Birth 4-1-41
Driver Lic. 18639081 State: TX

2. List All Residences For Last 2 Years (start with current residence):

Address: 2290B Misty Morning
City, St, Zip: Round Rock TX 78764
Move-In Date: 2-1-96 Move-Out Date: _____
Landlord or Manager: Craig Anderson
Phone: 713-681-7198 Rent \$ 625

Address _____ Apt. _____
City, St, Zip _____
Move-In Date _____ Move-Out Date _____
Landlord or Manager: _____
Phone: _____ Rent \$ _____

Address _____ Apt. _____
City, St, Zip _____
Move-In Date _____ Move-Out Date _____
Landlord or Manager: _____
Phone: _____ Rent \$ _____

3. Current Employer: J.C. Evans Const, Inc.
Address: Leander TX
Supervisor's Name: Terry Mischek
Phone: 244-1400 Mo. Income: 3000
Position: truck driver
Length of Employment: 5 1/2 yrs.

Previous Employer: Manor Downs
Address: Manor TX
Supervisor's Name: _____
Phone: _____ Mo. Income: _____
Position: Security Guard
Dates of Employment: _____ (begin) _____ (end)

4. Bank at which checking account is located: Regions Bank Phone _____ Acct No. _____
Bank at which savings account is located: Regions Bank Phone _____ Acct No. _____

CO-APPLICANT

1. Name: Ruth Anne McCune
Phone: (h) 218-9131 (wk) same
Soc. Sec. # 512-42-4894 Date of Birth 1-15-42
Driver Lic. 1870176 State: TX

2. List All Residences For Last 2 Years if different from Applicant (start with current residence):

Address _____ Apt. _____
City, St, Zip _____
Move-In Date _____ Move-Out Date _____
Landlord or Manager: _____
Phone: _____ Rent \$ _____

Address _____ Apt. _____
City, St, Zip _____
Move-In Date _____ Move-Out Date _____
Landlord or Manager: _____
Phone: _____ Rent \$ _____

Address _____ Apt. _____
City, St, Zip _____
Move-In Date _____ Move-Out Date _____
Landlord or Manager: _____
Phone: _____ Rent \$ _____

3. Current Employer: Self-employed
Address: _____
Supervisor's Name: _____
Phone: _____ Mo. Income: 1500
Position: daycare provider
Length of Employment: 16 yrs.

Previous Employer: ABC Childcare
Address: Andover KS
Supervisor's Name: _____
Phone: _____ Mo. Income: _____
Position: daycare provider
Dates of Employment: _____ (begin) _____ (end)

Application for Rental Concerning _____

(Property Address) _____

5. Name all other persons who will occupy the Property:

Name Annette McCune Relationship Daughter Age 37
 Name _____ Relationship _____ Age _____
 Name _____ Relationship _____ Age _____

6. Will any waterbeds or water filled furniture be in the Property? ☐ Yes ☒ No
 Will any occupant smoke in the dwelling? ☐ Yes ☒ No Will Applicant maintain a renter's insurance policy? ☐ Yes ☒ No

7. List all vehicles to be parked on the Property (cars, trucks, trailers, recreational vehicles, motorcycles, boats, etc.):
 Type Chevrolet Year 1995 Make Tahoe License No./State F85HRL
 Type _____ Year _____ Make _____ License No./State _____
 Type Ford Year 1985 Make Explorer License No./State WJ06FJ
 Type _____ Year _____ Make _____ License No./State VSP41B

8. Will there be any pets on the Property? ☒ Yes ☐ No Number of Pets 2
 Type: outside dogs Breed: blue heeler, mixture
 Weight: _____ Age: _____ Gender: _____
 Neutered? yes Declawed? _____ Rabies Shot Current? _____
 Other (e.g. fish, birds, reptiles, etc.) and explain manner in which kept: _____

9. Write Yes (Y) or No (N): Has Applicant or any other occupant ever been evicted? N; filed bankruptcy? N; lost property due to foreclosure? N; had any credit problems? N; been convicted of a felony? N. If the answer to any of the preceding questions is Yes, explain (attach additional sheets if necessary) _____

10. If Applicant is a member of the Armed Forces: Has Applicant requested or received military orders transferring Applicant within one year? ☐ Yes ☒ No Is Applicant presently serving temporary orders limiting Applicant's stay to one year or less? ☐ Yes ☒ No

11. Will any person be signing a Lease Guaranty? ☐ Yes ☐ No Name _____
 Relationship _____ Phone (hm) _____ (wk) _____ (fax) _____
 Address _____ City, State, Zip _____

12. In case of emergency, notify Kent McCune
 Relationship Son Phone (hm) 785-776-7067 (wk) 785-776-7067
 Address 4891 W. 59th Avenue City, State, Zip Manhattan KS 66503

13. Additional Information _____

Representation: Applicant and Co-Applicant represent that the above statements are true and complete. Providing false information is grounds for rejection, termination of a lease, and retention of money tendered to Landlord as liquidated damages.

Authorization: Applicant and Co-Applicant authorize Landlord or Landlord's broker to: (1) obtain a copy of any consumer or credit report related to this application; and (2) verify any rental history, employment history, or any other information related to this application; and (3) discuss information in the consumer report with Landlord and Landlord's broker.

Fees and Deposits: Applicant has submitted with this Application the following to Landlord:

- ☐ (a) a non-refundable fee of _____ to Landlord for processing and reviewing this Application.
- ☐ (b) a non-refundable fee of _____ for processing and reviewing information related to the lease guaranty.
- ☐ (c) an Application Deposit of _____ in accordance with the attached Agreement for Application Deposit.

Marian McCune
 Applicant's Signature

Bethelaine McCune
 Co-Applicant's Signature

FOR LANDLORD'S USE ONLY
 1. Applicant was notified of ☐ approval; ☐ non-approval; on (date) _____
 by ☐ telephone, ☐ U.S. Mail, ☐ fax, ☐ in person.
 2. Names of persons to whom above notice was actually given _____ by _____

February 25, 2015

From:

Justin Johnson
6993 N. FM 486
Thorndale, Texas 76577
512-862-4419

To:

Bison Tract 79, Ltd.
c/o Steve Malachowski
3555 Lost Creek Blvd.
Austin, Texas 78735
512-358-0901

RE: 2015 Agricultural Lease-Farm #2295-Bison Tract (112+/- acres)
Williamson County Texas

This lease is between Justin Johnson, Tenant and Bison Tract 79, Ltd, Landlord, referring to the above-mentioned property. Landlord leases such property to Tenant for the purpose of cultivation of crops and Tenant leases the property from Landlord for such purpose.

The Tenant agrees to cultivate the property and will pay Landlord \$10.00 in rent for the year 2015. The Landlord agrees that the Tenant will be allowed to plant, cultivate, and harvest any and all crops during the year of 2015; provided, however that Landlord may terminate this lease at any time upon notice to Tenant upon the sale of the property if required by the purchaser of the property, and in such case this lease shall end immediately following the harvest of the crops which are already planted and under cultivation on the property, or the end of year 2015, whichever is sooner. Upon such notice Tenant shall cease any further planting. The Tenant agrees to allow the Landlord or its designees to access and/or survey the property at any time and to conduct any tests for the future development of the property.

Tenant:

Justin Johnson

Date

3-5-15

Landlord:

Bison Tract 79, Ltd.

Date

2/25/15

By: MP Commercial Partners, LLC

By: Steve Malachowski, Manager

First Amendment to Commercial Contract

Date: November 9, 2016
Seller: Bison Tract 79, Ltd.
Buyer: KR Acquisitions LLC

Contract to be Amended:

Commercial Contract – Unimproved Property, between Seller and Buyer, dated October 30, 2015 (the “Contract”), regarding the Property referenced herein.

Property:

Real property situated in Williamson County, Texas consisting of 132.168 acres located at Highway 79 & Kenney Fort Boulevard, Round Rock, Texas, as more particularly described in the Contract (the “Property”).

Amendments:

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. The parties agree to extend the Closing Date set forth in Section 10 and the Special Provisions Addendum of the Contract until December 23, 2016.
2. Buyer shall pay to Seller as consideration for this extension of the Closing Date the sum of \$50,000.00 (the “Extension Funds”), which will be wired to Austin Title Company within three (3) business days after Buyer’s and Seller’s execution and delivery of a fully executed copy to Austin Title Company. The Extension Funds are non-applicable to the Contract Sales Price and are non-refundable upon delivery of a fully executed copy of this amendment to Austin Title Company. Once Austin Title Company has received a fully executed copy of this amendment and the Extension Funds, Austin Title Company will release the Extension Funds to the Seller on or before November 23, 2016.
3. Buyer may extend the Closing Date further to no later than January 23, 2017, but in the event the Closing Date is extended to January, 2017, Buyer shall make an additional payment of \$250,000.00. Such additional \$250,000.00 payment shall be an extension fee and shall not be credited against the Purchase Price, and such amount plus the existing

\$200,000.00 earnest money (which remains applicable to the Purchase Price) shall be released to Seller simultaneously with the payment of the additional \$250,000.00 extension fee.

4. Section 20 of the Addendum is hereby amended to provide that, in addition to its right to assign the Contract to an affiliate of Buyer, Buyer may also assign its interest in the Contract to the City of Round Rock, Texas, without obtaining the prior written consent of Seller upon notice to Seller of such assignment to the City of Round Rock, Texas.
5. The terms of the Contract are hereby modified and amended pursuant to the terms of this Amendment and are hereby conformed to be consistent with the terms and provisions of this Amendment. The Contract, as hereby amended, shall continue in full force and effect under the terms, provisions, and conditions hereof. All other terms, covenants, and conditions of the Contract not herein expressly modified are hereby confirmed and ratified and remain in full force and effect.

Agreed this 9 day of November, 2016.

SELLER:

Bison Tract 79, Ltd.

by: MP Commercial Partners, LLC, its general partner

By: Steve Malachowski

Steve Malachowski, Managing Member

BUYER:

KR Acquisitions LLC

By: Todd R. Nelson

Todd R. Nelson, Member

EXHIBIT B

KRIENKE COMMERCIAL CONTRACT

[Attached hereto]

155.589A
parcel



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
©Texas Association of REALTORS®, Inc. 2014

1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Keith Krenke, Mark Meredith and Greg Carter individually, and Greg Carter, Executor of Lisa M. Carter Estate
Address: 3875 East Palm Valley Blvd., Round Rock, TX 78664
Phone: _____ E-mail: _____
Fax: _____ Other: _____

Buyer: KR Acquisitions LLC, a Delaware limited liability company
Address: P.O. Box 590, Wisconsin Dells, WI 53985
Phone: (608) 254-5230 E-mail: bharmadaxley.com
Fax: _____ Other: mhonte@kalahariresorts.com

2. **PROPERTY:**

A. "Property" means that real property situated in Williamson County, Texas at 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665 (address) and that is legally described on the attached Exhibit _____ or as follows: 143.259 Acres, Holder Survey, and 12.33 acres Joseph Marshall Survey, Williamson County, Texas. Described in a deed of record in Slide 2006113854.

B. Seller will sell and convey the Property together with:

- (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
- (3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
(If mineral rights are to be reserved an appropriate addendum should be attached.)

3. **SALES PRICE:**

A. At or before closing, Buyer will pay the following sales price for the Property:

(1) Cash portion payable by Buyer at closing	\$	<u>10,166,185.00</u>
(2) Sum of all financing described in Paragraph 4	\$	<u>\$10,505,058.00</u>
(3) Sales price (sum of 3A(1) and 3A(2))	\$	<u>10,166,185.00</u>



TW
LK

\$10,505,058.00



(TAR-1802) 4-1-14

Suttmill Commercial Industrial Properties, Inc. 20 Chisholm Trail Round Rock, TX 78681
Phone: (512) 244-9707 Fax: (512) 244-9519 Jim Holes

Produced with eSignature by eSignature 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.eSignature.com

Page 1 of 13

Krenke 155 ACR

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

B. Adjustment to Sales Price: (Check (1) or (2) only.)

☐ (1) The sales price will not be adjusted based on a survey.

☒ (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of \$ 1.50 ^{\$1.55} per:

☒ (i) square foot of ☒ total area ☐ net area.

☐ (ii) acre of ☐ total area ☐ net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

☐ (i) public roadways;

☐ (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and

☐ (iii) _____

(c) If the sales price is adjusted by more than _____ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

☐ A. ~~Third Party Financing: One or more third party loans in the total amount of \$ _____.~~

~~This contract:~~

☐ (1) ~~is not contingent upon Buyer obtaining third party financing.~~

☐ (2) ~~is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TAR 1034).~~

☐ B. ~~Assumption: In accordance with the attached Commercial Contract Financing Addendum (TAR 1034), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.~~

☐ C. ~~Seller Financing: The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TAR 1034) in the amount of \$ _____.~~

5. EARNEST MONEY:

A. Not later than 3 days after the effective date, Buyer must deposit \$ 50,000.00 as earnest money with Georgetown Title (title company) at 1717 North Mays, Round Rock, TX 78664 (address) David Mays (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of \$ _____ with the title company to be made part of the earnest money on or before:

☐ (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or

☐ (ii) _____

Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
 - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
☐ (a) will not be amended or deleted from the title policy.
☒ (b) will be amended to read "shortages in areas" at the expense of ☒ Buyer ☐ Seller.
- (3) Within 15 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 45 days after the effective date:

- ☒ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer \$5,000.00 (insert amount) of the cost of the survey at closing, if closing occurs.
- ☐ (2) ~~Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.~~
- ☐ (3) ~~Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to Buyer and the title company within 20 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for Seller to deliver an acceptable survey within the time required. Buyer will reimburse Seller (insert amount) of the cost of the new or updated survey at closing, if closing occurs.~~

C. Buyer's Objections to the Commitment and Survey:

- (1) Within _____ days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

~~special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.~~

(2) ~~Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller resolves the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.~~

(3) ~~Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.~~

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

B. Feasibility Period: Buyer may terminate this contract for any reason within 90 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

☒ (1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 1,000.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

☐ (2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

(2) Buyer must:

- (a) employ only trained and qualified inspectors and assessors;
- (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
- (c) abide by any reasonable entry rules or requirements of Seller;
- (d) not interfere with existing operations or occupants of the Property; and
- (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

3801 E. Palm Valley, +/- 155.589 Acres, Round
Commercial Contract - Unimproved Property concerning _____
Rock, TX 78665

- (3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 15 days after the effective date, Seller will deliver to Buyer: *(Check all that apply.)*
- ☒ (a) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - ☐ (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - ☒ (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
 - ☒ (d) copies property tax statements for the Property for the previous 2 calendar years;
 - ☒ (e) plats of the Property;
 - ☒ (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
 - ☐ (g) _____

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*

- ☒ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
- ☒ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied; and
- ☐ (c) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.

This Paragraph 7D(2) survives termination of this contract.

- ~~E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.~~

B. LEASES:

- A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:

- (1) any failure by Seller to comply with Seller's obligations under the leases;
- (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
- (3) any advance sums paid by a tenant under any lease;

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

- (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
(5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. ~~Estoppel Certificates: Within _____ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TAR Form 1838 - Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.~~

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: <u>KW Commercial</u>	Cooperating Broker: <u>Summit Commercial</u>
<u>Willco Division</u>	
Agent: <u>Frances Crossley</u>	Agent: <u>Jim Boles</u>
Address: <u>23001 Greenhill Dr. #200</u>	Address: <u>20 Chisholm Trail</u>
<u>Round Rock, TX 78664</u>	<u>Round Rock, TX 78681</u>
Phone & Fax: <u>(512) 751-0004</u>	Phone & Fax: <u>(512) 244-9707</u> <u>(512) 244-9519</u>
E-mail: <u>frances@kwcommercial.com</u>	E-mail: <u>jim@summit-commercial.com</u>
License No.: _____	License No.: <u>0448916</u>

Principal Broker: (Check only one box)
☒ represents Seller only.
☐ represents Buyer only.
☐ is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

B. Fees: (Check only (1) or (2) below.)
(Complete the Agreement Between Brokers on page 13 only if (1) is selected.)

- ☐ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.
- ☒ (2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:
☒ 3.000 % of the sales price.

Cooperating Broker a total cash fee of:
☒ 3.000 % of the sales price.

The cash fees will be paid in Williamson County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:
- (1) ☐ _____ days after the expiration of the feasibility period.
 - ☐ _____ (specific date).
 - ☒ See Special Provisions Addendum
 - (2) ~~7 days after objections made under Paragraph 6C have been cured or waived.~~
- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.
- C. At closing, Seller will execute and deliver, at Seller's expense, a ☐ general ☒ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) an assignment of all leases to or on the Property;
 - (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
 - (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
 - (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.
- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the title company;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
 - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
 - (b) specifies the exact dollar amount of the security deposit;
 - (4) sign an assumption of all leases then in effect; and
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

12. SPECIAL PROVISIONS: The following special provisions apply and will control in the event of a conflict with other provisions of this contract. (If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)
See attached Special Provisions Addendum.

13. SALES EXPENSES:

- A. Seller's Expenses: Seller will pay for the following at or before closing:
- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;
 - (4) preparation of the deed;
 - (5) one-half of any escrow fee;
 - (6) costs to record any documents to cure title objections that Seller must cure; and
 - (7) other expenses that Seller will pay under other provisions of this contract.
- B. Buyer's Expenses: Buyer will pay for the following at or before closing:
- (1) all loan expenses and fees;
 - (2) preparation of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee;
 - (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

- A. Prorations:
- (1) ~~Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.~~
 - (2) ~~If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.~~
 - (3) ~~If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.~~
- B. Rollback Taxes: ~~If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.~~
- C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental

3801 E. Palm Valley, +/- 155.589 Acres, Round
Commercial Contract - Unimproved Property concerning Rock, TX 78665

payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. ~~If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(3) which Seller may pursue; or (Check if applicable)~~
- ☒ enforce specific performance, or seek such other relief as may be provided by law.
- B. ~~If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:~~
- (1) ~~terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or~~
- (2) ~~extend the time for performance up to 15 days and the closing will be extended as necessary.~~
- C. ~~Except as provided in Paragraph 45B, if Seller fails to comply with this contract, Seller is in default and Buyer may:~~
- (1) ~~terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or~~
- (2) ~~enforce specific performance, or seek such other relief as may be provided by law, or both.~~

16. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
- B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
- (1) Seller and the sales price will be reduced by the same amount; or
- (2) Buyer and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.
- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. ☐ Seller ☐ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: (Check only one box.)

- ☐ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TAR-1408).
- ☒ B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- ☒ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- ☒ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: ~~The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of~~

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

~~a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.~~

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- D. Addenda which are part of this contract are: *(Check all that apply.)*
- ☐ (1) Property Description Exhibit Identified in Paragraph 2;
 - ☐ (2) Commercial Contract Financing Addendum (TAR-1931);
 - ☐ (3) Commercial Property Condition Statement (TAR-1408);
 - ☐ (4) Commercial Contract Addendum for Special Provisions (TAR-1940);
 - ☐ (5) Notice to Purchaser of Real Property in a Water District (MUD);
 - ☐ (6) Addendum for Coastal Area Property (TAR-1915);
 - ☐ (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916);
 - ☒ (8) Information About Brokerage Services (TAR-2501); and
 - ☒ (9) Special Provisions Addendum

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

- E. Buyer ☐ may ☐ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. **TIME:** Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. **EFFECTIVE DATE:** The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

26. ADDITIONAL NOTICES:

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.

- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.
 - E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
 - F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
 - G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.
26. **CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on December 4, 2015, the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT** your attorney **BEFORE** signing.

Commercial Contract - Unimproved Property concerning 3801 E. Palm Valley, +/- 155.589 Acres, Round Rock, TX 78665

AGREEMENT BETWEEN BROKERS
(use only if Paragraph 9B(1) is effective)

Principal Broker agrees to pay _____ (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:

- ☐ \$ _____, or
☐ _____ % of the sales price, or
☐ _____ % of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: _____ Cooperating Broker: _____

By: _____ By: _____

ATTORNEYS

Seller's attorney: Merlin Lester

Buyer's attorney: Bruce Harms/Axley Brynolson

Address: 213-A West 8th Street
Georgetown, Texas 78626

Manchester Plaza, Suite 200

Address: 2 East Mifflin St.

Phone & Fax: 512-863-4525

Madison

WI

53703

Phone & Fax: (608) 283-6736

E-mail: mlester@gtlawco.com

E-mail: bharms@axley.com

Seller's attorney requests copies of documents, notices, and other information:

- ☒ the title company sends to Seller.
☒ Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:

- ☒ the title company sends to Buyer.
☒ Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:

- ☒ A. the contract on this day DECEMBER 24, 2015 (effective date);
☐ B. earnest money in the amount of \$ _____ in the form of _____ on _____.

Title company: GEORGETOWN TITLE

Address: 1717 N. MAINS

ROUND ROCK, TX 78664

By: [Signature]

Phone & Fax: (512) 255-5839

Assigned file number (GF#): _____

E-mail: DAVID@GEORGETOWNTITLE.NET



Approved by the Texas Real Estate Commission for Voluntary Use
Texas law requires all real estate licensees to give the following information about
brokerage services to prospective buyers, tenants, sellers and landlords.

10-10-11

Information About Brokerage Services

Before working with a real estate broker, you should know that the duties of a broker depend on whom the broker represents. If you are a prospective seller or landlord (owner) or a prospective buyer or tenant (buyer), you should know that the broker who lists the property for sale or lease is the owner's agent. A broker who acts as a subagent represents the owner in cooperation with the listing broker. A broker who acts as a buyer's agent represents the buyer. A broker may act as an intermediary between the parties if the parties consent in writing. A broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A broker is obligated by law to treat you honestly.

IF THE BROKER REPRESENTS THE OWNER:

The broker becomes the owner's agent by entering into an agreement with the owner, usually through a written - listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing broker. A subagent may work in a different real estate office. A listing broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

IF THE BROKER REPRESENTS THE BUYER:

The broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

IF THE BROKER ACTS AS AN INTERMEDIARY:

A broker may act as an intermediary between the parties if the broker complies with The Texas Real Estate License Act. The broker must obtain the written consent of each party to the transaction to act as an

intermediary. The written consent must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. The broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A broker who acts as an intermediary in a transaction:

- (1) shall treat all parties honestly;
- (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;
- (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and
- (4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

With the parties' consent, a broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the broker to communicate with and carry out instructions of the other party.

If you choose to have a broker represent you, you should enter into a written agreement with the broker that clearly establishes the broker's obligations and your obligations. The agreement should state how and by whom the broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a broker does not necessarily establish that the broker represents you. If you have any questions regarding the duties and responsibilities of the broker, you should resolve those questions before proceeding.

Real estate licensees ask that you acknowledge receipt of this information about brokerage services for the licensee's records.

Buyer, Seller, Landlord or Tenant

Date

Texas Real Estate Brokers and Salespersons are licensed and regulated by the Texas Real Estate Commission (TREC). If you have a question or complaint regarding a real estate licensee, you should contact TREC at P.O. Box 12182, Austin, Texas 78711-2182, 512-838-3500 (<http://www.trec.texas.gov>)

(TAR-2501) 10-10-11

TREC No. OP-K

Sammit Commercial Industrial Properties, Inc. 20 Chisholm Trail Round Rock, TX 78681
Phone: (512)244-9707 Fax: (512)244-9519 Jim Heits

131 Acres Tract

Produced with ZipForms by zipLogix 18270 Fritsch Mills Road, Fraser, Michigan 48060 www.ziplogix.com

SPECIAL PROVISIONS ADDENDUM TO
COMMERCIAL CONTRACT – UNIMPROVED PROPERTY

This Special Provisions Addendum (the "Addendum") is made by KR Acquisitions LLC ("Buyer") and Keith Krienke, Mark Meredith, Greg Carter, and the Estate of Lisa Carter (each a "Seller" and collectively the "Sellers") and is incorporated by reference into the Texas Association of Realtors Commercial Contract – Unimproved Property to which it is attached (the "Form Offer"). This Addendum and the Form Offer may herein be referred to as the "Offer". Buyer and Sellers (who may herein be referred to as the "parties") agree as follows:

1. **Conflicts with Form Offer.** In the event of any conflict between the terms and conditions of this Addendum and the Form Offer, the terms and conditions of this Addendum shall control. Capitalized terms used herein shall have the meaning ascribed to such terms in the Form Offer unless otherwise defined herein.

2. **Buyer's Due Diligence.** Buyer, and its agents and contractors, shall have the right to access and enter upon the Property and to perform any inspections, reviews, sampling, testing, and evaluation of the Property for the purpose of determining the suitability of the Property for Buyer's intended use (i.e., development of a waterpark resort hotel and convention center – the "Proposed Project"). Buyer's inspections, testing, sampling, and evaluations, which shall be conducted at Buyer's expense, shall be with regard to the environmental condition of the Property, soil conditions, utility access, ingress/egress, availability of municipal incentives, assessment of financial feasibility, availability of acceptable financing to fund the development of the Proposed Project, market conditions (including an evaluation of competing hospitality and lodging businesses), path-to-development issues (i.e., when development can occur), ability to enter into contracts to purchase adjacent parcels, and such other matters which Buyer, in its sole and absolute discretion, deems material to its decision to acquire the Property and develop it for the purpose set forth above. In addition while this Offer is in effect Buyer shall have the right to make and pursue applications for governmental approvals, permits, licenses, zoning changes, and similar or related entitlement matters with respect to the Property ("Entitlements") provided, however, that the Buyer shall require that any such Entitlements, that would be specifically binding on the Property if they took effect prior to closing, not take effect until the closing occurs and if any such Entitlements do take effect prior to the closing occurring then if closing shall not occur for any reason except for any Seller's breach of this Offer, Buyer shall release all such Entitlements that Buyer has had issued for the Property and which are binding on the Property and this provision shall survive the termination of the Offer. Buyer shall also have the right to engage in discussions and negotiations with governmental authorities having jurisdiction over the Property including, without limitation, for the negotiation of development agreements, financing agreements, road access agreements, easement agreements, utility service agreements, tax agreements, and any similar or related agreements. Without limiting Buyer's rights hereunder (a) the Sellers shall provide reasonable cooperation with respect to the Buyer's activities under this Section 2 including, without limitation, signing of applications for Entitlements; and (b) Sellers shall ensure that Buyer shall have access to the Property so that Buyer can conduct the activities and exercise the rights contemplated under this Section 2.

Buyer shall indemnify, defend, reimburse, and hold harmless the Sellers and each Seller's employees, guests, and invitees (collectively with the Sellers the "Seller Indemnitees") from and against any and all claims, suits, proceedings, costs, fees, damages, losses, or expenses (including, without limitation, reasonable attorney fees) brought against, suffered by, incurred by, or paid by any Seller or any Seller Indemnitee arising from or out of, directly or indirectly, (i) the activity of Buyer, Buyer's agents, employees and contractors on the Property (ii) any violation of laws or ordinances with respect to Buyer's actions upon the Property or (iii) the non-payment by Buyer of any contractor engaged by any Buyer. These obligations of Buyer shall survive closing.

3. Extension of Feasibility Period. Buyer shall have the right to extend the feasibility period (as defined in the Form Offer) provided under Section 7.B of the Form Offer as follows:

a. If Buyer deposits additional earnest money of \$50,000 with the title company on or before the date that is five (5) days after the expiration of the initial 90-day feasibility period described in Section 7.B of the Form Offer, the feasibility period will be deemed extended for an additional 90 days and the 90 days inserted in the blank in Section 7.B of the Form Offer will be deemed deleted and replaced with 180 days.

b. If Buyer extends the feasibility period for 90 days under the procedures provided in Section 3(a) above, then if Buyer deposits additional earnest money of \$50,000 with the title company on or before the date that is five (5) days after the expiration of the feasibility period as extended under Section 3(a) above, the feasibility period will be deemed extended for an additional 90 days and the 180 days inserted in the blank in Section 7.B of the Form Offer pursuant to Section 3(a), above, will be deemed deleted and replaced with 270 days.

c. If Buyer extends the feasibility period under the procedures provided in Section 3(b) above, then if the Buyer deposits additional earnest money of \$50,000 with the title company on or before the date that is five (5) days after expiration of the feasibility period as extended under Section 3(b) above, the feasibility period will be deemed extended for an additional 90 days and the 270 days inserted in the blank in Section 7.B of the Form Offer pursuant to Section 3(b), above, will be deemed deleted and replaced with 360 days.

d. Each of the ninety (90) day extensions of the feasibility period described in this Section 3 is an "Extension Period". The initial ninety (90) day feasibility period described in the Form Offer is the "Initial Feasibility Period".

4. Earnest Money.

a. In Section 5.A of the Form Offer the Buyer will have 5 business days after the effective date (as defined in the Form Offer) to deposit the initial installment of the earnest money. At the closing all earnest money that has been deposited or paid over by Buyer under this Offer shall be applied to the purchase price in favor of Buyer and the Buyer shall be entitled to a credit in its favor at the closing in the amount of all the earnest money paid over or deposited by Buyer under the Offer.

b. In the event the Buyer terminates this Offer pursuant to Section 7.B of the Form Offer during the Initial Feasibility Period then all the earnest money shall be returned to the Buyer, less the \$1,000 of independent consideration provided for in the Form Offer. In such case the independent consideration of \$1,000 shall be disbursed to Sellers. In the event the Buyer terminates this Offer pursuant to Section 7.B of the Form Offer during the first Extension Period \$50,000 of the earnest money shall be disbursed to Seller and \$50,000 of the earnest money shall be disbursed to Buyer. If the Buyer terminates this Offer under Section 7.B of the Form Offer during the second Extension Period \$100,000 of the earnest money shall be disbursed to Sellers and \$50,000 of the earnest money shall be disbursed to Buyer. If the Buyer terminates this Offer under Section 7.B of the Form Offer during the third Extension Period then \$150,000 of the earnest money shall be disbursed to Sellers and \$50,000 of the earnest money shall be disbursed to Buyer. In the event this Offer terminates prior to or at Closing due to the breach or default of any Seller or due to the failure or nonsatisfaction of any closing condition contained in this Offer for the benefit of the Buyer then the Buyer shall be entitled to a return of all the earnest money deposited with the title company by Buyer (including, without limitation, any earnest money previously disbursed to Sellers which Sellers shall immediately pay over to Buyer), less the \$1,000 of independent consideration. If Buyer's failure or refusal to close the transaction contemplated by this Offer is due to the breach or default of any Seller or the failure or nonsatisfaction of any closing condition contained in this Offer for the benefit of Buyer, then Buyer shall have the right to a return of all the earnest money deposited by Buyer (including, without limitation, all earnest money previously disbursed to Sellers which Sellers shall immediately pay over to Buyer), less the \$1,000 of independent consideration. If this Agreement terminates the Buyer and Sellers agree to provide instructions to the title company for the disbursement of the earnest money in accordance with the foregoing provisions which obligation shall survive termination of this Offer. All Buyer's rights and remedies are cumulative and not exclusive.

5. Closing Date. The closing of the transaction contemplated by the Offer shall be on the date that is 30 days after expiration of the feasibility period. Each time one of the feasibility period extension rights under Section 3 of this Addendum is exercised the date of the closing shall be re-determined based on the new duration of the feasibility period.

The closing shall occur at Georgetown Title Company, 702 S. Rock St., Georgetown, TX 78626, in accordance with the following provisions. The Closing will be conducted by the Law Office of Merlin Lester. Merlin Lester will provide closing services for Georgetown Title Company pursuant to Procedural Rule 22 adopted by the Texas Department of Insurance and receive a portion of the title insurance premium as compensation for rendering such services. Sellers and Buyer approve of the Law Office of Merlin Lester providing closing services and receiving such compensation.

6. Title Objections.

a. The Buyer will have until the expiration of thirty (30) days after its receipt of the title commitment for the Property or Buyer's survey of the Property, whichever is later, to send to Sellers any objections it has to any matters set forth in the title commitment or survey (the "Objection Period"). Buyer's notice containing its objections is referred to herein as the

"Objection Notice". The term "Permitted Exceptions" means any Schedule B matter contained in the title commitment to which the Buyer does not object in writing within the Objection Period and any encroachment on the Property or other adverse title matter shown on the survey to which the Buyer does not object within the Objection Period. For purposes of determining when the Objection Period begins, Buyer is deemed to have received its survey of the Property on the earlier of (i) the date of the Buyer's actual receipt of Buyer's survey of the Property or (ii) 45 days after the effective date hereof.

b. After receipt of an Objection Notice, the Sellers shall have the option, but not the obligation, until 11:59 p.m. on the date that is thirty (30) days after the date the Objection Notice is received by the Sellers ("Cure Period"), to cure or resolve any of Buyer's objections in a manner reasonably acceptable to Buyer. If any objection is not cured in a manner reasonably acceptable to Buyer within the Cure Period, then the Buyer shall have the right to terminate this Offer by giving written notice to Sellers at any time on or before the earlier of (x) the thirtieth (30th) day after the expiration of the Cure Period; or (y) the closing date. If Buyer does so terminate this Offer then all earnest money, less the \$1,000 of independent consideration, shall be returned to Buyer and Buyer and Sellers will provide disbursement instructions to the title company consistent with the foregoing which obligation shall survive termination. If the Buyer does not so terminate this Offer then (i) any Schedule B matter shown on the title commitment which was objected to by Buyer and not cured by Sellers during the Cure Period, and (ii) any encroachment on the Property or other adverse title matter shown on the survey to which the Buyer objected in its Objection Notice and which was not cured by Sellers shall be deemed Permitted Exceptions. Further, all leases of the Property which predate this Offer and all leases of the Property made after the date of this Offer and which were made in accordance with the terms of this Offer are the "Permitted Leases". Any Permitted Leases which have terms that extend beyond the closing date ("Post Closing Leases") shall be deemed Permitted Exceptions. At closing the Sellers shall cause the title company to issue to the Buyer at closing a title commitment showing the Buyer as the insured and as the fee simple owner of the Property, the effective date of the policy as of the date and time of the closing, the policy amount in the amount of the sales price, and showing no exceptions to the coverage of the title insurance policy other than Permitted Exceptions. If after the Objection Period, the title company issues a supplemental title report or title commitment that identifies any additional title encumbrances (a "Supplemental Commitment"), the Buyer shall have the right to terminate this Offer by giving written notice to Sellers of the exercise of that termination right at any time on or before the fifteenth (15th) day after receipt of the Supplemental Commitment by Buyer and if such termination occurs all earnest money (including any earnest money previously disbursed to Sellers) will be paid to Buyer. If Sellers commit to cure any objected to title matter in writing then they shall be bound and obligated under this Offer to cure such matter on or prior to the closing date and any such matter will not be deemed a Permitted Exception. Sellers shall satisfy at their sole cost and expense all conditions and requirements shown on Schedule C of the Title Commitment.

c. Despite anything to the contrary contained herein, the term Permitted Exceptions shall not include (i) any Monetary Liens, (ii) any leases other than Post Closing Leases, (iii) any standard title commitment exceptions that can be removed with a customary certificate or affidavit from the Sellers (such as an Affidavits and Indemnity as to Debts, Liens,

and Possession) from Sellers and/or the payment of additional title insurance premiums, (iv) any standard title commitment exceptions that can be removed with a survey and payment of additional title insurance premiums, or (v) any matter listed on Schedule C of the Title Commitment. "Monetary Liens" means any mortgage, assignment of rents and leases, construction lien, delinquent real estate tax lien (other than for real estate taxes for the year of closing provided none are delinquent as of the closing date and other than the lien of any rollback real estate taxes that would become due after the Closing as a result of the change of the use of the Property by the Buyer after Closing), fixture filing, broker lien, or any other monetary lien or collateral security document. The Buyer need not object under Section 6(a) of this Addendum to any Monetary Liens or any matter described in Section 6(c)(ii), (iii), (iv), or (v) of this Addendum. Any additional title premium charged for the removal of the "Rights of Parties in Possession" exception from any Title Commitment or Title Policy or for the removal of any other standard title insurance commitment exceptions shall be promptly paid by the Sellers except that modification of the survey exception shall be paid by Buyer as provided in Section 6.A.2(b) of the Form Offer. Seller will deliver at closing at its sole cost and expense such affidavits, certificates, and other instruments as are necessary or desirable to satisfy and remove all requirements of Schedule C of the Title Commitment. Within ten (10) days after the effective date of this Offer the Sellers shall deliver written evidence that owners and users of the Property have the right to cross the rail road tracks that relate to this Property.

7. Proration: Special Assessments and Real Estate Taxes. The Sellers shall pay as they become due and no later than the closing date all the basic ad valorem real estate taxes for the Property in the amount payable under the existing agricultural use exemption ("Sellers' Taxes") for all years prior to the year in which the closing occurs and a prorated portion of such Sellers' Taxes for the year in which the closing occurs. The Sellers shall also be responsible for paying as they become due and no later than the closing date (a) all penalties, late fees, and interest for any Sellers' Taxes or Seller Special Assessments which were due prior to or on the closing date but not timely paid by Sellers; and (b) all special assessments or installments of special assessments due and payable on or before the closing date (other than road assessments and roll back taxes) ("Seller Special Assessments"). If a tax bill for Sellers' Taxes for the year in which closing shall occur has not yet been issued as of the closing, then the Buyer in its reasonably exercised discretion shall estimate Sellers' Taxes at the closing based on the amount of basic ad valorem real estate taxes paid by Sellers for the Property for the immediately preceding year. The Buyer shall in its reasonably exercised discretion prorate the actual or estimated amount of Sellers' Taxes for the year in which closing occurs as to the date of closing between the parties, and such proration shall be final and binding on the parties hereto. Buyer, and not Sellers, shall pay any and all rollback real estate taxes, special assessments, standby fees, road assessments, or any other such tax, fee, or imposition, which arise after closing including those roll back taxes arising after closing which are attributable to years prior to closing. The parties shall not revisit any estimated prorations following the issuance of the tax bill, regardless of any variation between the estimated prorations and actual amounts. Sellers represent and warrant that the Property is currently taxed as a single tax parcel and no part of the Property is taxed for real estate tax purposes with lands not included within the Property.

8. Special Warranty Deed. The special warranty deed delivered by Sellers at the closing shall include a warranty that the Property is conveyed free and clear of all liens and

encumbrances created during Sellers' period of ownership of the Property other than Permitted Exceptions. The provisions of Section 10(C)(1)-(3) of the Form Offer are hereby deleted. The third and fourth sentences of Section 10(C) of the Form Offer are hereby deleted. Each Seller shall cause its spouse to execute and deliver the special warranty deed at closing and shall cause its spouse to sign such other documents as are necessary to accomplish the conveyance of the Property to Buyer subject only to Permitted Exceptions. Sellers shall within ten (10) days after the date hereof deliver evidence to Buyer that the life estate of Lisa Carter has been terminated. The Sellers will obtain at their sole cost and expense and deliver to Buyer at closing all documents necessary or desirable or required by law for the transfer of the secondary water treatment system on the Property to Buyer including any documents required to transfer the license to operate the secondary treatment system.

9. Leases. Sellers jointly and severally represent and warrant that they have provided to the Buyer prior to the date hereof true, correct, accurate, and complete copies of all leases (including all amendments) to which all or any part of the Property is subject prior to the date of this Offer and none of such leases have terms (after giving effect to all extension and renewal options) that extend beyond the end of the year 2015. The Sellers may after the date hereof enter into additional leases affecting the Property provided that all such leases are in writing, all such leases are solely for agricultural purposes, the term of any such leases with all extension and renewal options does not exceed a year, any such lease is terminable without liability or penalty by the lessor on 30 days advance written notice, and Sellers first obtain the prior written consent of the Buyer to any such leases which the Buyer will not unreasonably withhold, condition, or delay. The Sellers will not be obligated to obtain the Buyer's consent to any such lease after this Offer terminates. Without limiting the Buyer's rights hereunder by enumeration, each Seller will not enter into any lease of all or part of the Property, while this Offer is in effect, that would limit or restrict the ability of the Buyer to conduct the activities contemplated under Section 2 of this Addendum. Despite anything contained herein to the contrary each Seller shall not enter into, modify, extend, or terminate any leases following the expiration of the feasibility period. The Sellers will provide the Buyer with copies of each lease made for the Property while this Offer is in effect.

10. Closing Deliverables. In addition to the documents to be delivered by the Sellers at the closing as described in the Form Offer, at the closing the Sellers shall:

a. Execute and deliver an Affidavits and Indemnity as to Debts, Liens, and Possession on a customary form indicating there are no unpaid debts for fixtures, equipment, or improvements relating to the Property; no construction liens or construction lien rights affecting the Property; no unpaid labor and materials used in the construction on the Property; no leases or parties in possession affecting the Property other than Permitted Leases and tenants under Permitted Leases; and no purchase contracts for the Property or contracts to sell the Property.

b. Execute and deliver such other affidavits and certificates as are required so that the title company can remove the title exception on the title commitment for mechanics liens, construction liens, and/or material suppliers liens and the general exception for tenants in possession but which affidavit may disclose any applicable Post Closing Leases.

c. Deliver fully executed releases of all Lien Documents which are needed for the Property to be conveyed at the closing free of all Lien Documents. "Lien Documents" means collectively all mortgages, assignments of rents and leases, deeds of trust, other collateral security documents, construction liens, mechanics liens, material supplier liens, and money judgements.

d. Deliver fully executed lien waivers from each of the brokers identified in Section 9 of the Form Offer under which each such broker waives and releases all lien rights as to the Property.

With respect to Section 10 of the Form Offer the closing documents referred to in Section 10 of the Form Offer shall be in a form reasonably required by the Buyer.

11. Conditions Precedent. The obligations of the Buyer to take the actions otherwise required of it at the closing are subject to and conditioned upon the satisfaction of each of the following conditions precedent listed below.

a. The Sellers shall have delivered all the documents any Seller is to deliver at the closing in duly executed form at or prior to the closing date.

b. Each Seller shall have complied with all its other obligations to be performed at or prior to the closing.

c. The representations and warranties of the Sellers in this Offer shall have been true and correct at the time made.

d. The physical condition of the Property shall not have suffered any material adverse change after the expiration of the feasibility period.

If on the closing date all of the foregoing conditions are not satisfied then Buyer shall have the right but not the obligation to terminate this Offer.

12. Documents. Copies of the documents listed on Exhibit A attached hereto and incorporated herein, to the extent they are in the possession or control of any Seller, shall be delivered to Buyer within fifteen (15) days after the effective date. If any documents that are responsive to the requests made in this Section 12 and Exhibit A come into the possession or control of any Seller after the date hereof the Seller shall provide copies to the Buyer promptly. Within ten (10) days after request by Buyer the Sellers will provide such documents as are reasonably required by Buyer to demonstrate that Sellers are authorized to enter into this Offer and to convey the Property at closing to Buyer in accordance with the terms of this Offer.

13. Operation of the Property. Until the earlier of the closing or the termination of this Offer, each Seller shall:

a. Status of Title. Not do anything, or permit anything to be done, that would impair, alter, or modify the status of title to the Property other than recording documents

which solely release liens to which the Property is subject; provided that Sellers may enter into new leases in accordance with the terms of Section 9 of this Addendum.

b. Maintenance. Maintain the Property in the same manner and condition as immediately prior to the effective date of this Offer, reasonable wear and tear excepted, and not alter the Property other than for routine maintenance and repairs and ordinary farming activities consistent with past practices.

c. Contracts. Not enter into any service contract or other contract or agreement relating to the Property other than leases made under and in accordance with Section 9 of this Addendum and contracts for routine maintenance which can be terminated without penalty by either party on no more than 30 days advance written notice.

d. Amendments. Not enter into any amendment or modification to any lease, easement, service contract or other contract or agreement relating to the Property.

e. Transfer. Not cause or permit transfer, conveyance, sale, assignment, pledge, mortgage, lease, or encumbrance of any of the Property, other than leases made in accordance with the terms of Section 9 of this Addendum. Not enter into any contract or agreement for the purchase or sale of all or any part of the Property.

14. Advise Buyer. Until the earlier of the Closing or the termination of this Agreement, each Seller shall notify Buyer in writing promptly upon learning or receiving actual notice (as opposed to constructive or imputed notice) of any of the following events and shall promptly provide copies to Buyer of notices and documents relating to any of the following:

a. Any event, transaction, or occurrence prior to Closing that could materially and adversely affect any of the Property, other than events or occurrences caused by Buyer or its agents or contractors.

b. Any fact or event that would cause any Seller to be in violation of any of its covenants or other undertakings or obligations hereunder.

c. Any violation of any law, ordinance, regulation or law that would or might materially affect any of the Property other than a violation of law by Buyer or its agents or contractors.

d. Any proposed change or actual change in any zoning or other law affecting the use or development of any of the Property, other than changes proposed or caused by Buyer.

e. Any pending or threatened litigation that affects any of the Property or that could affect the transaction contemplated hereby.

f. Any pending or threatened proceeding in bankruptcy or insolvency that could affect any of the Property or any person owning any interest therein.

g. Any notice from any governmental authority or agent thereof pertaining to the assessment or reassessment of the Property or any notice of improvements the cost of which may be assessed against the Property.

h. Any enforcement, clean-up, removal or other governmental or regulatory enforcement action concerning the Property which is instituted, completed or threatened.

15. Contingency Savings. The parties hereto acknowledge that Buyer will expend material sums of money in reliance on Sellers' obligations under the Offer in connection with negotiating and executing the Offer, furnishing the earnest money, conducting the due diligence activities contemplated by the Offer, and preparing for closing, and that Buyer would not have entered into the Offer without the availability of the rights to perform the due diligence activities described herein. The parties, therefore, agree that adequate consideration exists (in addition to the consideration referred to in Section 7.B(1) of the Form Offer) to support each of the parties' obligations under the Offer, and Sellers and Buyer each waive any and all rights to challenge the enforceability of the Offer on the basis that any of the conditions or contingencies set forth in this Offer are at Buyer's discretion or that any of the agreements contained in the Offer are illusory.

16. Remedy.

a. Despite anything to the contrary contained herein, in the event Buyer refuses or fails to close on the purchase of the Property on the closing date and such failure or refusal is a breach of this Offer, then in such case a "Buyer Default" will be deemed to have occurred. In the event of default by Buyer of Buyer's indemnity or restoration obligations under this Offer, Seller shall have all legal and equitable remedies for such default. If any Buyer Default occurs the sole and exclusive remedy of any or all the Sellers for any such breach or default shall be termination of the contract and receipt and retention of the earnest money and Sellers shall have no additional rights, remedies or causes of action against Buyer. The procedures and remedies for a breach of this Offer by Buyer as provided above in this Section 16(a) are the sole and exclusive remedies of the Sellers in the case of any failure or refusal of Buyer to close on the purchase of the Property at the closing in breach of this Offer and the sole and exclusive mechanism for any of the Sellers to obtain the earnest money or terminate this Agreement in the event of or as a consequence of a breach of this Agreement by the Buyer. The Sellers will have no other rights or remedies for any breach of this Offer by Buyer with respect to Buyer's obligations at the closing. The Sellers may not terminate this Offer other than pursuant to an express provision of this Offer. In the event any of the Sellers breach the terms of this Offer, or in the event any Sellers are in breach of any of the representations or warranties of Sellers expressly set forth in this Offer and any such breach is not cured within ten (10) days after written notice of any such breach from Buyer, then Buyer as Buyer's sole and exclusive remedy for any such breach shall have the right to either (i) terminate this Offer by written notice to Sellers and thereupon receive back all earnest money deposited by Buyer (including, without limitation, all earnest money previously disbursed to Sellers which Sellers shall return) and recover from Sellers, and Sellers shall pay to Buyer, an amount equal to all Pursuit Costs, or (ii) specific performance by the Sellers and to accept such title as Sellers can deliver. If Buyer elects

to pursue specific performance and later determines that Buyer for any reason cannot enforce or obtain specific performance then Buyer is entitled to elect to pursue and receive the remedies described under Section 16(a)(i) above instead. In no case would Buyer have the right to recover more than \$100,000 of Pursuit Costs from Sellers. Nothing in this Section 16 will limit any party's rights under Section 17 of the Form Offer.

b. The parties agree that the limited remedy provided in this Section 16 is fair and reasonable, not a penalty imposed on Buyer and is agreed to by the parties because it would be difficult or impossible to determine the actual damages suffered by Sellers in the event of Buyer's breach of the Offer. This provision shall survive termination of the Offer.

c. "Pursuit Costs" means all costs incurred or paid for by Buyer or any of its affiliates in Buyer's or any affiliate's inspections, permitting, and/or design efforts related to or connected with Buyer's or any affiliate's intended use of the Property, including without limitation any and all attorney fees, survey costs, engineering costs, inspection costs, testing costs, and other due diligence costs and/or expenses paid or incurred by Buyer or any affiliate in connection with or related to (i) this Offer or (ii) Buyer's or any affiliate's intended use of the Property.

17. Liability Limitation. The Buyer shall have no liability under the Offer, including without limitation Section 7.C(3) of the Form Offer, for any environmental, hazardous material, soil, wetland, historical, archeological, or other condition on the Property which Buyer or any of its agents or contractors discovers in connection with this Offer so long as such condition is not actually created or caused by Buyer, its agents, or contractors.

18. Counterparts. The Offer, acceptance thereof or any amendments/counteroffers with respect thereto may be signed in counterpart and transmission by facsimile or other form of electronic transmission of executed copies of the Offer or such other documents (e.g., PDF) shall be deemed delivery and such copies shall be deemed executed originals of the Offer or such other documents.

19. Assignment. The parties agree that despite anything contained in this Offer to the contrary (a) the Buyer has the right to assign this Offer to any person or entity (including, without limitation, any corporation, limited liability company, partnership, limited partnership, governmental entity, or business association) that is designated by Buyer in Buyer's sole and absolute discretion; and (b) Buyer does not need any consent or approval of any of the Sellers to any such assignment. The Buyer acknowledges and agrees that any assignment of this Offer by Buyer shall not serve to release Buyer from its obligations under this Offer. The Sellers will not challenge any assignment of this Offer by Buyer.

20. Closing Statement. If any errors or omissions are made at closing with regard to the preparation of the closing statement, the terms and conditions of other closing documents or the failure to have executed and delivered a document or instrument called for by the Offer, Sellers and Buyer shall make the appropriate corrections and payments due and owing to each other resulting therefrom, or execute and deliver such required documents or instruments, promptly after the discovery of any such error or omission.

21. Miscellaneous. The words "Seller may terminate" in Section 5(A) of the Form Offer are hereby deleted. The last sentence of Section 7(B)(1) of the Form Offer is hereby deleted. In the event this Offer terminates prior to the closing occurring, the Buyer will provide at the request of the Sellers copies of any final third party inspection, testing, or sampling reports which Buyer has received from its engineering consultants. Buyer may redact, exclude, or remove from any such reports any privileged information or any information concerning any parent or affiliate of Buyer. In addition, Buyer is not obligated to provide any market or business feasibility reports or information, market or business assessment reports or information, market study reports or information, or any similar reports or information to Sellers. Sellers and Buyer agree that by signing below on this Addendum they are agreeing to be bound to the terms of the Form Offer and this Addendum and that no actual signatures or initials are required on the Form Offer. Each of the terms, provisions, conditions, covenants, representations, and warranties contained in this Offer, and each party's rights, duties, and obligations under this Offer, shall survive the Closing and shall not be deemed to be merged into, or waived by or through, the deed delivered by Sellers at closing or any of the instruments or documents of closing made, delivered, or executed under or in connection with this Offer by any party. The "merger doctrine" shall not apply to this Offer or to the deed delivered by Sellers at closing or to any instruments or documents of closing made, delivered, or executed in connection with this Offer by any party. The Buyer shall have the right to record a notice or memorandum of this Offer in the real estate records of the County in which the Property is located.

22. Brokers. All commissions and/or fees owed by any party to any of the brokers listed in Section 9 of the Form Offer in connection with the transactions contemplated by this Offer shall be the sole responsibility of the Sellers and the Sellers shall promptly pay any and all such commissions and/or fees on or before the closing date. The Sellers jointly and severally represent and warrant to Buyer that, other than the brokers listed in Section 9 of the Form Offer (the "Brokers"), no Seller has dealt with or engaged any other broker or finder in connection with the purchase and sale of the Property. Buyer represents and warrants to Sellers that, other than the Brokers, Buyer has not dealt with or engaged any other broker or finder in connection with the purchase and sale of the Property.

23. Post-Closing Occupancy.

a. Subject to the terms of this Section 23 of this Addendum, for the period of time commencing with the date of the closing and terminating on the date that is one hundred eighty (180) days after the date of the closing (the "House Period"), the Sellers shall have the right to the use and occupancy of the houses ("Houses") that currently exist on the Property and Sellers may during the House Period remove the Houses from the Property.

b. Any use and/or occupancy of the Houses by any Sellers or any of their guests or invitees shall be at the sole cost and expense of the Sellers and all such use and occupancy shall be in a lien free manner. Any removal of any of the Houses by any Sellers shall be at the sole cost and expense of the Sellers and shall be conducted in a good and workman-like and lien free manner. If any Seller commences the removal of any House from the Property after the Closing the Sellers shall cause the removal of the House, and all debris caused by or

associated with the removal of the House, to be completed within the House Period. Sellers shall pay the actual cost of all utilities consumed during the House Period with respect to or in connection with any of the Houses.

c. The rights of the Sellers to the Houses under this Section 23 are personal to the Sellers and not assignable or transferrable. Sellers may only use the Houses during the House Period for residential and recreational use and not for commercial use (provided, however, that this sentence does not limit the rights of Sellers to remove the Houses from the Property). During the House Period Sellers shall, to the fullest extent permitted by law, (i) keep and maintain the Houses in good condition, repair, and working order, and (ii) make all necessary repairs, maintenance, and replacements to the Houses (provided, however, that this sentence does not limit the rights of Sellers to remove the Houses from the Property). Sellers shall comply with all applicable laws with respect to their use of the Houses and any removal thereof. Before any Seller removes any of the Houses from the Property the Sellers will obtain at their sole cost and expense all permits required for any such removal. If any Seller removes any House the Sellers shall first obtain all permits required for the removal of the House at Sellers' sole cost and expense. Sellers shall not interfere or conflict with Buyer's (or any of its agents or contractors) use of, or activities upon, the Property including, without limitation, any of Buyer's construction activities on the Property. After the expiration of the House Period, Sellers shall not further use (and the Sellers will have no further rights to use) any of the Houses or the Property. Prior to the expiration of the House Period, the Sellers shall remove all their personal property from the Houses. After expiration of the House Period the Sellers will not have any rights of any kind to enter or come upon the Property and after the expiration of the House Period they shall not enter or come upon the Property.

d. Sellers shall jointly and severally indemnify, defend, reimburse, and hold harmless the Buyer and each of Buyer's employees, members, parents, subsidiaries, lenders, agents, contractors, guests, and invitees (collectively with Buyer the "Buyer Indemnitees") from and against any and all claims, suits proceedings, costs, fees, damages, losses, or expenses (including, without limitation, reasonable attorney fees) brought against, suffered by, incurred by, or paid by Buyer or any Buyer Indemnitee arising from or out of, directly or indirectly, (i) the use or occupancy of any House after the closing by any Sellers, (ii) any breach of this Agreement after closing by any Seller, (iii) any maintenance or repairs conducted by any Sellers with respect to any House, (iv) any violation of laws or ordinances with respect to the Houses, (v) the removal of the Houses from the Property by any Seller, and/or (vi) the non payment by any Seller of any contractor engaged by any Seller for the removal of all or any part of the House from the Property. Effective as of the Closing, the rights of the Sellers under this Section 23 of this Addendum are fully and completely subordinate to the rights of any lender to Buyer and each Seller will immediately sign a subordination agreement confirming such subordination at the request of Buyer or any lender or prospective lender to Buyer.

24. Sellers' Obligations. Each Seller is jointly and severally liable for the duties and obligations of each other Seller under this Offer. A breach of the terms of this Offer by any Seller will be deemed a breach by all the Sellers. Each Seller shall cause each other Seller to perform the duties and obligations under this Offer of such other Seller. Payment by Buyer to any Seller of any amount owed by Buyer under this Offer to Sellers shall be deemed payment to

all Sellers.

25. Sales Price. Despite anything in Section 3 of the Form Offer to the contrary, the sales price paid at closing will be the sales price determined under Section 3.B of the Form Offer rather than the price shown in Section 3.A of the Form Offer.

26. Legal Description. The Property consists of all the lands listed on Exhibit A to Schedule 1 of this Addendum but excludes all the lands described on Exhibit B to Schedule 1 of this Addendum.

27. Tax Deferred Exchange. Either party may elect to complete this transaction as a tax deferred exchange pursuant to Section 1031 of the Internal Revenue Code. Each party agrees to cooperate with the other in accomplishing such an exchange provided that the cooperating party incurs no additional expense or liability.

28. Status of the Property. Section 19.B of the Form Offer is deleted and replaced with the following:

Sellers hereby represent and warrant to Buyer, which representations and warranties shall also be deemed to be made by Sellers to Buyer at the time of Closing, that no Seller has received any written notice that:

- a. the environmental or ecological condition of the Property is in violation of any law, ordinance, rule or regulation applicable thereto or that the soil, surface water or ground water of or on the Property contain any solid waste, toxic or hazardous substances or contaminants.
- b. any threatened or endangered species or their habitat are on the Property.
- c. there is any pending or threatened litigation affecting the Property.

29. AS IS.

a. This Offer, the deed Sellers are to deliver at Closing, and any other documents Seller is to deliver or does deliver at the Closing are collectively the "Transaction Documents". Despite anything contained in this Offer to the contrary the terms of Section 29(b) of this Addendum do not limit, modify, exclude, or affect any of the covenants, obligations, duties, representations, or warranties of any Seller contained in any of the terms of the Transaction Documents other than the terms of Section 29(b) of this Addendum.

b. SELLER AND BUYER AGREE THAT BUYER IS TAKING THE PROPERTY "AS-IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY SELLER THAT THE PROPERTY IS FIT FOR A PARTICULAR PURPOSE. OTHER THAN THE SPECIFIC REPRESENTATIONS, IF ANY, MADE IN THIS OFFER, BUYER ACKNOWLEDGES THAT IT IS NOT RELYING UPON

THE ACCURACY OR COMPLETENESS OF ANY REPRESENTATION, BROCHURE, RENDERING, PROMISE, STATEMENT OR OTHER ASSERTION OR INFORMATION WITH RESPECT TO THE PROPERTY MADE OR FURNISHED BY OR ON BEHALF OF, OR OTHERWISE ATTRIBUTED TO, SELLER OR ANY OF ITS AGENTS, EMPLOYEES OR REPRESENTATIVES, ANY AND ALL SUCH RELIANCE BEING HEREBY EXPRESSLY AND UNEQUIVOCALLY DISCLAIMED, BUT IS RELYING SOLELY AND EXCLUSIVELY UPON ITS OWN EXPERIENCE AND ITS INDEPENDENT JUDGMENT, EVALUATION AND EXAMINATION OF THE PROPERTY. BUYER FURTHER UNEQUIVOCALLY DISCLAIMS (I) THE EXISTENCE OF ANY DUTY TO DISCLOSE ON THE PART OF SELLER OR ANY OF ITS AGENTS, EMPLOYEES OR REPRESENTATIVES AND (II) ANY RELIANCE BY BUYER ON THE SILENCE OR ANY ALLEGED NON DISCLOSURE OF SELLER OR ANY OF ITS AGENTS, EMPLOYEES OR REPRESENTATIVES. BUYER TAKES THE PROPERTY UNDER THE EXPRESS UNDERSTANDING THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES (EXCEPT FOR LIMITED WARRANTIES OF TITLE SET FORTH IN THE CLOSING DOCUMENTS). BUYER EXPRESSLY WARRANTS AND REPRESENTS THAT NO PROMISE OR AGREEMENT WHICH IS NOT HEREIN EXPRESSED HAS BEEN MADE TO IT AND HEREBY DISCLAIMS ANY RELIANCE UPON ANY SUCH ALLEGED PROMISE OR AGREEMENT. THIS OFFER CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THIS PROVISION WAS FREELY NEGOTIATED AND PLAYED AN IMPORTANT PART IN THE BARGAINING PROCESS FOR THIS OFFER. BUYER HAS AGREED TO DISCLAIM RELIANCE ON SELLER AND TO ACCEPT THE PROPERTY "AS-IS" WITH FULL AWARENESS THAT THE PROPERTY'S PRIOR USES OR OTHER MATTERS COULD AFFECT ITS CONDITION, VALUE, SUITABILITY OR FITNESS; AND BUYER CONFIRMS THAT BUYER IS HEREBY ASSUMING ALL RISK ASSOCIATED HERewith. BUYER UNDERSTANDS THAT THE DISCLAIMERS OF RELIANCE AND OTHER PROVISIONS CONTAINED HEREIN COULD LIMIT ANY LEGAL RECOURSE OR REMEDY BUYER OTHERWISE MIGHT HAVE. BUYER ACKNOWLEDGES THAT IT HAS SOUGHT AND HAS RELIED UPON THE ADVICE OF ITS OWN LEGAL COUNSEL CONCERNING THIS PROVISION. THIS PARAGRAPH SHALL SURVIVE CLOSING AND SHALL NOT MERGE WITH ANY DEED DELIVERED AT CLOSING.

[Signature Page Follows]

This Offer has been signed by the Buyer as of the date first written above in this Addendum:

BUYER:

KR Acquisitions LLC

By: Todd R. Nelson
Name: Todd R. Nelson
Title: Manager

DATE: 12/23/15 Todd R. Nelson

This Offer is accepted by the Sellers as of the latest date written below:

SELLERS:

Estate of Lisa M. Carter

By: Greg Carter
Name: Greg Carter
Title: Executor
Date: _____

Greg Carter

By: Greg Carter
Name: Greg Carter
Date: _____

Keith Krienke

By: Keith Krienke
Name: Keith Krienke
Date: 12-21-15

Mark Meredith

By: Mark Meredith
Name: Mark Meredith
Date: _____

EXHIBIT A TO ADDENDUM

Documents

1. Any leases affecting the Property and any material correspondence related to any leases affecting the Property.
2. Copies of any notices received in connection with any purported or actual violation at the Property of any legal requirement.
3. To the extent that such matters exist and are in the possession of Sellers, all reports (listed below) or correspondence relating thereto in the possession or control of the Seller relating to the Property (the "Reports"):
 - a. engineering
 - b. geotechnical
 - c. environmental
 - d. boundary surveys or other land surveys
 - e. zoning
 - f. title insurance policies or title abstracts
 - g. and other similar studies

Buyer acknowledges that all such items were prepared by third parties and such delivery is without warranty or representation on the part of Sellers. In the event that this Offer is terminated for any reason all such items will be returned to Sellers.

SCHEDULE 1 TO ADDENDUM

Legal Description

[see attached Exhibit A and Exhibit B]

Exhibit "A"

Page 1 of 2

FIELD NOTES

BEING 176.76 ACRES OF LAND, MORE OR LESS, OUT OF THE P. A. HOLDER SURVEY, ABSTRACT NO. 297, AND THE JOSEPH MARSHALL SURVEY, ABSTRACT NO. 409, IN WILLIAMSON COUNTY, TEXAS, AND BEING A PART OF THOSE CERTAIN TRACTS OF LAND DESCRIBED IN A DEED TO ARNOLD TELANDER RECORDED IN VOLUME 2129, PAGE 744, OFFICIAL RECORDS, WILLIAMSON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO WIT:

BEGINNING at a 3/8" dia. iron rod found at the northwest corner hereof in the southerly line of the Union Pacific Railroad, said iron rod being the northeast corner of that certain 152.392 acre tract of land described in a deed to Hixon Building Materials, Inc., recorded as County Clerk's Document No. 199947747 in the Official Public Records of Williamson County, and being the northeast corner of that certain 2416 acre tract of land described in a deed to Hix Enterprises, Inc., recorded as County Clerk's Document No. 9713935, Official Records, Williamson County, from which a 1/2" dia. iron rod found bears N 00° 12' 36" E a distance of 0.60 feet;

THENCE N 66° 00' 58" E a distance of 2165.03 feet with the southerly line of said railroad to an iron rod found at the most westerly corner of that certain 1,933 acre tract of land described in a deed to the Lower Colorado River Authority recorded as County Clerk's Document No. 9663491, Official Records, Williamson County;

THENCE S 23° 50' 56" E a distance of 50.15 feet to an iron rod found at the most southerly corner of said 1,933 acre tract;

THENCE N 66° 00' 12" E a distance of 699.18 feet with the southerly line of said 1,933 acre tract to an iron rod found at the northwest corner of that certain 37.150 acre tract of land described in a deed to the Lower Colorado River Authority recorded as County Clerk's Document No. 2000072244, Official Public Records, Williamson County;

THENCE S 00° 05' 08" E a distance of 2132.44 feet with the west line of said 37.150 acre tract to the southwest corner hereof in the centerline of Brushy Creek;

THENCE along and with the centerline of Brushy Creek and its meanders and the south line hereof, the following described fifteen (15) courses and distances:

- 1) N 88° 09' 10" W a distance of 126.01 feet;
- 2) S 53° 00' 09" W a distance of 156.52 feet;
- 3) S 32° 48' 29" W a distance of 190.45 feet;
- 4) S 35° 14' 47" W a distance of 474.33 feet;
- 5) S 66° 08' 14" W a distance of 221.36 feet;
- 6) S 05° 40' 43" E a distance of 352.93 feet;
- 7) S 08° 42' 11" W a distance of 122.59 feet;
- 8) S 22° 34' 36" W a distance of 225.29 feet;
- 9) S 64° 05' 33" W a distance of 282.03 feet;
- 10) S 43° 48' 04" W a distance of 226.14 feet;
- 11) S 38° 35' 27" W a distance of 179.50 feet;
- 12) S 58° 26' 05" W a distance of 295.09 feet;

2

Exhibit "A"
Page 2 of 2

- 13) S 68° 30' 57" W a distance of 254.09 feet;
- 14) S 49° 00' 15" W a distance of 498.98 feet, and;
- 15) S 34° 19' 36" W a distance of 252.68 feet to the southwest corner hereof, said point also being the southeast corner of that certain 60.58 acre tract of land described in a deed to John M. Johnson recorded in Volume 185, Page 132, Deed Records, Williamson County;

THENCE N 00° 10' 00" E a distance of 3032.47 feet to an iron pipe set at the northeast corner of said 60.58 acre tract;

THENCE N 89° 40' 00" W a distance of 847.22 feet to an iron found at the northwest corner of said 60.58 acre tract;

THENCE S 89° 14' 37" W a distance of 8.57 feet to an iron rod found in the east line of said 2.416 acre tract, from which an iron rod found at the southeast corner of said tract as originally described in Volume 1802, Page 589, Official Records, Williamson Co., bears S 0° 12' 36" W a distance of 1.70 feet, and an iron rod found at the northeast corner of Lot 1, Beril Telandar Subdivision, a subdivision of record filed in Cabinet H, Slide 126, Plat Records of Williamson County, bears S 67° 40' W a distance of 31.47 feet;

THENCE N 00° 12' 36" E a distance of 505.70 feet with the east line of said 2.416 acre tract to the Place of Beginning, containing 178.28 acres of land, more or less, HAVE AND EXCEPT therefrom the following described 1.50 acre tract, to wit:

BEING 1.50 ACRES OF LAND OUT OF THE P. A. HOLDER SURVEY, ABSTRACT NO. 297, IN WILLIAMSON COUNTY, TEXAS, AND BEING A PART OF LOT 12 OF EWINGSON'S SUBDIVISION ACCORDING TO THE MAP OR PLAT THEREON RECORDED IN VOLUME 11, PAGE 119, DEED RECORDS OF WILLIAMSON COUNTY, AND A PART OF THOSE CERTAIN TRACTS OF LAND DESCRIBED IN A DEED TO ARNOLD TELANDER RECORDED IN VOLUME 2129, PAGE 744, OFFICIAL RECORDS, WILLIAMSON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO WIT:

BEGINNING at an iron rod set at the southwest corner hereof in the east line of said Lot 12, from which an iron pipe set at the southeast corner thereof bears S 01° 10' 00" E a distance of 561.43 feet;

THENCE S 76° 47' 28" W a distance of 244.88 feet to an iron rod set at the southwest corner hereof;

THENCE N 09° 00' 17" E a distance of 340.27 feet to an iron rod set at the northwest corner hereof;

THENCE N 84° 09' 36" E a distance of 189.00 feet to an iron rod set at the northeast corner hereof in the east line of said Lot 12;

THENCE S 01° 10' 00" E a distance of 298.50 feet with the east line of said Lot 12 to the Place of Beginning, containing 1.50 acres of land, leaving a net area of 176.78 acres herein described.

COALTER & ASSOCIATES, SURVEYORS

Steve Coalter
Steve Coalter, RPLS, LALS
B-01-02 FLS No. 02079



5

Exhibit "B"

SAVE AND EXCEPT:

FIELD MORE DESCRIPTION OF A 31.91 ACRE TRACT OF LAND LOCATED IN THE NORTH MARSHALL SURVEY ABSTRACT No. 409, WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A CALLED 75 ACRE TRACT OF LAND CALLED TRACT FIVE CONVEYED AND UNDIVIDED IS HEREBY BY WARRANTY DEED FROM BERTIE AND MARY LOUISE TELANER TO CLARENCE AND ARNOLD TELANER, EXECUTED AUGUST 24, 1961, AND RECORDED IN VOLUME 848, PAGE 247 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 75 ACRE TRACT ALSO BEING DESCRIBED IN A WARRANTY DEED FROM BERTIE TELANER CONVEYED AND UNDIVIDED IS HEREBY TO ARNOLD A. TELANER, EXECUTED JANUARY 17, 1961 AND RECORDED IN VOLUME 304, PAGE 228 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, ON APRIL 24, 1962, CLARENCE TELANER CONVEYED ALL OF HIS UNDIVIDED INTEREST OF SAID 75 ACRE TRACT TO ARNOLD TELANER, AS RECORDED IN VOLUME 311, PAGE 244 OF THE OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS. THE REMAINDER OF SAID 75 ACRE TRACT WAS OWNED IN FULL OR IN PART BY ARNOLD TELANER AND IS CURRENTLY UNDER THE DIRECTION OF CLARENCE TELANER, IN HIS CAPACITY AS INDEPENDENT EXECUTOR OF THE ESTATE OF ARNOLD TELANER, DECEASED, PROBATE CAUSE NO. 05-618-CP, COUNTY COURT OF LAW NUMBER TWO, WILLIAMSON COUNTY, TEXAS; SAID 31.91 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCEMENT for reference at a 1/2-inch brass rod fixed marking the southwest corner of a called 1,313-acre tract of land surveyed by the City of Austin to the Lower Colorado River Authority and recorded in Document No. 2000072244 of the Official Public Records of Williamson County, Texas. Said point also being located on the southeasterly right-of-way line of the Union Pacific Railroad (DSS Act 1862):

THENCE, N 00° 25' 00" E, 103.58 feet along the north line of said 1,313-acre tract and southeasterly right-of-way line of the Union Pacific Railroad to a 1/2-inch brass rod with a plastic LCRA cap set;

THENCE, S 03° 34' 00" E, 24.33 feet to a 1/2-inch brass rod with a plastic LCRA cap set marking the POINT OF BEGINNING and southeast corner of the herein described tract. Said point also being located in the south line of said 1,313-acre tract, (Old Comanches 17-4, 147,194.74, B-18, 163,937.15, MAP 11253 HAIN Texas Ceded Land);

THENCE, N 00° 20' 00" E, 627.37 feet to a 1/2-inch brass rod fixed marking the northeast corner of the herein described tract and southeast corner of a called 77.133-acre tract surveyed from the City of Austin to the Lower Colorado River Authority by Special Warranty Deed and recorded under Document No. 2000072244 of the O.P.R.W.R., Tr., same being the tract recorded in Volume 2597, Page 770 of the Deed Records of Williamson County;

THENCE, N 03° 25' 14" E, 163.33 along the west line of said 77.133-acre tract to a 1/2-inch brass rod with a plastic LCRA cap set marking the southeast corner of the herein described tract;

THENCE, S 30° 34' 00" W, 244.13 feet along an existing baseline to a 1/2-inch brass rod with a plastic LCRA cap set to a point for corner;

THENCE, S 30° 34' 00" W, 563.03 feet continuing along said baseline to a 1/2-inch brass rod with a plastic LCRA cap set marking the southeast corner of the herein described tract;

THENCE, N 01° 34' 00" W, 1694.57 feet to the POINT OF BEGINNING, and containing 31.91 Acres (321,000 Square Feet) of land, more or less.

BEARING DATA: Texas Landcut 664, Catted Zone, NAD 83(93) HAIN
WORD FILE: LCRANPBA-021A.DOC
ACAD: LCRANPBA-021A.DWG

THE STATE OF TEXAS
COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

I, Joe D. Watkins, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description and the accompanying plat is correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during April 2003 under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas on this 15th day of July, 2003 A. D.



Joe D. Watkins, Jr.
Joe D. Watkins, Jr.
Registered Professional Land Surveyor
No. 4553 - State of Texas

ELKHORN
400 West 15th Street, Suite 1030
Austin, TX 78701
(512) 457-9970

u



GEORGETOWN TITLE
SINCE 1893

Wiring Instructions for Georgetown Title Company, Inc.

**** PLEASE CONTACT OUR OFFICE VIA PHONE TO VERIFY THESE INSTRUCTIONS BEFORE INITIATING YOUR WIRE ****

Wire to: First Texas Bank
900 S. Austin Avenue
Georgetown, Texas 78626

ABA: 114 903 103

Account No: 868372

To Credit: Georgetown Title Company, Inc.
Escrow Account
1717 N. Mays
Round Rock, TX 78664

*from ~~AK~~
KR Acquisitions
Acct. ending in
176
\$50,000.00*

Please Reference GF Number and Borrowers:

Name: KR Acquisitions, LLC
GF Number:

Please advise the bank to notify Carol, Evan, Jenna, Shani, Katie or David at (512) 255-5839 upon receipt of this wire.

In order to ensure that funds are sent to the right bank, please secure wiring instructions from Georgetown Title for each transaction.

Please note that ACH Wires or Electronic Transfers are not acceptable and will be rejected/returned. You will need to speak with a bank representative to initiate your wire through the Federal Reserve.

If you have any questions or need further assistance, please contact our office at the number below.

Thank you.

1717 N. Mays Round Rock, Texas 78664 Office 512.255.5839 Fax 512.244.9138

WWW.GEORGETOWNTITLE.NET

EXHIBIT C

KELLER COMMERCIAL CONTRACT

[Attached hereto]



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
 ©Texas Association of REALTORS®, Inc. 2014

60 Acre
 parcel
 60 A Parcel

1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Bertha Johnson Keller, John D. Johnson and Nelson D. Johnson, as Power
of Attorney for Gladys B. Johnson
 Address: 150 County Road 450, Thrall, TX 76578
 Phone: 512.926.2800 E-mail: jjohnson@fai-wireless.com
 Fax: _____ Other: _____

Buyer: KR Acquisitions LLC, a Delaware limited liability company
 Address: P.O. Box 590, Wisconsin Dells, WI 53965
 Phone: (608) 254-5230 E-mail: bharms@axley.com
 Fax: _____ Other: mbonte@kalahariresorts.com

2. **PROPERTY:**

- A. "Property" means that real property situated in Williamson County, Texas at
60.58 Acres, Round Rock, TX
 (address) and that is legally described on the attached Exhibit A or as follows:
 R051819
 R055809

- B. Seller will sell and convey the Property together with:

- (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
- (3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
 (If mineral rights are to be reserved an appropriate addendum should be attached.)

3. **SALES PRICE:**

- A. At or before closing, Buyer will pay the following sales price for the Property:

- (1) Cash portion payable by Buyer at closing\$ 3,958,297.20
- (2) Sum of all financing described in Paragraph 4\$ _____
- (3) Sales price (sum of 3A(1) and 3A(2))\$ 3,958,297.20

B. Adjustment to Sales Price: (Check (1) or (2) only.)

☐ (1) The sales price will not be adjusted based on a survey.

☒ (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of \$ 1.50 per:

☒ (i) square foot of ☒ total area ☐ net area.

☐ (ii) acre of ☐ total area ☐ net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

☐ (i) public roadways;

☐ (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and

☐ (iii) _____

(c) ~~If the sales price is adjusted by more than _____ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.~~

4. **FINANCING:** ~~Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:~~

☐ A. ~~Third-Party Financing:~~ One or more third party loans in the total amount of \$ _____ This contract:

☐ (1) ~~is not~~ contingent upon Buyer obtaining third party financing.

☐ (2) ~~is~~ contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TAR-1931).

☐ B. ~~Assumption:~~ In accordance with the attached Commercial Contract Financing Addendum (TAR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.

☐ C. ~~Seller Financing:~~ The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TAR-1931) in the amount of \$ _____.

5. **EARNEST MONEY:**

A. Not later than 3 days after the effective date, Buyer must deposit \$ 25,000.00 as earnest money with Georgetown Title (title company) at 1717 North Mays, Round Rock, TX 78664 (address) David Hays (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of \$ _____ with the title company to be made part of the earnest money on or before:

☐ (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or

☐ (ii) _____

Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

- C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
- (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
- ☐ (a) will not be amended or deleted from the title policy.
 - ☒ (b) will be amended to read "shortages in areas" at the expense of ☒ Buyer ☐ Seller.
- (3) Within 15 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 45 days after the effective date:

- ☒ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer \$2,500.00 (insert amount) of the cost of the survey at closing, if closing occurs.
- ☐ (2) ~~Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.~~
- ☐ (3) ~~Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to Buyer and the title company within 20 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for Seller to deliver an acceptable survey within the time required. Buyer will reimburse Seller (insert amount) of the cost of the new or updated survey at closing, if closing occurs.~~

C. Buyer's Objections to the Commitment and Survey:

- (1) ~~Within _____ days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a~~

~~special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.~~

- ~~(2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.~~
- ~~(3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.~~

7. PROPERTY CONDITION:

- A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

- B. Feasibility Period: Buyer may terminate this contract for any reason within 90 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

- ☒ (1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 500.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

- ☐ (2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

- (1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.
- (2) Buyer must:
- (a) employ only trained and qualified inspectors and assessors;
 - (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
 - (c) abide by any reasonable entry rules or requirements of Seller;
 - (d) not interfere with existing operations or occupants of the Property; and
 - (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

- (3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 15 days after the effective date, Seller will deliver to Buyer: *(Check all that apply.)*
- ☒ (a) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - ☐ (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - ☒ (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
 - ☒ (d) copies property tax statements for the Property for the previous 2 calendar years;
 - ☒ (e) plats of the Property;
 - ☒ (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
 - ☐ (g) _____

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*
- ☒ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
 - ☒ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied; and
 - ☐ (c) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.

This Paragraph 7D(2) survives termination of this contract.

~~E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.~~

8. LEASES:

- A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
- (1) any failure by Seller to comply with Seller's obligations under the leases;
 - (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
 - (3) any advance sums paid by a tenant under any lease;

Commercial Contract - Unimproved Property concerning 60.58 Acres, Round Rock, TX

- (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
(5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TAR Form 1938, Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4. If the third party lender requests such additional information at least 40 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: Don Quirk & Associates, Inc.

Agent: Don Quirk

Address: 1000 N. IH-35, Suite A
Round Rock, TX 78681

Phone & Fax: (512) 259-3000

E-mail: don@donquirk.com

License No.:

Cooperating Broker: Summit Commercial

Agent: Jim Boies

Address: 20 Chisholm Trail
Round Rock, TX 78681

Phone & Fax: (512) 244-0707 (512) 244-2510

E-mail: jim@summit-commercial.com

License No.: 0448916

Principal Broker: (Check only one box)

☒ represents Seller only.

☐ represents Buyer only.

☐ is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

B. Fees: (Check only (1) or (2) below.)

(Complete the Agreement Between Brokers on page 13 only if (1) is selected.)

☐ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

☒ (2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:

☒ 2.75% % of the sales price.

☐ % of the sales price.

Cooperating Broker a total cash fee of:

☒ 2.75% % of the sales price.

☐ % of the sales price.

The cash fees will be paid in Williamson County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

(TAR-1802) 4-1-14

Produced with zipForm® by zipCode 10070 Pkwy 100 Road, Frisco, ATX 75034 zipForm.com

Page 6 of 13

Johnson 60.58

808 TB
12/11/2015 12/16/15

10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:
- (1) ☐ _____ days after the expiration of the feasibility period.
☐ _____ (specific date).
☒ See Special Provisions Addendum
 - (2) ~~7 days after objections made under Paragraph 6C have been cured or waived.~~
- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.
- C. At closing, Seller will execute and deliver, at Seller's expense, a ☐ general ☒ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) an assignment of all leases to or on the Property;
 - (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
 - (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
 - (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.
- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the title company;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
 - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
 - (b) specifies the exact dollar amount of the security deposit;
 - (4) sign an assumption of all leases then in effect; and
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*

See attached Special Provisions Addendum

13. SALES EXPENSES:

A. Seller's Expenses: Seller will pay for the following at or before closing:

- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
- (2) release of Seller's loan liability, if applicable;
- (3) tax statements or certificates;
- (4) preparation of the deed;
- (5) one-half of any escrow fee;
- (6) costs to record any documents to cure title objections that Seller must cure; and
- (7) other expenses that Seller will pay under other provisions of this contract.

B. Buyer's Expenses: Buyer will pay for the following at or before closing:

- (1) all loan expenses and fees;
- (2) preparation of any deed of trust;
- (3) recording fees for the deed and any deed of trust;
- (4) premiums for flood insurance as may be required by Buyer's lender;
- (5) one-half of any escrow fee;
- (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

A. Prorations:

- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
- (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
- (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

B. Rollback Taxes: If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.

C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental

payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. ~~If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(3) which Seller may pursue; or~~
~~(Check if applicable)~~
☐ ~~enforce specific performance, or seek such other relief as may be provided by law.~~
- B. ~~If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:~~
~~(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or~~
~~(2) extend the time for performance up to 15 days and the closing will be extended as necessary.~~
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) enforce specific performance, or seek such other relief as may be provided by law, or both.

16. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
- B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
(1) Seller and the sales price will be reduced by the same amount; or
(2) Buyer and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.
- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.

- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. ☒ Seller ☐ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: (Check only one box.)

- ☐ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TAR-1408).
- ☒ B. Except as otherwise provided in this contract, Seller is not aware of:
- (1) any subsurface structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

- 20. NOTICES:** All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- ~~☒ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.~~
- ☒ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

- 21. DISPUTE RESOLUTION:** ~~The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of~~

~~a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.~~

22. AGREEMENT OF THE PARTIES:

A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.

B. This contract contains the entire agreement of the parties and may not be changed except in writing.

C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

D. Addenda which are part of this contract are: *(Check all that apply.)*

- ☒ (1) Property Description Exhibit identified in Paragraph 2;
- ☐ (2) Commercial Contract Financing Addendum (TAR-1931);
- ☐ (3) Commercial Property Condition Statement (TAR-1408);
- ☐ (4) Commercial Contract Addendum for Special Provisions (TAR-1940);
- ☐ (5) Notice to Purchaser of Real Property in a Water District (MUD);
- ☐ (6) Addendum for Coastal Area Property (TAR-1915);
- ☐ (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916);
- ☒ (8) Information About Brokerage Services (TAR-2501); and
- ☒ (9) Special Provisions Addendum

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

E. Buyer ☐ may ☐ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.

C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can

receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.

- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.026, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.
26. **CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on ~~November 23, 2015~~ Dec. 16, 2015, the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT** your attorney **BEFORE** signing.

7R 12/16/15
RJR 12/10/15

Commercial Contract - Unimproved Property concerning 60.58 Acres, Round Rock, TX

AGREEMENT BETWEEN BROKERS
(use only if Paragraph 9B(1) is effective)

Principal Broker agrees to pay _____ (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:
☐ \$ _____, or
☐ _____ % of the sales price, or
☐ _____ % of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: _____ Cooperating Broker: _____

By: _____ By: _____

ATTORNEYS

Seller's attorney: Merlin Lester Buyer's attorney: Bruce Harms w/Axley Brynolson
Address: 213-A West 8th Street Address: Manchester Place, Suite 207
Phone & Fax: Georgetown, Texas 78626 Address: 2 East Miffelin St.
Madison WI 53703
Phone & Fax: (608) 283-5735

E-mail: ml Lester @ gtlaw.com E-mail: bharms@axley.com

Seller's attorney requests copies of documents, notices, and other information:
☒ the title company sends to Seller.
☒ Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:
☒ the title company sends to Buyer.
☒ Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:
☐ A. the contract on this day _____ (effective date);
☐ B. earnest money in the amount of \$ _____ in the form of _____ on _____.

Title company: _____ Address: _____

By: _____ Phone & Fax: _____

Assigned file number (GF#): _____ E-mail: _____

TAR
12/16/15
RUS
12/11/2014

This Offer has been signed by the Buyer as of the date first written above in this Addendum:

BUYER:

KR Acquisitions LLC

By: Todd R. Nelson
Name: Todd R. Nelson
Title: Manager

This Offer is accepted by the Sellers as of the latest date written below:

SELLERS:

Gladys B. Johnson

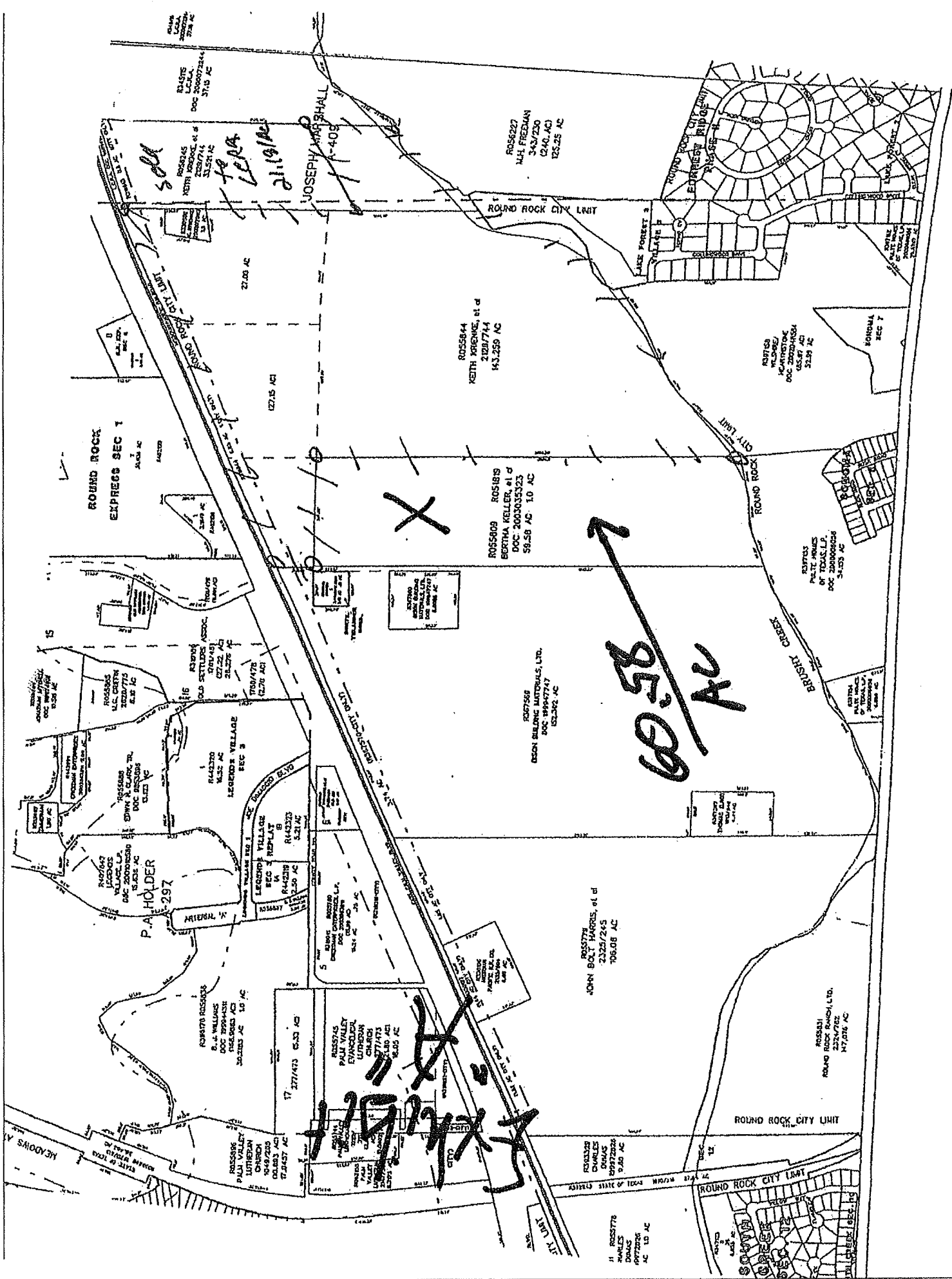
By: _____
Name: Nelson D. Johnson
Title: Attorney In Fact for Gladys B. Johnson
Date: _____

John D. Johnson

By: John D. Johnson
Name: John D. Johnson
Date: 12/11/2015

Bertha M. Keller

By: _____
Name: Bertha M. Keller
Date: _____



ROUND ROCK
EXPRESS SEC 1

P. A. HOLDER
297

LEGEND VILLAGE
SEC 2

LEGEND VILLAGE
SEC 2 REPLAT
B
R443223
17.27/473 65.33 AC

R055609 R05189
BERTHA KELLER, et al
DOC 2003035323
59.58 AC 10 AC

R055844
KEITH KREHME, et al
2128/744
43.259 AC

R07558
DEON BUILDING MATERIALS, LTD.
DOC 199947747
63.362 AC

R05277
JOHN BOYD HARRIS, et al
2328/245
706.06 AC

R05831
ROUND ROCK RANCH, LTD.
2254/782
17.076 AC

ROUND ROCK CITY LIMIT

ROUND ROCK CITY LIMIT

R05277
CHARLES
DANIELS
197225
AC 15 AC

LEGEND VILLAGE
SEC 2
R443223
17.27/473 65.33 AC

60.58
AC

X

21.19 AC

R056227
MRS. FREDMAN
343/720
125.25 AC

JOSEPH H. B. SHALL
4-402

R056245
KEITH KREHME, et al
2328/744
31.531 AC

R03753
PLATE HOMES
OF TEXAS, L.P.
DOC 200000056
34.353 AC

R03753
PLATE HOMES
OF TEXAS, L.P.
DOC 200000056
34.353 AC

R03753
PLATE HOMES
OF TEXAS, L.P.
DOC 200000056
34.353 AC

R03753
PLATE HOMES
OF TEXAS, L.P.
DOC 200000056
34.353 AC

R03753
PLATE HOMES
OF TEXAS, L.P.
DOC 200000056
34.353 AC

R03753
PLATE HOMES
OF TEXAS, L.P.
DOC 200000056
34.353 AC



Approved by the Texas Real Estate Commission for Voluntary Use
Texas law requires all real estate licensees to give the following information about
brokerage services to prospective buyers, tenants, sellers and landlords,

10-10-11

Information About Brokerage Services

Before working with a real estate broker, you should know that the duties of a broker depend on whom the broker represents. If you are a prospective seller or landlord (owner) or a prospective buyer or tenant (buyer), you should know that the broker who lists the property for sale or lease is the owner's agent. A broker who acts as a subagent represents the owner in cooperation with the listing broker. A broker who acts as a buyer's agent represents the buyer. A broker may act as an intermediary between the parties if the parties consent in writing. A broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A broker is obligated by law to treat you honestly.

IF THE BROKER REPRESENTS THE OWNER:

The broker becomes the owner's agent by entering into an agreement with the owner, usually through a written - listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing broker. A subagent may work in a different real estate office. A listing broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

IF THE BROKER REPRESENTS THE BUYER:

The broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

IF THE BROKER ACTS AS AN INTERMEDIARY:

A broker may act as an intermediary between the parties if the broker complies with The Texas Real Estate License Act. The broker must obtain the written consent of each party to the transaction to act as an

intermediary. The written consent must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. The broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A broker who acts as an intermediary in a transaction:

- (1) shall treat all parties honestly;
- (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;
- (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and
- (4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

With the parties' consent, a broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the broker to communicate with and carry out instructions of the other party.

If you choose to have a broker represent you, you should enter into a written agreement with the broker that clearly establishes the broker's obligations and your obligations. The agreement should state how and by whom the broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a broker does not necessarily establish that the broker represents you. If you have any questions regarding the duties and responsibilities of the broker, you should resolve those questions before proceeding.

Real estate licensee asks that you acknowledge receipt of this information about brokerage services for the licensee's records.

Buyer, Seller, Landlord or Tenant

Date

Texas Real Estate Brokers and Salespersons are licensed and regulated by the Texas Real Estate Commission (TREC). If you have a question or complaint regarding a real estate licensee, you should contact TREC at P.O. Box 12188, Austin, Texas 78711-2188, 512-936-3000 (<http://www.trec.texas.gov>)

(TAR-2501) 10-10-11

TREC No. OP-K

Summit Commercial Industrial Properties, Inc. 20 Chisholm Trail Round Rock, TX 78681
Phone: (512)244-9707 Fax: (512)244-9519 Jim Boles

131 Acre Tract

Produced with ZipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.ziplogix.com

SPECIAL PROVISIONS ADDENDUM TO COMMERCIAL CONTRACT –
UNIMPROVED PROPERTY

This Special Provision Addendum (the “Addendum”) is made by KR Acquisitions LLC (“Buyer”) and Bertha Johnson Keller, John D. Johnson, and Nelson D. Johnson as Power of Attorney for Gladys B. Johnson (each a “Seller” and collectively the “Sellers”) and is incorporated by reference into the Texas Association of Realtors Commercial Contract – Unimproved Property to which it is attached (the “Form Offer”). This Addendum and the Form Offer may herein be referred to as the “Offer”. Buyer and Sellers (who may herein be referred to as the “parties”) agree as follows:

1. Conflicts with Form Offer. In the event of any conflict between the terms and conditions of this Addendum and the Form Offer, the terms and conditions of this Addendum shall control. Capitalized terms used herein shall have the meaning ascribed to such terms in the Form Offer unless otherwise defined herein.

2. Buyer’s Due Diligence. Buyer, and its agents and contractors, shall have the right to access and enter upon the Property and to perform any inspections, reviews, sampling, testing, and evaluation of the Property for the purpose of determining the suitability of the Property for Buyer’s intended use (i.e., development of a waterpark resort hotel and convention center – the “Proposed Project”). Buyer’s inspections, testing, sampling, and evaluations, which shall be conducted at Buyer’s expense, shall be with regard to the environmental condition of the Property, soil conditions, utility access, ingress/egress, availability of municipal incentives, assessment of financial feasibility, availability of acceptable financing to fund the development of the Proposed Project, market conditions (including an evaluation of competing hospitality and lodging businesses), path-to-development issues (i.e., when development can occur), ability to enter into contracts to purchase adjacent parcels, and such other matters which Buyer, in its sole and absolute discretion, deems material to its decision to acquire the Property and develop it for the purpose set forth above. In addition while this Offer is in effect Buyer shall have the right to make and pursue applications for governmental approvals, permits, licenses, zoning changes, and similar or related entitlement matters with respect to the Property (“Entitlements”) provided, however, that the Buyer shall require that any such Entitlements not take effect until the closing occurs and if any Entitlements do take effect prior to the closing occurring then if closing shall not occur for any reason except for any Seller’s breach of this Offer, Buyer shall release all such Entitlements that Buyer has had issued for the Property and which are binding on the Property and this provision shall survive the termination of the Offer. Buyer shall also have the right to engage in discussions and negotiations with governmental authorities having jurisdiction over the Property including, without limitation, for the negotiation of development agreements, financing agreements, road access agreements, easement agreements, utility service agreements, tax agreements, and any similar or related agreements. Without limiting Buyer’s rights hereunder (a) the Sellers shall provide reasonable cooperation with respect to the Buyer’s activities under this Section 2 including, without limitation, signing of applications for Entitlements; and (b) Sellers shall ensure that Buyer shall have access to the Property so that Buyer can conduct the activities and exercise the rights contemplated under this Section 2.

3. Extension of Feasibility Period. Buyer shall have the right to extend the feasibility period (as defined in the Form Offer) provided under Section 7.B of the Form Offer as follows:

a. If Buyer deposits additional earnest money of \$25,000 with the title company on or before the date that is five (5) days after the expiration of the initial 90-day feasibility period described in Section 7.B of the Form Offer, the feasibility period will be deemed extended for an additional 90 days and the 90 days inserted in the blank in Section 7.B of the Form Offer will be deemed deleted and replaced with 180 days.

b. If Buyer extends the feasibility period for 90 days under the procedures provided in Section 3(a) above, then if Buyer deposits additional earnest money of \$25,000 with the title company on or before the date that is five (5) days after the expiration of the feasibility period as extended under Section 3(a) above, the feasibility period will be deemed extended for an additional 90 days and the 180 days inserted in the blank in Section 7.B of the Form Offer pursuant to Section 3(a), above, will be deemed deleted and replaced with 270 days.

c. If Buyer extends the feasibility period under the procedures provided in Section 3(b) above, then if the Buyer deposits additional earnest money of \$25,000 with the title company on or before the date that is five (5) days after expiration of the feasibility period as extended under Section 3(b) above, the feasibility period will be deemed extended for an additional 90 days and the 270 days inserted in the blank in Section 7.B of the Form Offer pursuant to Section 3(b), above, will be deemed deleted and replaced with 360 days.

d. Each of the ninety (90) day extensions of the feasibility period described in this Section 3 is an "Extension Period". The initial ninety (90) day feasibility period described in the Form Offer is the "Initial Feasibility Period".

4. Earnest Money.

a. In Section 5.A of the Form Offer the Buyer will have 3 business days after the effective date (as defined in the Form Offer) to deposit the initial installment of the earnest money. At the closing all earnest money that has been deposited or paid over by Buyer under this Offer shall be applied to the purchase price in favor of Buyer and the Buyer shall be entitled to a credit in its favor at the closing in the amount of all the earnest money paid over or deposited by Buyer under the Offer.

b. In the event the Buyer terminates this Offer pursuant to Section 7.B of the Form Offer during the Initial Feasibility Period then all the earnest money shall be returned to the Buyer, less the \$500 of independent consideration provided for in the Form Offer and the \$5,000 Early Disbursement Amount as provided below. In such case the independent consideration of \$500 shall be disbursed to Sellers. In the event the Buyer terminates this Offer pursuant to Section 7.B of the Form Offer during the first Extension Period \$20,000 of the earnest money shall be disbursed to Sellers and \$25,000 of the earnest money shall be disbursed to Buyer. If the Buyer terminates this Offer under Section 7.B of the Form Offer during the second Extension Period \$45,000 of the earnest money shall be disbursed to Sellers and \$25,000

of the earnest money shall be disbursed to Buyer. If the Buyer terminates this Offer under Section 7.B of the Form Offer during the third Extension Period then \$70,000 of the earnest money shall be disbursed to Sellers and \$25,000 of the earnest money shall be disbursed to Buyer. In the event this Offer terminates prior to Closing due to the breach or default of any Seller or due to the failure or nonsatisfaction of any closing condition contained in this Offer for the benefit of the Buyer then the Buyer shall be entitled to a return of all the earnest money deposited with the title company by Buyer (including, without limitation, any earnest money disbursed to Sellers which Sellers will immediately pay over), less the \$500 of independent consideration. If Buyer's failure or refusal to close the transaction contemplated by this Offer is due to the breach or default of any Seller or the failure or nonsatisfaction of any closing condition contained in this Offer for the benefit of Buyer, then Buyer shall have the right to a return of all the earnest money deposited by Buyer (including, without limitation, any earnest money disbursed to Sellers which Sellers will immediately pay over), less the \$500 of independent consideration. If this Agreement terminates the Buyer and Sellers agree to provide instructions to the title company for the disbursement of the earnest money in accordance with the foregoing provisions which obligation shall survive termination of this Offer. Upon Buyer's deposit of the first earnest money installment with the title company, the Buyer and Sellers authorize the title company to disburse \$5,000 of such earnest money installment to the Sellers (the "Early Disbursement Amount"). All Buyer's rights and remedies are cumulative and not exclusive. The Early Disbursement Amount will be retained by Sellers if this Offer terminates unless the Offer terminates due to a breach by any Seller in which case the Early Disbursement Amount will be returned to Buyer in addition to any other rights or remedies of the Buyer.

5. Closing Date. The closing of the transaction contemplated by the Offer shall be on the date that is 30 days after expiration of the feasibility period. Each time one of the feasibility period extension rights under Section 3 above is exercised the date of the closing shall be re-determined based on the new duration of the feasibility period.

6. Title Objections.

a. The Buyer will have until the expiration of thirty (30) days after its receipt of the title commitment for the Property or Buyer's survey of the Property, whichever is later, to send to Sellers any objections it has to any matters set forth in the title commitment or survey (the "Objection Period"). Buyer's notice containing its objections is referred to herein as the "Objection Notice". The term "Permitted Exceptions" means any Schedule B matter contained in the title commitment to which the Buyer does not object in writing within the Objection Period and any encroachment on the Property or other adverse title matter shown on the survey to which the Buyer does not object within the Objection Period.

b. After receipt of an Objection Notice, the Sellers shall have the option, but not the obligation, until 11:59 p.m. on the date that is thirty (30) days after the date the Objection Notice is received by the Sellers ("Cure Period"), to cure or resolve any of Buyer's objections in a manner reasonably acceptable to Buyer. If any objection is not cured in a manner reasonably acceptable to Buyer within the Cure Period, then the Buyer shall have the right to terminate this Offer by giving written notice to Sellers at any time on or before the earlier of (x) the thirtieth (30th) day after the expiration of the Cure Period; or (y) the closing date. If Buyer does so

terminate this Offer then all earnest money, less the \$500 of independent consideration, shall be returned to Buyer and Buyer and Sellers will provide disbursement instructions to the title company consistent with the foregoing which obligation shall survive termination. If the Buyer does not so terminate this Offer then (i) any Schedule B matter shown on the title commitment, and (ii) any encroachment on the Property or other adverse title matter shown on the survey to which the Buyer objected in its Objection Notice and which has not been cured by Sellers shall be deemed Permitted Exceptions. Further, all leases of the Property which predate this Offer and all leases of the Property made after the date of this Offer and which were made in accordance with the terms of this Offer are the "Permitted Leases". Any Permitted Leases which have terms that extend beyond the closing date ("Post Closing Leases") shall be deemed Permitted Exceptions. At closing the Sellers shall cause the title company to issue to the Buyer at closing a title commitment showing the Buyer as the insured and as the fee simple owner of the Property, the effective date of the policy as of the date and time of the closing, the policy amount in the amount of the sales price, and showing no exceptions to the coverage of the title insurance policy other than Permitted Exceptions. If after the Objection Period, the title company issues a supplemental title report or title commitment that identifies any additional title encumbrances (a "Supplemental Commitment"), the Buyer shall have the right to terminate this Offer by giving written notice to Sellers of the exercise of that termination right at any time on or before the fifteenth (15th) day after receipt of the Supplemental Commitment by Buyer. If Sellers commit or promise to cure any objected to title matter in writing then they shall be bound and obligated under this Offer to cure such matter on or prior to the closing date and any such matter will not, despite anything contained herein to the contrary, be deemed a Permitted Exception.

c. Despite anything to the contrary contained herein, the term Permitted Exceptions shall not include (i) any Monetary Liens, (ii) any leases other than Post Closing Leases, (iii) any standard title commitment exceptions that can be removed with a customary certificate or affidavit from the Sellers (such as an Affidavits and Indemnity as to Debts, Liens, and Possession) from Sellers and/or the payment of additional title insurance premiums, or (iv) any standard title commitment exceptions that can be removed with a survey and payment of additional title insurance premiums. "Monetary Liens" means any mortgage, assignment of rents and leases, construction lien, delinquent real estate tax lien (other than for real estate taxes for the year of closing provided none are delinquent as of the closing date and other than the lien of any rollback real estate taxes that would become due after the Closing as a result of the change of the use of the Property by the Buyer after Closing), fixture filing, broker lien, or any other monetary lien or collateral security document. The Buyer need not object under Section 6(a) of this Addendum to any Monetary Liens or any matter described in Section 6(c)(ii), (iii), or (iv) of this Addendum. Any additional title premium charged for the removal of the "Rights of Parties in Possession" exception from any Title Commitment or Title Policy or for the removal of any other standard title insurance commitment exceptions shall be promptly paid by the Sellers.

7. Proration; Special Assessments and Real Estate Taxes. The Sellers shall pay as they become due and no later than the closing date all the basic ad valorem real estate taxes for the Property in the amount payable under the existing agricultural use exemption ("Sellers' Taxes") for all years prior to the year in which the closing occurs and a prorated portion of such Sellers' Taxes for the year in which the closing occurs. The Sellers shall also be responsible for paying as they become due and no later than the closing date (a) all penalties, late fees, and

interest for any Sellers' Taxes or Seller Special Assessments which were due prior to or on the closing date but not timely paid by Sellers; and (b) all special assessments or installments of special assessments due and payable on or before the closing date (other than road assessments and roll back taxes) ("Seller Special Assessments"). If a tax bill for Sellers' Taxes for the year in which closing shall occur has not yet been issued as of the closing, then the Buyer in its reasonably exercised discretion shall estimate Sellers' Taxes at the closing based on the amount of basic ad valorem real estate taxes paid by Sellers for the Property for the immediately preceding year. The Buyer shall in its reasonably exercised discretion prorate the actual or estimated amount of Sellers' Taxes for the year in which closing occurs as to the date of closing between the parties, and such proration shall be final and binding on the parties hereto. Buyer, and not Sellers, shall pay any and all rollback real estate taxes, special assessments, standby fees, road assessments, or any other such tax, fee, or imposition, which arise after closing. The parties shall not revisit any estimated prorations following the issuance of the tax bill, regardless of any variation between the estimated and actual amounts.

8. Special Warranty Deed. The special warranty deed delivered by Sellers at the closing shall include a warranty that the Property is conveyed free and clear of all liens and encumbrances created during Sellers' period of ownership of the Property other than Permitted Exceptions. The provisions of Section 10(C)(1)-(3) of the Form Offer are hereby deleted. The third and fourth sentences of Section 10(C) of the Form Offer are hereby deleted.

9. Leases. Sellers jointly and severally represent and warrant to Buyer that (a) attached to this Addendum as part of Exhibit B is a true, correct, accurate, and complete copy of the lease (including all amendments) to which the Property is subject as of the date of this Offer, (b) there are no other leases to which all or any part of the Property is subject other than the lease attached to Exhibit B, and (c) the existing lease to which the Property is subject is an agricultural lease which expires on the last day of September 30, 2016 and contains no extension or renewal terms or provisions. The Sellers may after the date hereof enter into additional leases affecting the Property provided that all such leases are in writing, all such leases are solely for agricultural purposes, the term of any such leases after giving effect to all extension and renewal options does not exceed a year, and Seller first obtains the prior written consent of the Buyer to any such leases which consent Buyer will not unreasonably withhold, condition, or delay; provided, however, Buyer's consent is not required as to any agricultural leases for one year or less (after giving effect to all extension and/or renewal options) which are required to maintain the Property's agricultural exception for property taxes and having the following terms: the lease can be terminated by landlord at any time upon not less than 30 days' notice to tenant and upon payment to tenant of the greater of (i) all actual out-of-pocket costs of planting any crops, or (ii) the then market value of any crop that tenant has planted in that year. All such leases shall be deemed Permitted Leases and Post Closing Leases. Without limiting the Buyer's rights hereunder by enumeration, the Seller will not enter into any lease of all or part of the Property, while this Offer is in effect, that would limit or restrict the ability of the Buyer to conduct the activities contemplated under Section 2 of this Addendum. The Seller will provide the Buyer with copies of each lease it makes for the Property while this Offer is in effect. All leases made by Sellers while this Offer is in effect shall be in writing.

10. Closing Deliverables. In addition to the documents to be delivered by the Sellers at the closing as described in the Form Offer, at the closing the Sellers shall:

a. Execute and deliver an Affidavits and Indemnity as to Debts, Liens, and Possession on a customary form indicating there are no unpaid debts for fixtures, equipment, or improvements relating to the Property; no construction liens or construction lien rights affecting the Property; no unpaid labor and materials used in the construction on the Property; no leases or parties in possession affecting the Property other than Permitted Leases and tenants under Permitted Leases; and no purchase contracts for the Property or contracts to sell the Property.

b. Execute and deliver such other affidavits and certificates as are required so that the title company can remove the title exception on the title commitment for mechanics liens, construction liens, and/or material suppliers liens and the general exception for tenants in possession but which affidavit may disclose any applicable Post Closing Leases.

c. Deliver fully executed releases of all Lien Documents which are needed for the Property to be conveyed at the closing free of all Lien Documents. "Lien Documents" means collectively all mortgages, assignments of rents and leases, deeds of trust, other collateral security documents, construction liens, mechanics liens, or material supplier liens.

d. Deliver fully executed lien waivers from each of the brokers identified in Section 9 of the Form Offer under which each such broker waives and releases all lien rights as to the Property.

With respect to Section 10 of the Form Offer the closing documents referred to in Section 10 of the Form Offer shall be in a form reasonably required by the Buyer.

11. Conditions Precedent. The obligations of the Buyer to take the actions otherwise required of it at the closing are subject to and conditioned upon the satisfaction of each of the following conditions precedent listed below.

a. The Sellers shall have delivered all the documents any Seller is to deliver at the closing in duly executed form at or prior to the closing date.

b. Each Seller shall have materially complied with all its other obligations to be performed at or prior to the closing.

c. The representations and warranties of the Sellers in this Offer shall have been true and correct at the time made.

d. The physical condition of the Property shall not have suffered any material adverse change after the expiration of the feasibility period.

If on the closing date all of the foregoing conditions are not satisfied then Buyer shall have the right but not the obligation to terminate this Offer.

12. Documents. Copies of the documents listed on Exhibit A attached hereto and incorporated herein, to the extent they are in the possession or control of any Seller, shall be delivered to Buyer within fifteen (15) days after the effective date. If any documents that are responsive to the requests made in this Section 12 and Exhibit A come into the possession or control of any Seller after the date hereof the Seller shall provide copies to the Buyer promptly. Within three (3) business days after the effective date of this Offer the Sellers will provide a true and correct copy of the power of attorney which authorizes Nelson D. Johnson to sign this Offer for Gladys B. Johnson and such other documents as are reasonably required by Buyer to demonstrate that Sellers are authorized to enter into this Offer.

13. Operation of the Property. Until the earlier of the closing or the termination of this Offer, each Seller shall:

a. Status of Title. Not do anything, or permit anything to be done, that would impair, alter, or modify the status of title to the Property other than recording documents which solely release liens to which the Property is subject; provided that Sellers may enter into new leases in accordance with the terms of Section 9 of this Addendum.

b. Maintenance. Maintain the Property in the same manner and condition as immediately prior to the effective date of this Offer, reasonable wear and tear excepted, and not alter the Property other than for routine maintenance and repairs and ordinary farming activities consistent with past practices.

c. Contracts. Not enter into any service contract or other contract or agreement relating to the Property other than leases made under and in accordance with Section 9 of this Addendum and contracts for routine maintenance which can be terminated without penalty by either party on no more than 30 days advance written notice.

d. Amendments. Not enter into any amendment or modification to any lease, easement, service contract or other contract or agreement relating to the Property.

e. Transfer. Not cause or permit transfer, conveyance, sale, assignment, pledge, mortgage, lease, or encumbrance of any of the Property, other than leases made in accordance with the terms of Section 9 of this Addendum. Not enter into any contract or agreement for the purchase or sale of all or any part of the Property.

14. Advise Buyer. Until the earlier of the Closing or the termination of this Agreement, each Seller shall notify Buyer in writing promptly upon learning or receiving notice of any of the following events and shall promptly provide copies to Buyer of notices and documents relating to any of the following:

a. Any event, transaction, or occurrence prior to Closing that could materially and adversely affect any of the Property, other than events or occurrences caused by Buyer or its agents or contractors.

b. Any fact or event that would cause any Seller to be in violation of any of

its covenants or other undertakings or obligations hereunder.

c. Any violation of any law, ordinance, regulation or law that would or might materially affect any of the Property other than a violation of law by Buyer or its agents or contractors.

d. Any proposed change or actual change in any zoning or other law affecting the use or development of any of the Property, other than changes proposed or caused by Buyer.

e. Any pending or threatened litigation that affects any of the Property or that could affect the transaction contemplated hereby.

f. Any pending or threatened proceeding in bankruptcy or insolvency that could affect any of the Property or any person owning any interest therein.

g. Any notice from any governmental authority or agent thereof pertaining to the assessment or reassessment of the Property or any notice of improvements the cost of which may be assessed against the Property.

h. Any enforcement, clean-up, removal or other governmental or regulatory enforcement action concerning the Property which is instituted, completed or threatened.

15. Contingency Savings. The parties hereto acknowledge that Buyer will expend material sums of money in reliance on Sellers' obligations under the Offer in connection with negotiating and executing the Offer, furnishing the earnest money, conducting the due diligence activities contemplated by the Offer, and preparing for closing, and that Buyer would not have entered into the Offer without the availability of the rights to perform the due diligence activities described herein. The parties, therefore, agree that adequate consideration exists (in addition to the consideration referred to in Section 7.B(1) of the Form Offer) to support each of the parties' obligations under the Offer, and Sellers and Buyer each waive any and all rights to challenge the enforceability of the Offer on the basis that any of the conditions or contingencies set forth in this Offer are at Buyer's discretion or that any of the agreements contained in the Offer are illusory.

16. Remedy.

a. Despite anything to the contrary contained herein, in the event Buyer refuses or fails to close on the purchase of the Property on the closing date and such failure or refusal is a breach of this Offer, then in such case a "Buyer Default" will be deemed to have occurred. If a Buyer Default occurs the sole and exclusive remedy of any or all the Sellers for any such breach or default shall be termination of the contract and receipt and retention of the earnest money and Sellers shall have no additional rights, remedies or causes of action against Buyer. The procedures and remedies for a breach of this Offer by Buyer as provided above in this Section 16(a) are the sole and exclusive remedies of the Sellers in the case of any failure or refusal of Buyer to close on the purchase of the Property at the closing in breach of this Offer and

the sole and exclusive mechanism for any of the Sellers to obtain the earnest money or terminate this Agreement in the event of or as a consequence of a breach of this Agreement by the Buyer. The Sellers will have no other rights or remedies for any breach of this Offer by Buyer with respect to Buyer's obligations at the closing. The Sellers may not terminate this Offer other than pursuant to an express provision of this Offer.

b. The parties agree that the limited remedy provided in this Section 16 is fair and reasonable, not a penalty imposed on Buyer and is agreed to by the parties because it would be difficult or impossible to determine the actual damages suffered by Sellers in the event of Buyer's breach of the Offer. This provision shall survive termination of the Offer.

17. Liability Limitation. The Buyer shall have no liability under the Offer, including without limitation Section 7.C(3) of the Form Offer, for any environmental, hazardous material, soil, wetland, historical, archeological, or other condition on the Property which Buyer or any of its agents or contractors discovers in connection with this Offer so long as such condition is not actually created or caused by Buyer, its agents, or contractors.

18. Counterparts. The Offer, acceptance thereof or any amendments/counteroffers with respect thereto may be signed in counterpart and transmission by facsimile or other form of electronic transmission of executed copies of the Offer or such other documents (e.g., PDF) shall be deemed delivery and such copies shall be deemed executed originals of the Offer or such other documents.

19. Assignment. The parties agree that despite anything contained in this Offer to the contrary (a) the Buyer has the right to assign this Offer to any person or entity that is designated by Buyer in Buyer's sole and absolute discretion; and (b) Buyer does not need any consent or approval of any of the Sellers to any such assignment. The Buyer acknowledges and agrees that any assignment of this Offer by Buyer shall not serve to release Buyer from its obligations under this Offer.

20. Closing Statement. If any errors or omissions are made at closing with regard to the preparation of the closing statement, the terms and conditions of other closing documents or the failure to have executed and delivered a document or instrument called for by the Offer, Sellers and Buyer shall make the appropriate corrections and payments due and owing to each other resulting therefrom, or execute and deliver such required documents or instruments, promptly after the discovery of any such error or omission.

21. Miscellaneous. The words "Seller may terminate" in Section 5(A) of the Form Offer are hereby deleted. The last sentence of Section 7(B)(1) of the Form Offer is hereby deleted. In the event this Offer terminates prior to the closing occurring, the Buyer will provide at the request of the Sellers copies of any final third party inspection, testing, or sampling reports which Buyer has received from its engineering consultants. Buyer may redact, exclude, or remove from any such reports any privileged information or any information concerning any parent or affiliate of Buyer. In addition, Buyer is not obligated to provide any market or business feasibility reports or information, market or business assessment reports or information, market study reports or information, or any similar reports or information to Sellers. With respect to

Section 19.B. of the Form Offer, Sellers jointly and severally represent and warrant to Buyer on the acceptance date and again on the closing date that they are not aware of any of the matters or issues listed in items (1)-(10) of Section 19.B. Sellers and Buyer agree that by signing below on this Addendum they are agreeing to be bound to the terms of the Form Offer and this Addendum and that no actual signatures or initials are required on the Form Offer.

22. Brokers. All commissions and/or fees owed by any party to any of the brokers listed in Section 9 of the Form Offer in connection with the transactions contemplated by this Offer shall be the sole responsibility of the Sellers and the Sellers shall promptly pay any and all such commissions and/or fees on or before the closing date. The Sellers jointly and severally represent and warrant to Buyer that, other than the brokers listed in Section 9 of the Form Offer (the "Brokers"), no Seller has dealt with or engaged any other broker or finder in connection with the purchase and sale of the Property. Buyer represents and warrants to Sellers that, other than the Brokers, Buyer has not dealt with or engaged any other broker or finder in connection with the purchase and sale of the Property.

23. Sellers' Obligations. Each Seller is jointly and severally liable for the duties and obligations of each other Seller under this Offer. A breach of the terms of this Offer by any Seller will be deemed a breach by all the Sellers. Each Seller shall cause each other Seller to perform the duties and obligations under this Offer of such other Seller. Payment by Buyer to any Seller of any amount owed by Buyer under this Offer to Sellers shall be deemed payment to all Sellers.

24. Sales Price. Despite anything in Section 3 of the Form Offer to the contrary, the sales price paid at closing will be the sales price determined under Section 3.B of the Form Offer rather than the price shown in Section 3.A of the Form Offer.

25. Mineral Rights.

a. Effective as of the closing Sellers reserve from the Property fifty percent (50%) of all oil and gas, in or under and that may be produced from the Property subject to the terms of this Section 25. Effective from and after the closing Sellers waive any and all rights to and covenant not use, access, or enter upon the Surface Estate. The term "Surface Estate" means collectively the surface of the Property and the surface estate with respect to the Property, including all minerals considered to be part of the surface estate, including, without limitation, building stone, sand and gravel, rock, bed rock, soil, limestone, caliche, surface shale, near surface lignite, iron and coal. Sellers further agree that excluded from such reservation is any and all rights to use the Surface Estate of the Property, and each Seller covenants and agrees not to use, the Surface Estate of the Property, to develop, extract or otherwise use the oil and gas rights reserved hereby or otherwise owned by any Seller. Sellers further covenant that from and after the closing each Seller shall not (i) interfere with the use of the Property by the Buyer or Buyer's successors, assigns, contractors, or tenants; (ii) cause any tremors or seismic disturbances of the Property or the Surface Estate; (iii) cause or create any noise that can be heard on the Property; or (iv) damage, disturb or cause subsidence of, or impair the subjacent or lateral support for all or any part of the Surface Estate of the Property or any improvements, fixtures, equipment, furnishings, or personal property now or hereafter thereon, in connection

with the development or extraction of any oil, gas, or other minerals. Any and all oil and gas extraction conducted by any Seller shall be at the sole cost and expense of the Sellers and shall be conducted in a lien free manner in accordance with all applicable laws by Sellers.

b. Sellers shall jointly and severally indemnify, defend, reimburse, and hold harmless the Buyer and the Buyer's agents, contractors, guests, invitees, successors, assigns, transferees, mortgagees, lenders, employees, parents, subsidiaries, officers, members, and tenants (collectively with Buyer the "Buyer Indemnitees") for from and against any and all losses, damages, costs, fees, expenses (including reasonable attorney fees), claims, suits, and/or proceedings brought against, incurred by, paid by, or charged to any Buyer Indemnitees due to or arising from, directly or indirectly, (i) any conflict, disagreement, or dispute arising between or among the Sellers with respect to the rights of Sellers under Section 25(a), (ii) any breach by any Seller of its obligations under Section 25(a), (iii) any oil, gas, or mineral exploration, extraction, or development relating to the Property, or (iv) any damage to the Property, the Surface Estate of the Property, or any improvements or personal property now or hereafter constructed or located upon the Property arising from or in connection with the rights of Sellers under Section 25(a).

c. The rights of the Sellers under this Section 25 from and after the closing will be subordinate to the rights of any Encumbrance Holders including, without limitation, any Encumbrance Holders existing at any time in the future. At closing each Seller will execute, in a form reasonably required by Buyer, a full written subordination of its rights under this Section 25 to the rights of any Encumbrance Holders including, without limitation any Encumbrance Holders existing at any time in the future (the "Subordination Agreement"). The Subordination Agreement will provide that it is enforceable by any Encumbrance Holders including, without limitation any Encumbrance Holders existing at any time in the future and that the subordination contained in the Subordination Agreement is automatic and does not require any additional action of any person or entity to take effect. From and after the closing the Sellers shall execute subordination documents evidencing the subordination described above upon request by the Buyer. In addition from and after the closing the Sellers would agree to execute reasonable estoppel certificates as requested by the Buyer from time to time with respect to the terms of this Section 25. The rights of the Sellers under this Section 25 are personal and non-transferrable and non-assignable. If any Seller breaches the terms of this Section 25 then the Buyer shall have the right to terminate the rights of all Sellers under this Section 25 by giving written notice to Sellers in which case termination shall be effective upon the sending of such notice to Sellers. Within 10 business days after the date hereof the Sellers shall deliver to Buyer any and all documents in the possession or control of any Seller relating to oil, gas, or other minerals on or within the Property. The term "Encumbrance Holders" includes each actual or prospective mortgagee of all or part of the Property, each actual or prospective holder of any deed of trust on all or part of the Property, each actual or prospective holder of an easement in all or any part of the Property, any utility companies, any municipalities, any governmental authorities or entities, each actual or prospective licensee of all or any part of the Property, and each actual or prospective tenant of all or any part of the Property. Sellers agree that the signature of any one Seller on any agreement or other instrument made or executed (or to be made or executed) under or in connection with this Offer (including, without limitation, any deed, Subordination Agreement, or other subordination document contemplated by this Section 25) is binding on all Sellers as though each Seller had executed any such agreement or instrument.

26. Water Permit. From and after the effective date and until the day prior to closing the Sellers may transfer the Water Permit to the owner of an Alternate Parcel solely for the purpose of extracting water from Brushy Creek to irrigate the Alternate Parcel ("Permitted Water Permit Transfer"). Any such transfer must be conducted by Sellers in accordance with all applicable laws and at Sellers' sole cost and expense, in a lien free manner, and in a manner that does not do any of the following: (a) encumber the Property in any way or grant any interest in the Property, (b) interfere with Buyer's proposed plans for and/or use of the Property, or (c) grant any person any rights to use the Property. Sellers must obtain at their sole cost and expense all consents and approvals of governmental authorities for, and prior to, the transfer of the Water Permit described above. In transferring the Water Permit to any Water Permit Transferee the Sellers must obtain, at the time the Water Permit is transferred, the signed written agreement (which must be enforceable by Buyer) from such Water Permit Transferee that such Water Permit Transferee will not enter upon or use the Property in any way (including, without limitation, for the extraction or transportation of water) ("Transferee Agreement"). Sellers will promptly provide to Buyer copies of the Transferee Agreement and the other documents transferring for any Permitted Water Permit Transfer once obtained by Sellers. If by the closing the Sellers have not completed the Permitted Water Permit Transfer then they shall be deemed to have waived and relinquished all rights in or to the Water Permit and each Seller will sign such documents evidencing such waiver and relinquishment as reasonably requested by Buyer from time to time. Sellers further agree that after the closing each Seller will not, and will cause each Water Permit Transferee not to, exercise any rights under the Water Permit with respect to the Property. Each Seller shall not, and will cause each Water Permit Transferee not to, after the Closing enter upon the Property for any purpose including, without limitation, (i) for the extraction or transportation of water from Brushy Creek or any other source or (ii) the exercise of any rights under or in connection with the Water Permit. At closing the Sellers will assign, transfer, and convey to Buyer any and all water rights any Seller has with respect to the Property other than rights to the Water Permit transferred in a Permitted Water Permit Transfer occurring prior to the closing date. The "Water Permit" means that certain Certificate of Adjudication no. 12-3751 issued on February 28, 1985 by the Texas Water Commission. Sellers jointly and severally represent and warrant to Buyer as of the effective date and again as of the closing date that (x) the Sellers are the sole owners of the Water Permit and that no other persons or entities (other than the Texas Water Commission) have any rights in or to the Water Permit; and (y) Sellers are the sole owners of all water rights with respect to the Property and no Seller has conveyed, transferred, or assigned any water rights relating to the Property. These warranties will not be deemed breached by a Permitted Water Permit Transfer occurring prior to the closing date. Within three (3) business days after the effective date of this Offer the Sellers will provide Buyer with a true and correct copy of the Water Permit and all material correspondence relating to the Water Permit in the possession or control of any Seller or any Seller's agents or contractors. Sellers shall not assign, transfer, or convey the Water Permit or any water rights with respect to the Property while this Offer is in effect other than in a Permitted Water Permit Transfer. "Water Permit Transferee" means any person or entity to which the Water Permit is transferred by Sellers. The term "Alternate Parcel" means another parcel of land. The term Alternate Parcel does not include all or any part of the Property.

[Signature Page Follows]

This Offer has been signed by the Buyer as of the date first written above in this Addendum:

BUYER:

KR Acquisitions LLC

By: Todd R. Nelson
Name: Todd R. Nelson
Title: Manager

This Offer is accepted by the Sellers as of the latest date written below:

SELLERS:

Gladys B. Johnson

By: _____
Name: Nelson D. Johnson
Title: Attorney In Fact for Gladys B. Johnson
Date: _____

John D. Johnson

By: _____
Name: John D. Johnson
Date: _____

Bertha M. Keller

By: _____
Name: Bertha M. Keller
Date: _____

EXHIBIT A TO ADDENDUM

Documents

1. Any leases affecting the Property and any material correspondence related to any leases affecting the Property
2. Copies of any notices received in connection with any purported or actual violation at the Property of any legal requirement.
3. All material documents related to the status or condition of the Property.
4. All reports (listed below) or correspondence relating thereto in the possession or control of the Seller relating to the Property (the "Reports"):
 - a. engineering
 - b. geotechnical
 - c. environmental
 - d. boundary surveys or other land surveys
 - e. zoning
 - f. title insurance policies or title abstracts
 - g. and other similar studies

EXHIBIT B TO ADDENDUM

[see attached copy of lease]

FIRST AMENDMENT TO COMMERCIAL CONTRACT – UNIMPROVED PROPERTY

This First Amendment to Commercial Contract – Unimproved Property (“Amendment”) is made and entered into as of the 21st day of December, 2015 (the “Effective Date”) by and between Bertha M. Keller, John D. Johnson, and Nelson D. Johnson, as Power of Attorney for Gladys B. Johnson (collectively the “Sellers”) and KR Acquisitions LLC (“Buyer”).

WHEREAS, the Sellers and Buyer have entered into a Commercial Contract – Unimproved Property for the property located in Williamson County, Texas having tax parcel numbers R051819 and R055809 (the “Offer”) and that certain Special Provisions Addendum To Commercial Contract – Unimproved Property attached to the Offer which addendum was accepted by Buyer on December 16, 2015 and signed by John D. Johnson on December 11, 2015, Nelson D. Johnson as Power of Attorney for Gladys B. Johnson on December 10, 2015, and by Bertha M. Keller on December 11, 2015 (the “Addendum” and the Offer and Addendum together are collectively the “Agreement”). The Sellers and Buyer wish to amend the terms and provisions of the Agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by all parties, the parties do hereby agree as follows:

1. All capitalized terms used herein shall have the same meaning as defined in the Agreement, unless otherwise defined in this Amendment. The Agreement, as amended by this Amendment, is hereby ratified, confirmed and deemed in full force and effect and constitutes the entire agreement of the Buyer and Sellers and is binding on the Buyer and Sellers. The Buyer shall have the right to record a memorandum of this Amendment.

2. The Agreement is hereby amended as follows:

(a) The following is added to the Addendum after the last sentence of Section 21 of the Addendum and before Section 22 of the Addendum: “Each of the terms, provisions, conditions, covenants, representations, and warranties contained in this Offer, and each party’s rights, duties, and obligations under this Offer, shall survive the Closing and shall not be deemed to be merged into, or waived by or through, the deed delivered by Sellers at closing or any of the instruments or documents of closing made, delivered, or executed under or in connection with this Offer by any party. The “merger doctrine” shall not apply to this Offer or to the deed delivered by Sellers at closing or to any instruments or documents of closing made, delivered, or executed in connection with this Offer by any party.”

(b) On the page of the Agreement that contains the heading “SCHEDULE 1 TO THE ADDENDUM” the term “SCHEDULE 1” is deleted from the phrase “SCHEDULE 1 TO THE ADDENDUM” and is replaced with “EXHIBIT B”.

(c) Wherever the name "Bertha Johnson Keller" appears in the Agreement it is replaced with "Bertha M. Keller".

3. This Amendment may be signed in any number of counterparts and all counterparts together shall constitute a single instrument. The parties agree that this Amendment may be transmitted between them by electronic mail in .pdf format or facsimile machine. The parties intend that .pdf or faxed signatures constitute original signatures and that a .pdf or faxed agreement containing the signatures (original, .pdf or faxed) of all the parties is binding on the parties.

[SIGNATURES NEXT PAGE FOLLOWING]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date and agree to be bound by all provisions of this Amendment.

SELLERS:

BUYER:

KR ACQUISITIONS LLC

Bertha M. Keller
Bertha M. Keller

Dated: 1-13-16

By: _____

Name: _____

Title: _____

Dated: _____

John D. Johnson

Dated: _____

Gladys B. Johnson:

By: Nelson D. Johnson
Title: Attorney in Fact for Gladys B. Johnson

Dated: _____

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date and agree to be bound by all provisions of this Amendment.

SELLERS:

BUYER:

KR ACQUISITIONS LLC

Bertha M. Keller

Dated: _____



John D. Johnson

Dated: 1/12/2016

By: _____

Name: _____

Title: _____

Dated: _____

Gladys B. Johnson:

By: Nelson D. Johnson

Title: Attorney in Fact for Gladys B. Johnson

Dated: _____

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date and agree to be bound by all provisions of this Amendment.

SELLERS:

BUYER:

KR ACQUISITIONS LLC

Bertha M. Keller

By: _____

Name: _____

Title: _____

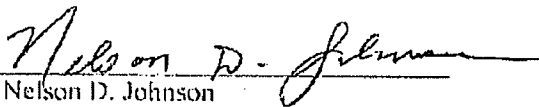
Dated: _____

Dated: _____

John D. Johnson

Dated: _____

Gladys B. Johnson:


By: Nelson D. Johnson

Title: Attorney in Fact for Gladys B. Johnson

Dated: 2-10-16

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date and agree to be bound by all provisions of this Amendment.

SELLERS:

Bertha M. Keller

Dated: _____

John D. Johnson

Dated: _____

Gladys B. Johnson:

By: Nelson D. Johnson
Title: Attorney in Fact for Gladys B. Johnson

Dated: _____

BUYER:

KR ACQUISITIONS LLC

By: Ted R Nelson
Name: Ted R Nelson
Title: member

Dated: 12-22-15

EXHIBIT D

LEGAL DESCRIPTION OF THE LAND

[Attached hereto]

350.237 ACRES
LAND
DESCRIPTIONS

FN. NO. 16-341(MJR)
SEPTEMBER 13, 2016
FILE NO. 222010482

DESCRIPTION

OF A 350.237 ACRE TRACT OF LAND OUT OF THE P.A. HOLDER SURVEY, ABSTRACT NO 297 SITUATED IN THE CITY OF ROUND ROCK, WILLIAMSON COUNTY, TEXAS BEING A PORTION OF THE REMAINDER OF THAT CERTAIN 157.385 ACRE TRACT OF LAND CONVEYED TO BISON TRACT 79, LTD. BY DEED OF RECORD IN DOCUMENT NO. 2007049657 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; ALL OF THAT CERTAIN 60.58 ACRE TRACT OF LAND CONVEYED TO ERNEST NELSON JOHNSON, JOHN DAVID JOHNSON AND BERTHA MARIE JOHNSON KELLER BY DEED OF RECORD IN DOCUMENT NO. 2003035323 OF SAID OFFICIAL PUBLIC RECORDS, SAME BEING ALL OF LOT 9 OF THE SWENSON SUBDIVISION, OF RECORD IN VOLUME 13, PAGE 119 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS; ALL OF THAT CERTAIN 155.589 ACRE TRACT OF LAND CONVEYED TO KEITH KRIENKE AND MARK MEREDITH BY DEED OF RECORD IN DOCUMENT NO. 2006113854 OF SAID OFFICIAL PUBLIC RECORDS, SAME BEING CONVEYED TO GREGORY CARTER BY DEED OF RECORD IN DOCUMENT NO. 2010072268 OF SAID OFFICIAL PUBLIC RECORDS; SAID 350.237 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED IN FOUR PARTS BY METES AND BOUNDS AS FOLLOWS:

PART 1 - 335.795 ACRES

BEGINNING, at a 5/8-inch iron rod found in the southerly right-of-way line of the Union Pacific Railroad (100' R.O.W.) being the northeasterly corner of said 157.385-acre tract, also being the northwesterly corner of said 155.589-acre tract;

THENCE, N63°37'28"E, leaving the northeasterly corner of said 157.385 acre tract, along the southerly right-of-way line of the Union Pacific Railroad, for a portion of the northerly line hereof, a distance of 2864.50 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found at the northwesterly corner of Lot 1, Block A of Final Plat of Brushy Creek Regional Wastewater Treatment Plant, a subdivision of record in Document No. 2007067173 of said Official Public Records, being the northeasterly corner of said 155.589 acre tract and hereof;

THENCE, leaving the southerly right-of-way line of the Union Pacific Railroad, along the common line of said Lot 1 and said 155.589-acre tract, for the easterly line hereof, the following six (6) courses and distances:

- 1) S26°12'00"E, a distance of 49.99 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 2) N63°41'06"E, a distance of 81.63 feet to a 1/2-inch iron rod with illegible cap found;

- 3) S03°33'52"E, a distance of 1695.07 feet to a 1/2-inch iron rod with "LCRA" cap found;
- 4) N58°53'53"E, a distance of 362.51 feet to a 1/2-inch iron rod with "LCRA" cap found;
- 5) N58°35'13"E, a distance of 245.00 feet to a 1/2-inch iron rod with "LCRA" cap found;
- 6) S02°28'32"E, passing at a distance of 387.44 feet, a 1/2-inch iron rod with "SURVCON INC" cap found, and continuing for a total distance of 463.04 feet to a point in the center of Brushy Creek, being in the northerly line of Lot 59, Block F of Final Plat of Freeman Park Subdivision Phase I, of record in Document No. 2015010846 of said Official Public Records, also being the most southerly southwesterly corner of said Lot 1, for the southeasterly corner hereof;

THENCE, leaving the most southerly southwesterly corner of said Lot 1, along or near the center of Brushy Creek, with the northerly line of said Lot 59; the northerly line of Lot 26, Block B of Lake Forest III, Village III Revised, a subdivision of record in Document No. 2004095851 of said Official Public Records; the northerly line of Lot 43, Block E of Final Plat of Sonoma Section 9, a subdivision of record in Document No. 2004021881 of said Official Public Records; and the northerly line of Lot 46, Block F of Final Plat of Sonoma Section 11, a subdivision of record in Document No. 2005000171 of said Official Public Records for a portion of the southerly line hereof, the following twenty-three (23) courses and distances:

- 1) S71°58'01"W, a distance of 59.92 feet to an angle point;
- 2) S66°40'11"W, a distance of 90.58 feet to an angle point;
- 3) S49°32'25"W, a distance of 78.88 feet to an angle point;
- 4) S40°47'39"W, a distance of 82.04 feet to an angle point;
- 5) S23°37'20"W, a distance of 81.79 feet to an angle point;
- 6) S28°52'04"W, a distance of 110.18 feet to an angle point;
- 7) S36°12'52"W, a distance of 282.02 feet to an angle point;
- 8) S38°03'24"W, a distance of 84.64 feet to an angle point;
- 9) S47°37'12"W, a distance of 329.19 feet to an angle point;
- 10) S15°41'16"E, a distance of 184.53 feet to an angle point;
- 11) S07°27'39"E, a distance of 150.82 feet to an angle point;

- 12) S03°49'27"W, a distance of 142.77 feet to an angle point;
- 13) S21°18'06"W, a distance of 94.11 feet to an angle point;
- 14) S44°12'01"W, a distance of 165.58 feet to an angle point;
- 15) S69°51'49"W, a distance of 215.14 feet to an angle point;
- 16) S45°25'49"W, a distance of 111.25 feet to an angle point;
- 17) S26°29'36"W, a distance of 94.25 feet to an angle point;
- 18) S31°48'00"W, a distance of 125.62 feet to an angle point;
- 19) S51°58'20"W, a distance of 230.16 feet to an angle point;
- 20) S61°55'26"W, a distance of 477.59 feet to an angle point;
- 21) S54°23'53"W, a distance of 144.42 feet to an angle point;
- 22) S40°28'56"W, a distance of 383.47 feet to an angle point;
- 23) S42°15'33"W, a distance of 108.54 feet to the southeasterly corner of said 60.58-acre tract, for an angle point hereof;

THENCE, leaving the westerly line of said 155.589-acre tract, along or near the center of Brushy Creek, with the northerly line of Lot 46 of said Sonoma Section 11 and the northerly line of Lot 46, Block F of Final Plat of Sonoma Section 12, a subdivision of record in Document No. 2005000358 of said Official Public Records for a portion of the southerly line hereof, the following five (5) courses and distances:

- 1) S42°15'33"W, a distance of 148.42 feet to an angle point;
- 2) S80°51'11"W, a distance of 301.01 feet to an angle point;
- 3) S83°08'53"W, a distance of 200.01 feet to an angle point;
- 4) S67°32'04"W, a distance of 132.76 feet to an angle point;
- 5) S62°26'47"W, a distance of 141.77 feet to the southeasterly corner of said 157.385-acre tract, being the southwesterly corner of said 60.58-acre tract, for an angle point hereof;

THENCE, leaving the southwesterly corner of said 60.58-acre tract, along the approximate center of Brushy Creek, with the northerly line of said Lot 46 and in part along the northerly line of that certain 1.764-acre tract of land conveyed to the City of Round Rock by deed of record in Document No. 2013056475 of said Official Public Records, for the southerly line hereof, the following four (4) courses and distances:

- 1) S70°10'09"W, a distance of 138.30 feet to an angle point;
- 2) S58°52'42"W, a distance of 700.00 feet to an angle point;
- 3) S67°52'42"W, a distance of 240.00 feet to an angle point;
- 4) S53°04'42"W, a distance of 132.01 feet to a point in the easterly right-of-way line of Kenney Fort Boulevard (R.O.W. Varies) for the southwesterly corner hereof;

THENCE, leaving the approximate center of Brushy Creek and the northerly line of said 1.764-acre tract, along the easterly right-of-way line of Kenney Fort Boulevard, for a portion of the westerly line hereof, the following nine (9) courses and distances:

- 1) N03°27'14"W, passing at a distance of 100.00 feet, a 1/2-inch iron rod with "BURY" cap set for reference, and continuing for a total distance of 492.81 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 2) N85°58'17"E, a distance of 58.16 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 3) N03°26'15"W, a distance of 243.69 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 4) N19°10'44"W, a distance of 376.64 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 5) N26°22'35"W, a distance of 1454.98 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 6) N22°47'26"W, a distance of 160.27 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 7) N26°23'34"W, a distance of 114.86 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 8) N23°12'13"W, a distance of 254.74 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 9) N02°18'29"W, a distance of 323.01 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found at the intersection of the easterly right-of-way line of Kenney Fort Boulevard and the southerly right-of-way line of the Union Pacific Railroad, being in the northerly line of said 157.385-acre tract, for the northwesterly corner hereof;

THENCE, N63°36'45"E, leaving the easterly right-of-way line of Kenney Fort Boulevard, along the southerly right-of-way line of the Union Pacific Railroad, being the northerly line of said 157.385-acre tract for the northerly line hereof, a distance of 2121.63 feet to the **POINT OF BEGINNING**, containing an area of 338.795 acres (14,627,230 square feet) of land, more or less, **SAVE AND EXCEPT THEREFROM THE FOLLOWING TRACT OF LAND**:

LOT 1, OF THE BERTIL TELANDER SUBDIVISION, OF RECORD IN CABINET H, SLIDE 126 OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID LOT 1 BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at a 5/8-inch iron rod found in the southerly right-of-way line of the Union Pacific Railroad (100' R.O.W.) being the northwesterly corner of said 176.78-acre tract of land and also being the northeasterly corner of said 157.385-acre tract;

THENCE, S02°10'29"E, leaving the southerly right-of-way line of the Union Pacific Railroad, along the common line of said 157.385-acre tract and said 176.78-acre tract, a distance of 305.90 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found for an angle point in said common line;

THENCE, S84°58'11"W, leaving the westerly line of said 176.78-acre tract, over and across said 157.385-acre tract, a distance of 31.42 feet to a 1/2-inch iron rod found for the **POINT OF BEGINNING**, being the northeasterly corner of said Lot 1 and hereof;

THENCE, along the exterior lines of said Lot 1, the following four (4) courses and distances:

- 1) S02°04'50"E, a distance of 255.76 feet to a 1/2-inch iron rod found for the southeasterly corner hereof;
- 2) S87°58'00"W, a distance of 255.61 feet to a 1/2-inch iron rod found for the southwesterly corner hereof;
- 3) N02°02'48"W, a distance of 255.58 feet to a 1/2-inch iron rod found for the northwesterly corner hereof;
- 4) N87°55'35"E, a distance of 255.46 feet to the **POINT OF BEGINNING**, containing an area of 1.500 acres (65,334 square feet) of land.

ALSO SAVE AND EXCEPT THEREFROM THE FOLLOWING TRACT OF LAND:

THAT CERTAIN 1.50 ACRE TRACT OF LAND CONVEYED TO KEITH KRIENKE AND LAURA RINEHART KRIENKE BY DEED OF RECORD IN DOCUMENT NO. 2006074399 OF SAID OFFICIAL PUBLIC RECORDS, TEXAS; SAID 1.50 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, a 1/2-inch iron rod with "Baker Aicklen" cap found in the southerly right-of-way line of the Union Pacific Railroad for the northwesterly corner of Lot 1, Block A of said Final Plat of Brushy Creek Regional Wastewater Treatment Plant of record, being the northeasterly corner of said 155.589-acre tract;

THENCE, S26°12'00"E, leaving the southerly right-of-way line of the Union Pacific Railroad, along the common line of said 155.589-acre tract and said Lot 1, a distance of 49.99 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;

THENCE, S03°34'49"E, leaving the westerly line of said Lot 1, over and across said 155.589-acre tract, a distance of 291.32 feet to a 1/2-inch iron rod with "Stan Coalter" cap found for the **POINT OF BEGINNING**, being the northeasterly corner of said 1.50-acre tract and hereof;

THENCE, along the exterior lines of said 1.50-acre tract for the exterior lines hereof, the following four (4) courses and distances:

- 1) S03°34'49"E, a distance of 298.62 feet to a 1/2-inch iron rod with "Stan Coalter" cap found for the southeasterly corner hereof;
- 2) S74°24'52"W, a distance of 244.97 feet to a 1/2-inch iron rod with "Stan Coalter" cap found for the southwesterly corner hereof;
- 3) N06°37'52"E, a distance of 340.30 feet to a 1/2-inch iron rod with "Stan Coalter" cap found for the northwesterly corner hereof;
- 4) N81°44'34"E, a distance of 179.89 feet to the **POINT OF BEGINNING**, containing an area of 1.500 acres (65,357 square feet) of land, leaving a **TOTAL NET AREA OF 335.795 ACRES** (15,256,308 square feet) of land, more or less, within these metes and bounds.

PART 2 - 0.037 ACRES

BEGINNING, at a 1/2-inch iron rod with "Baker Aicklen" cap found in the westerly right-of-way line of Kenney Fort Boulevard (R.O.W. Varies), being in the common line of said 157.385-acre tract and that certain 107.17-acre tract of land conveyed to John Bolt Harris, Et. Al. by deed of record in Volume 2372, Page 112 of said Official Public Records and to The Hickox Family Living Trust by deed of record in Document No. 2006053683 of said Official Public Records, for the northwesterly corner hereof;

THENCE, S28°42'41"E, leaving the easterly line of said 107.17-acre tract, along the westerly right-of-way line of Kenney Fort Boulevard for the northerly line hereof, a distance of 59.01 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found for the northerly corner of that certain 0.158-acre tract of land conveyed to the City of Round Rock by deed of record in Document No. 2011041098 of said Official Public Records for the northeasterly corner hereof;

THENCE, leaving the westerly right-of-way line of Kenney Fort Boulevard, with the northerly line of said 0.158-acre tract for the easterly and southerly lines hereof, the following two (2) courses and distances:

- 1) S17°26'31"W, a distance of 55.47 feet to a 1/2-inch iron rod with "SAM" cap found for the southeasterly corner hereof;
- 2) S63°37'08"W, a distance of 8.52 feet to a 1/2-inch iron rod with "BURY" cap set in the common line of said 107.17-acre tract and said 157.385-acre tract for the southwesterly corner hereof from which, a 1/2-inch iron rod with "SAM" cap found for the apparent northwesterly corner of said 0.158-acre tract as found bears, N76°15'30"E, a distance of 0.67 feet;

THENCE, N02°09'44"W, leaving the northerly line of said 0.158-acre tract, along the common line of said 107.17-acre tract and said 157.385-acre tract for the westerly line hereof, a distance of 108.54 feet to the **POINT OF BEGINNING**, containing an area of 0.037 acres (1,602 square feet) of land, more or less, within these metes and bounds.

PART 3 - 4.609 ACRES

COMMENCING, at a 1/2-inch iron rod with "Baker Aicklen" cap found in the westerly right-of-way line of Kenney Fort Boulevard (R.O.W. Varies), being in the common line of said 157.385-acre tract and that certain 107.17-acre tract of land conveyed to John Bolt Harris, Et. Al. by deed of record in Volume 2372, Page 112 of said Official Public Records and to The Hickox Family Living Trust by deed of record in Document No. 2006053683 of said Official Public Records, for the northwesterly corner hereof;

THENCE, S02°09'44"E, leaving the westerly right-of-way line of Kenney Fort Boulevard, along the common line of said 107.17 acre tract and said 157.385 acre tract, a distance of 196.31 feet to a 1/2-inch iron rod with "BURY" cap set in the southerly line of that certain 0.158 acre tract of land conveyed to the City of Round Rock by deed of record in Document No. 2011041098 of said Official Public Records for the **POINT OF BEGINNING**, being the northwesterly corner hereof from which, a 1/2-inch iron rod with "SAM" cap found for the apparent southwesterly corner of said 0.158 acre tract as found bears, N63°02'14"E, a distance of 0.70 feet;

THENCE, leaving the easterly line of said 107.17-acre tract, with the southerly line of said 0.158-acre tract for the northerly line hereof, the following two (2) courses and distances:

- 1) N63°33'51"E, a distance of 47.01 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 2) S71°12'55"E, a distance of 56.50 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found in the westerly right-of-way line of Kenney Fort Boulevard, being the southeasterly corner of said 0.158-acre tract, for the northeasterly corner hereof;

THENCE, S26°22'11"E, leaving the southeasterly corner of said 0.158-acre tract, over and across said 157.385-acre tract, along the westerly right-of-way line of Kenney Fort Boulevard for the easterly line hereof, a distance of 695.06 feet to a 1/2-inch iron rod found for the northeasterly corner of that certain 0.864-acre tract of land conveyed to the City of Round Rock by deed of record in Document No. 2011041098 of said Official Public Records for the southeasterly corner hereof;

THENCE, leaving the westerly right-of-way line of Kenney Fort Boulevard, with the northerly line of said 0.864-acre tract for the southerly line hereof, the following two (2) courses and distances:

- 1) S18°36'13"W, a distance of 56.47 feet to a 1/2-inch iron rod found;
- 2) S63°36'13"W, a distance of 395.45 feet to a 1/2-inch iron rod with "BURY" cap set in the common line of said 107.17-acre tract and said 157.385-acre tract for the southwesterly corner hereof from which, a 1/2-inch iron rod found for the apparent northwesterly corner of said 0.864-acre tract as found bears, N58°21'23"E, a distance of 1.69 feet;

THENCE, N02°09'44"W, leaving the northerly line of said 0.864-acre tract, along the common line of said 107.17-acre tract and said 157.385-acre tract for the westerly line hereof, a distance of 849.94 feet to the **POINT OF BEGINNING**, containing an area of 4.609 acres (200,777 square feet) of land, more or less, within these metes and bounds.

PART 4 - 9.796 ACRES

COMMENCING, at a 1/2-inch iron rod with "Baker Aicklen" cap found in the westerly right-of-way line of Kenney Fort Boulevard (R.O.W. Varies), being in the common line of said 157.385-acre tract and that certain 107.17-acre tract of land conveyed to John Bolt Harris, Et. Al. by deed of record in Volume 2372, Page 112 of said Official Public Records and to The Hickox Family Living Trust by deed of record in Document No. 2006053683 of said Official Public Records, for the northwesterly corner hereof;

THENCE, S02°09'44"E, leaving the westerly right-of-way line of Kenney Fort Boulevard, along the common line of said 107.17 acre tract and said 157.385 acre tract, a distance of 1133.82 feet to a 1/2-inch iron rod with "BURY" cap set in the southerly line of that certain 0.864 acre tract of land conveyed to the City of Round Rock by deed of record in Document No. 2011041098 of said Official Public Records for the **POINT OF BEGINNING**, being the northwesterly corner hereof from which, a 1/2-inch iron rod with "SAM" cap found for the apparent southwesterly corner of said 0.864 acre tract as found bears, N62°52'19"E, a distance of 1.77 feet;

THENCE, leaving the easterly line of said 107.17-acre tract, with the southerly line of said 0.864-acre tract for the northerly line hereof, the following two (2) courses and distances:

- 1) N63°36'57"E, a distance of 431.40 feet to a 1/2-inch iron rod found;
- 2) S71°27'38"E, a distance of 56.40 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found in the westerly right-of-way line of Kenney Fort Boulevard, being the southeasterly corner of said 0.864-acre tract, for the northeasterly corner hereof;

THENCE, leaving the southeasterly corner of said 0.864-acre tract, along the westerly right-of-way line of Kenney Fort Boulevard for the easterly line hereof, the following four (4) courses and distances:

- 1) S26°22'09"E, a distance of 250.82 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found at the point of curvature of a non-tangent curve to the right;
- 2) Along said non-tangent curve to the right, having a radius of 1441.72 feet, a central angle of 12°09'39", an arc length of 306.00 feet, and a chord which bears, S21°15'08"E, a distance of 305.42 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found at the end of said curve;
- 3) S00°08'16"E, a distance of 360.25 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found;
- 4) S16°10'46"W, a distance of 165.87 feet to a 1/2-inch iron rod with "SAM" cap found for the most northerly northeasterly corner of that certain 12.1-acre tract of land conveyed to the City of Round Rock by deed of record in Document No. 2013049009 of said Official Public Records for the southeasterly corner hereof;

THENCE, S88°41'51"W, leaving the westerly right-of-way line of Kenney Fort Boulevard, along the northerly line of said 12.1-acre tract for the southerly line hereof, a distance of 267.19 feet to a 1/2-inch iron rod with "Baker Aicklen" cap found in the easterly line of that certain 4.42-acre tract of land conveyed to Thomas P. Elrod Et. Ux. By deed of record in Document No. 1813, Page 540 of said Official Public Records, being the westerly line of said 157.385-acre tract, also being the most northerly northwesterly corner of said 12.1-acre tract for the southwesterly corner hereof;

THENCE, N01°23'35"W, leaving the northerly line of said 12.1-acre tract, along the common line of said 157.385-acre tract and said 4.42-acre tract for a portion of the westerly line hereof, a distance of 498.34 feet to a 1/2-inch iron rod found for the northeasterly corner of said 4.42-acre tract;


THENCE, S89°11'33"W, along the irregular westerly line of said 157.385-acre tract and the northerly line of said 4.42-acre tract, passing at a distance of 319.72 feet, a 1/2-inch iron rod found for the northwesterly corner of said 4.42-acre tract, and continuing for a total distance of 323.61 feet to a 1/2-inch iron rod found in the common line of said 157.385-acre tract and said 107.17-acre tract for the southwesterly corner hereof;

THENCE, N02°09'44"W, along the common line of said 157.385-acre tract and said 107.17-acre tract for a portion of the westerly line hereof, a distance of 367.85 feet to the **POINT OF BEGINNING**, containing an area of 9.796 acres (426,728 square feet) of land, more or less, within these metes and bounds.

BEARING BASIS: THE BASIS OF BEARING OF THE SURVEY SHOWN HEREON IS TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83(96), UTILIZING WESTERN DATA SYSTEMS CONTINUALLY OPERATING REFERENCE STATION (CORS) NETWORK.

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

STANTEC CONSULTING
SERVICES INC.
221 WEST SIXTH STREET
SUITE 600
AUSTIN, TEXAS 78701



JOHN T. BILNOSKI
R.P.L.S. NO. 4998
STATE OF TEXAS
TBPLS # F-10194230
john.bilnoski@stantec.com



P.O.C.
2ND SAVE &
EXCEPT
TRACT

STATE HIGHWAY 79
(E. PALM VALLEY BOULEVARD)
(R.O.W. VARIES)

P.O.B.

2ND SAVE &
EXCEPT TRACT

2ND S&E TRACT
1500 ACRES

155.589 ACRES
KEITH KRIENKE, MARK MEREDITH
DOCUMENT NO. 2006113854
GREGORY STEPHEN CARTER
DOCUMENT NO. 2010072268

TOTAL AREA
350.237 ACRES
(15,256,324 SQ. FT.)

0 400 800 1200 1600
1"=80'

P.O.B.

PART 1

P.O.C.

1ST SAVE &
EXCEPT
TRACT

**1ST S&E
TRACT**
**1500
ACRES**

P.O.B.

1ST SAVE &
EXCEPT
TRACT

60.58 ACRES
ERNEST NELSON JOHNSON,
JOHN DAVID JOHNSON, AND BERTHA
MARIE JOHNSON, KELLER
DOCUMENT NO. 2003035323

REMAINDER OF 157.385 ACRES
BISON TRACT 79, LTD.
DOCUMENT NO. 2007049657

LOT 9
S.M. SWENSON
SUBDIVISION
BOOK 13
PAGE 119

0.854 ACRES
CITY OF ROUND ROCK
DOCUMENT NO. 2011041098

**KENNEY FORT
BOULEVARD**
(R.O.W. VARIES)

100'
RIGHT-OF-WAY
UNION PACIFIC
RAILROAD

PART 2
**0.037
ACRES**

PART 3
**4.609
ACRES**

PART 4
**9.796
ACRES**

P.O.B.

PART 2

P.O.C.

PARTS 3
AND 4

0.158 ACRES
CITY OF
ROUND ROCK
DOCUMENT NO. 2011041098

P.O.B.
PART 3

P.O.B.
PART 4

107.17 ACRES
THE HICKOX FAMILY LIVING TRUST, ET. AL.
DOCUMENT NO. 2006053683
VOLUME 2372, PAGE 112

4.42 ACRES
THOMAS P.
ELROD AND
SPOUSE,
CHRISTEL ELROD
VOLUME 1813,
PAGE 540

LEGEND

P.O.B. POINT OF
BEGINNING

P.O.C. POINT OF
COMMENCEMENT

S&E SAVE AND
EXCEPT



Stantec

221 West Sixth Street, Suite 600
Austin, Texas 78701
Tel. (512) 328-0011 Fax (512) 328-0325
TBPE # F-6324 TBPLS # F-10194230
Copyright © 2016

SKETCH TO ACCOMPANY DESCRIPTION

OF 350.237 ACRES OF LAND OUT OF THE P.A. HOLDER SURVEY, ABSTRACT NO. 294, SITUATED IN THE CITY OF ROUND ROCK, WILLIAMSON COUNTY, TEXAS BEING A PORTION OF THAT CERTAIN 157.385 ACRE TRACT OF LAND OF RECORD IN DOCUMENT NO. 2007049657 AND ALL OF THOSE CERTAIN TRACTS OF LAND OF RECORD IN DOCUMENT NO. 2003035323, 2006113854 AND 2010072268, ALL OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; ALSO BEING ALL OF LOT 9 OF THE S.M. SWENSON SUBDIVISION, OF RECORD IN BOOK 13, PAGE 119 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS.

**KR
ACQUISITIONS,
LLC**

DATE: 9/7/2016

DRAWN BY: KWA

FN: 16-341 (MJR)

FILE: V:\2220\ACTIVE\SURVEY\222010482EX2.DWG

PROJECT No. 222010482

EXHIBIT E
FORM OF GROUND LEASE
[Attached hereto]

GROUND LEASE AGREEMENT

between

CITY OF ROUND ROCK, TEXAS

and

KR CC, INC.

Dated as of [December 20, 2016]

RESORT AND CONVENTION CENTER

ROUND ROCK, TEXAS

TABLE OF CONTENTS

	Page
1. Definitions.....	2
2. Lease and Grant of Use; Term	7
2.1 Lease and Grant of Use	7
2.2 Term.....	8
3. Intangible Rights.....	8
3.1 Tenant's Rights	8
4. Rent and Other Payments.....	9
4.1 Rent.....	9
4.2 Utilities.....	9
4.3 Maintenance and Repairs.....	9
5. Taxes; Operations; Capital Repairs; Recordkeeping.....	9
5.1 Tenant's Sole Cost	9
5.2 Tax Matters	9
5.3 Operations and Management of the Leased Premises	10
6. Assignment and Subletting.....	11
6.1 Covenant Regarding Assignment and Subletting.....	11
6.2 Covenant Regarding Encumbrances.....	11
6.3 Tenant's Right to Lease	11
6.4 Assignment of Purchase Option.....	11
6.5 City Encumbrances or Fee Mortgages.....	11
7. Insurance	11
7.1 Required Insurance.....	11
8. Damage or Destruction; Condemnation	12
8.1 Damage; Destruction	12
8.2 Insurance Proceeds.....	12
8.3 Condemnation	12
8.4 Survival.....	13
9. Representations and Warranties	13
9.1 Representations and Warranties	13
9.2 "As Is"; No Representations or Warranties	14
9.3 Mutual Covenants.....	14
10. Default and Remedies	14

10.1	<i>Default</i>	14
10.2	<i>Remedies</i>	14
10.3	<i>Immunity</i>	15
11.	Title; Surrender	15
11.1	<i>Title</i>	15
11.2	<i>Surrender</i>	16
12.	Indemnification	16
12.1	<i>Tenant</i>	16
13.	Covenant of Quiet Enjoyment	16
14.	Estoppel Certificate; Memorandum of Agreement	16
14.1	<i>Estoppel Certificate</i>	16
14.2	<i>Memorandum of Agreement</i>	17
15.	Leasehold Mortgages	17
15.1	<i>Right to Obtain Leasehold Mortgages</i>	17
15.2	<i>Effect of a Leasehold Mortgage</i>	18
15.3	<i>Foreclosure; Further Assignment</i>	18
15.4	<i>Notice of Leasehold Mortgages</i>	19
15.5	<i>Modifications Required by Leasehold Mortgagee</i>	19
15.6	<i>Further Assurances</i>	19
15.7	<i>Protection of Leasehold Mortgagees</i>	19
15.8	<i>First Leasehold Mortgagee's Right to a New Agreement</i>	22
15.9	<i>Priority of Leasehold Mortgages</i>	24
15.10	<i>Liability of Leasehold Mortgagee</i>	24
15.11	<i>Casualty and Condemnation Proceeds</i>	25
15.12	<i>Mezzanine Lenders as Leasehold Mortgagees</i>	25
15.13	<i>Rights of City</i>	26
16.	Purchase Option	26
16.1	<i>Purchase Option</i>	26
16.2	<i>Exercise</i>	26
16.3	<i>Option Purchase Price</i>	26
16.4	<i>Closing</i>	26
16.5	<i>Survival/Forfeiture</i>	27
17.	Miscellaneous	27
17.1	<i>Notices</i>	27

<i>17.2 Force Majeure</i>	28
<i>17.3 Severability</i>	28
<i>17.4 Time of the Essence</i>	28
<i>17.5 Binding Effect; Amendments</i>	28
<i>17.6 Waiver</i>	29
<i>17.7 Interpretation</i>	29
<i>17.8 Entire Agreement</i>	29
<i>17.9 No Joint Venture</i>	29
<i>17.10 No Third-Party Beneficiaries</i>	29
<i>17.11 Attorneys' Fees</i>	29
<i>17.12 Counterparts</i>	29
<i>17.13 Applicable Law</i>	30
<i>17.14 Interest</i>	30
<i>17.15 Paragraph Headings</i>	30
<i>17.16 Survival</i>	30
<i>17.17 Hazardous Materials</i>	30

LIST OF EXHIBITS

EXHIBIT A-1	Property
EXHIBIT A-2	Leased Premises
EXHIBIT B	Deferred Rent Security
EXHIBIT C	Program Resolution
EXHIBIT D	Authorizing Resolution
EXHIBIT E	Form of Assignment and Assumption Agreement and Lease-Back Agreement
EXHIBIT F	Form of Memorandum of Lease and Purchase Option
EXHIBIT G	Krienke Tract Description

GROUND LEASE AGREEMENT

This GROUND LEASE AGREEMENT (this "**Agreement**") is made and entered into as of [December 20, 2016] (the "**Effective Date**"), between CITY OF ROUND ROCK, TEXAS, a home rule city and municipal corporation (the "**City**"), and KR CC, INC., a Delaware corporation ("**Tenant**"). The City and Tenant are sometimes referred to in this Agreement as the "**Parties**" and each as a "**Party**".

RECITALS

WHEREAS, the City has adopted Resolution No. _____, attached as **Exhibit C** ("**Program Resolution**"), establishing an economic development program and Resolution No. _____, attached hereto as **Exhibit D** (the "**Authorizing Resolution**"), authorizing the Mayor to enter into this Agreement and an **Economic Development Program Agreement** (the "**Economic Development Program Agreement**") with Tenant and its affiliate, KR Acquisitions, LLC ("**Developer**"), in recognition of the positive economic benefits to the City through development by the Developer of approximately 351.7 acres of land, as more particularly described on the attached **Exhibit A-1** ("**Property**") as a master planned mixed use development (the "**Project**") anchored by a Kalahari Resort and Convention Center, (the "**Resort**") (the Program Resolution and the Authorizing Resolution being collectively referred to herein as the "**City Resolutions**"); and

WHEREAS, as part of the economic development program established in the Program Resolution, the City agrees to assist Tenant in the purchase of the Property and financing of the Project by entering into this Agreement; and

WHEREAS, concurrently with the Parties' execution of this Agreement, the Parties with the Developer and the Round Rock Transportation and Economic Development Corporation, a "Type B corporation" created under the authority of Chapter 501, Texas Local Government Code, are entering into the Economic Development Program Agreement and the Master Development Agreement (the "**Master Development Agreement**"), pursuant to which Developer will construct the Project to be located on the Property.

WHEREAS, the Parties desire to enter into this Agreement, pursuant to which (i) the City leases to Tenant, and Tenant leases from the City, the Leased Premises during the Term (as defined below) and (ii) Tenant has the option to purchase the Leased Premises from the City at the end of the Term, in each case on the terms and conditions set forth in this Agreement.

WHEREAS, the Parties acknowledge and agree that the Rent paid hereunder constitutes fair market value for the Property and the Leased Premises.

AGREEMENT

NOW THEREFORE, in consideration of their mutual promises herein contained, and for other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties, each intending to be legally bound, do hereby agree as follows:

1. **Definitions.** As used in this Agreement, capitalized terms shall have the meanings indicated below unless a different meaning is expressed herein.

"Affiliate" of a specified Person means a Person who is directly or indirectly controlling, controlled by, or under common control with, the specified Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of the specified Person whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means this Ground Lease Agreement.

"Applicable Law" means any law, statute, ordinance, rule, regulation, order, determination or requirement of any Governmental Authority, including all Environmental Laws.

"Assignment" means any sale, transfer, assignment, pledge, mortgage, encumbrance or any other transfer, including transfers as security for obligations, of this Agreement or a Party's rights or obligations under this Agreement.

"Bankruptcy Proceeding" means any bankruptcy, insolvency, reorganization, composition or similar proceeding under the United States Bankruptcy Code or any similar state or federal statute for the relief of debtors.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks in Austin, Texas are authorized or required by Applicable Law to close. The use of the word "day," instead of "Business Day," means a calendar day.

"City" means the City of Round Rock, Texas.

"Condemnation Action" means a taking by any Governmental Authority (or other Person with power of eminent domain) by exercise of any right of eminent domain.

"Condemnation Award" means all sums, amounts or other compensation for the Improvements and Leased Premises payable to the City or Tenant, as applicable, as a result of, or in connection with, any Condemnation Action.

"Default Rate" means an annual interest rate equal to the Interest Rate plus two percent (2%).

"Deferred Rent Security" means the 156.769 acre portion of the Leased Premises known as the "Krienke parcel" and that 14.4 acre portion of the Leased Premises on the west side of Kenney Fort known as part of the "Bison parcel" all as described on **Exhibit B** and valued at \$12,800,000 which property may be excluded from this Agreement and sold if Tenant fails to timely make the Deferred Rent payment.

"Developer" means KR Acquisitions.

“Economic Development Program Agreement” means that certain Economic Development Program Agreement between the Parties and the Developer dated December 15, 2016.

“Effective Date” is defined in the introductory paragraph of this Agreement.

“Enforcement Action” means, with respect to any Leasehold Mortgage and Leasehold Mortgagee, the occurrence of any of the following events: (A) any judicial or non-judicial foreclosure proceeding, the exercise of any power of sale, the taking of a deed or assignment in lieu of foreclosure, the appointment of a receiver, or the taking of any other enforcement action against the Leasehold Estate or any portion thereof or Tenant, including the taking of possession or control of the Leasehold Estate or any portion thereof, (B) any acceleration of, or demand or action taken in order to collect, all or any indebtedness secured by all or any portion of the Leasehold Estate (other than giving of notices of default and statements of overdue amounts), (C) any exercise of any right or remedy available to Leasehold Mortgagee under any and all loan documents evidencing the debt secured by the Leasehold Estate (collectively, the **“Leasehold Loan Documents”**), at law, in equity, or otherwise with respect to Tenant or any portion of the Leasehold Estate, other than the giving of notices of default and statements of overdue amounts or (D) any active negotiation (including the exchange of written correspondence regarding the same and the scheduling and subsequent attending of negotiations, whether in person or via telephone) between Tenant and Leasehold Mortgagee with respect to a workout following any default by Tenant under the terms and conditions of the Leasehold Loan Documents; provided, however, that any Enforcement Action shall be deemed to continue for a period of 120 days following final non-appealable judgment of a court of competent jurisdiction or cessation of any of the events or activities identified in subclauses (A) through (D) above.

“Environmental Law” means any Applicable Law, including requirements under permits, licenses, consents and approvals of any Governmental Agency, relating to pollution or protection of human health or the environment, including those that relate to emissions, discharges, releases or threatened releases, or the generation, manufacturing, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Materials.

“Expiration Date” means 11:59 p.m. on the day prior to the ninety-ninth (99th) anniversary of the Effective Date.

“Fee Estate” means the City’s fee title interest in the Property.

“First Leasehold Mortgagee” means the holder of the Leasehold Mortgage constituting a first lien on the Leasehold Estate.

“Force Majeure Event” is defined in Section 17.2.

“Foreclosure Event” means a foreclosure, trustee’s sale, deed, transfer, assignment or other conveyance in lieu of foreclosure, or other similar exercise of rights or remedies under any Leasehold Mortgage, including the occurrence of any transfer of title to the

mortgaged estate by operation of or pursuant to any Bankruptcy Proceeding, in each case whether the transferee is a Leasehold Mortgagee, a party claiming through a Leasehold Mortgagee or a third party.

“Governmental Authority” means any federal, state or local governmental entity, political subdivision, agency, department, commission, board, bureau, administrative or regulatory body or other instrumentality having jurisdiction over the Project, Improvements, Leased Premises, or the Parties.

“Hazardous Materials” means those materials that are regulated by, or form the basis of liability under, any Environmental Law, including, but not limited to, polychlorinated biphenyls (PCBs), petroleum (including oil, motor oil and gasoline), natural gas (and synthetic gas usable for fuel), asbestos and asbestos containing materials (ACMs), underground storage tanks (USTs), above-ground storage tanks (ASTs), as well as substances, materials or conditions now or in the future defined as “hazardous substances”, “pollutants” or “contaminants” in the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. Section 9601, et seq.), those substances, materials or conditions now or in the future defined as “hazardous waste” in any applicable Environmental Law and any other substance, material or condition that is now or in the future considered hazardous or otherwise subject to any statutory or regulatory requirement governing handling, disposal and/or clean up.

“Improvements” means all improvements, structures, buildings and fixtures of any kind whatsoever, other than trade fixtures which constitute personal property, whether above or below grade, including buildings, the foundations and footings thereof, utility installations, storage, loading facilities, walkways, driveways, landscaping, signs, site lighting, site grading and earth movement, and all fixtures, plants, apparatus, appliances, furnaces, boilers, machinery, engines, motors, compressors, dynamos, elevators, fittings, piping, connections, conduits, ducts and equipment of every kind and description now or hereafter affixed or attached to any of such buildings, structures or improvements and used or procured for use in connection with the heating, cooling, lighting, plumbing, ventilating, air conditioning, refrigeration, or general operation of any of such buildings, structures or improvements, and any exterior additions, changes or alterations thereto or replacements or substitutions therefor.

“Initial Rent Payment” means an amount of money equal to the purchase price of the Property plus all of the purchaser’s closing costs, less the Krienke Tract Purchase Price, which is equal to [\$10,585,368.69]. The Initial Rent Payment may be made in more than one installment to coincide with the closings of the purchase of the separate tracts of land included in the Property. The final total Initial Rent Payment will be determined at the closing of the Boyles Tract but Parties estimate that the total Initial Rent Payment will be [\$17,908,520.60].

“Intangible Rights” is defined in Section 3.1.

“Interest Rate” means the one-month LIBOR Rate quoted by U.S. Bank National Association from Reuters Screen LIBOR01 Page or any successor thereto, plus one

percent (1%). All interest to be paid pursuant to this Agreement shall be compounded annually.

“KR Acquisitions” means KR Acquisitions, LLC, a Delaware limited liability company and an affiliate of Tenant.

“Krienke Tract” means the tract of land described in Exhibit G.

“Krienke Tract Purchase Price” means the contract purchase price plus closing costs paid by the purchaser at the closing of the Krienke Tract, which is [\$10,585,368.69].

“Lease Impairment” means any (A) cancellation, amendment, modification, rejection surrender (whether voluntary or otherwise) or termination of this Agreement, including upon a casualty or condemnation affecting the Improvements or the Leased Premises, (B) consent, or affirmative acquiescence, by Tenant to a sale of any property, or interest in any property, under 11 U.S.C. § 363 or otherwise in any Bankruptcy Proceeding by the City, (C) exercise of any right of Tenant to treat this Agreement as terminated under 11 U.S.C. § 365(h)(1)(A)(i) or any comparable provision of law or (D) subordination of this Agreement or the Leasehold Estate to any other estate or interest in the Improvements or the Leased Premises.

“Leased Premises” shall mean that portion of the Property as identified on Exhibit A-2 (excluding the Fee Estate), together with (a) all air rights and air space above the Property; (b) all mineral and water rights; and (c) all of City’s right, title and interest, if any, in and to all rights, privileges and easements appurtenant to the Property now existing or created during the Term of this Agreement. Provided however, (i) the Convention Center, as defined in the Master Development Agreement and/or the Economic Development Program Agreement, and (ii) any and all public streets, rights of way, and utility easements dedicated to the City during the platting and development process, shall not be included in the Leased Premises.

“Leasehold Estate” means Tenant’s leasehold and subleasehold estate and all other rights, titles and interests of Tenant arising under this Agreement.

“Leasehold Mortgage” means a mortgage, deed of trust, security deed, deed to secure debt or any similar other instrument or agreement constituting a lien upon, or similarly encumbering, the Leasehold Estate held by a Leasehold Mortgagee, as renewed, restated, modified, consolidated, amended, extended or assigned (absolutely or collaterally) from time to time.

“Leasehold Mortgagee” means the holder of a Leasehold Mortgage (including any trustee, servicer or administrative agent acting on behalf of the holder or holders of a Leasehold Mortgage).

“Liabilities” is defined in Section 12.1.

“Mortgagee’s Cure” is defined in Section 15.7(E).

“Mortgagee’s Cure Rights” is defined in Section 15.7(E).

“New Agreement” is defined in Section 15.8(A).

“New Agreement Delivery Date” is defined in Section 15.8(A).

“New Operator” means a Person, including, without limitation, Leasehold Mortgagee or its assignee, nominee or designee, that (A) acquires the Leasehold Estate through a Foreclosure Event or (B) enters into a New Agreement with the City under Section 15.8.

“Option Purchase Price” is defined in Section 16.3.

“Party” or **“Parties”** is defined in the introductory paragraph of this Agreement.

“Person” means any individual, trust, estate, partnership, joint venture, company, corporation, association, limited liability company, or other legal entity, business organization or enterprise.

“Personal Default” means any nonmonetary default under this Agreement that is not susceptible to cure by a Leasehold Mortgagee.

“Project” means the Project as described in Article V. of the Master Development Agreement.

“Property” means the approximately 351.7 acres of land more particularly described in **Exhibit A** excluding any roadways, easements or other facilities which have been dedicated to the City.

“Purchase Option” is defined in Section 16.1.

“Purchase Price” is defined in Section 2.1(E)

“Rent” is defined in Section 4.1 and means the total amount of the Purchase Price of the Property, plus the rent paid pursuant to Section 4.1(B).

“Tax” means any general or special, ordinary or extraordinary, tax, imposition, assessment, levy, usage fee, excise or similar charge (including any ad valorem or other property taxes), however measured, regardless of the manner of imposition or beneficiary, that is imposed by any Governmental Authority.

“Tenant” means KR CC, Inc.

“Tenant Default” is defined in Section 10.1.

“Tenant’s Cure Period Expiration Notice” is defined in Section 15.7(C).

“Term” is defined in Section 2.2

2. Lease and Grant of Use; Term

2.1 *Lease and Grant of Use.*

- (A) *Lease.* Subject to the terms and conditions of this Agreement, the City hereby leases to Tenant, and Tenant hereby leases from the City, the Leased Premises during the Term. The Parties agree that, during the Term, Tenant is permitted hereunder to use the Leased Premises only for the Project, including without limitation, to perform and engage in the design, development, construction, operation and management of the Project on the Leased Premises, together with all infrastructure necessary for the Project.
- (B) *Additional Property.* The Parties acknowledge that Developer has entered into a contract to purchase an additional 1.5-acre tract of land known by the Parties as the "Boyles Tract," that such contract has been assigned to Tenant, and that Tenant will assign that purchase contract to City. Upon City's acquisition of the Boyles Tract, the Parties agree to concurrently amend the definition and description of the "Property" in this Agreement to include the Boyles Tract as part of the "Property." A condition precedent to the City's acquisition of the Boyles Tract is Tenant's payment, as the remaining amount of the Initial Rent, an amount equal to the purchase price and closing costs for the Boyles Tract.
- (C) *Convention Center Property.* The Convention Center will be constructed on a portion of the Property to be excluded from the Leased Premises. Once that portion of the Property is platted, the Parties agree to promptly amend this Agreement such that **Exhibit A** attached hereto will be replaced with a legal description that excludes from the Property the platted lot on which the Convention Center will be located. That platted lot will be released from this Agreement. Upon the release, such property will be free of liens or other monetary obligations. The City agrees to convey title to the Convention Center in accordance with the terms of the Convention Center operating lease.
- (D) *Development of Leased Premises; Zoning.* Tenant may use, improve, develop and occupy the Leased Premises as contemplated by the Master Development Agreement and the Economic Development Program Agreement, and Tenant may rezone or otherwise plat, subdivide, apportion, and/or subject any portion of the Leased Premises to a condominium, entitle, permit or seek approvals for the Leased Premises (collectively "**Entitlement Actions**") at its option and the City, solely as owner of the Fee Estate, shall cooperate in such efforts and execute all consents and documents necessary for the submission and pursuit of such Entitlement Actions. The City shall not, without the written consent of Tenant, take any Entitlement Actions regarding the Leased Premises. Notwithstanding, the foregoing Tenant shall comply with the City's

development approval processes and shall develop the Project on the Leased Premises in compliance with City ordinances, City-approved PUD zoning ordinance for the Leased Premises, City-approved development regulations, and other City development requirements, and any requirements of the City to cooperate here under shall not be deemed any approval outside of such legal requirements.

- (E) *Acquisition and Aggregation of Leased Premises.* The Developer has previously entered into contracts to acquire the Property (the “**Purchase Contracts**”), with an aggregate purchase price of Twenty Eight Million Four Hundred Eighty Five Thousand and no/100 Dollars \$28,483,372.77 (the “**Purchase Price**”). All of purchaser's closing costs shall be included in the final Purchase Price. The Developer has previously assigned the Purchase Contracts to the Tenant. Concurrent with the execution of this Agreement, the Parties are entering into an Assignment and Assumption Agreement and Lease-Back Agreement (the “**Assignment Agreement**”) pursuant to which the Tenant is agreeing to assign, and City is agreeing to assume, the Tenant’s rights under the Purchase Contracts. City hereby agrees to use reasonable efforts to consummate the acquisitions of the Property by December 23, 2016, and to cooperate with Tenant in aggregating and/or dividing the Property and the Leased Premises as requested by Tenant to accommodate the Project in accordance with applicable subdivision and condominium related regulations. The form of Assignment Agreement is attached hereto as **Exhibit E**.
- (F) *Nondisturbance and Attornment.* If requested by Tenant, the City and Tenant shall, at any time at the request of Tenant, enter into a non-disturbance and attornment agreement that shall provide, among other things, that the City agrees not to disturb Tenant’s or its subtenants’ use of the Leased Premises pursuant to the terms and conditions of this Agreement.

2.2 Term. The term of this Agreement (the “**Term**”) commences on the Effective Date and expires on the Expiration Date, unless terminated earlier as expressly provided for in this Agreement.

3. Intangible Rights

3.1 Tenant’s Rights. Tenant shall have sole ownership, as owner of the Project and other Improvements, of all intellectual property rights associated therewith, and the exclusive right and license to use any replica, model, artistic or photographic rendering or other visual representation of the Project or Improvements or any portion thereof owned by or licensed to the Tenant in association with any and all goods and services throughout the world (the “**Intangible Rights**”), together with the right to use, enjoy (whether in whole or in part) the Intangible Rights to advertise, market and promote the Project and Improvements, and to receive and retain all revenues from such use of the Intangible Rights by Tenant.

4. Rent and Other Payments.

4.1 Rent. The total rent to be paid hereunder shall be equal to the Purchase Price (the “Rent”). Tenant shall pay the Rent as follows:

- (A) make a partial Initial Rent Payment to the City of [Sixteen Million Eight Hundred Eight Thousand and no/100 Dollars (\$16,808,112.23)] concurrent with City’s closing on the acquisition of the Property (less the Boyle’s Tract) and the execution and delivery of this Agreement;
- (B) make an additional partial Initial Rent Payment to the City equal to the purchase price and closing costs for the Boyles Tract concurrent with the City's closing on the acquisition of the Boyles Tract;
- (C) make an annual rent payment to the City of One Dollar (\$1.00), which shall be paid, without demand, deduction, or offset, on the fifth (5th) day of January of each year during the Term of this Agreement; and
- (D) make a one-time rent payment to the City equal to the Krienke Tract Purchase Price on the first Business Day following the day which is the eight year anniversary date of this Agreement (the “**Deferred Rent**”). Payment of the Deferred Rent shall include all interest on the Deferred Rent amount accrued at the Interest Rate.

4.2 Utilities. Tenant shall pay or cause to be paid when due all charges for public or private utility services to or for the Property during the Term, including without limiting the generality of the foregoing, all charges for heat, light, electricity, water, gas, telephone service, garbage collection and sewage and drainage service and the cost of installation thereof from the boundaries of the Property.

4.3 Maintenance and Repairs. During the Term of this Lease, Tenant shall maintain the Property and the Leased Premises at Tenant’s own expense, and Tenant shall keep the Leased Premises in good condition and repair. Landlord shall not be required to maintain or repair any portion of the Leased Premises or any improvements located thereon.

5. Taxes; Operations; Capital Repairs; Recordkeeping

5.1 Tenant’s Sole Cost. In consideration for Tenant’s rights under this Agreement, Tenant shall be responsible for paying, throughout the Term, all costs necessary to manage and operate the Project and Leased Premises in accordance with this Agreement, including, subject to the terms and conditions of this Agreement, including all costs of maintenance, repairs, replacements, renovation, remodeling, removal, alterations, improvements and insurance, as well as all Taxes, with respect to the Project and the Leased Premises.

5.2 Tax Matters.

- (A) Without limiting the generality of Section 5.1 and in consideration for Tenant's rights under this Agreement, except as provided in Section 5.2(B), Tenant shall be solely responsible for, and shall pay and discharge as and when due, all Taxes, to the extent allocable to the Term, upon or with respect to the Leased Premises and Tenant's possession, operation, management, maintenance, alteration, repair, rebuilding, use or occupancy of, or employment of personnel in, the Project or any portion thereof.
- (B) The City will own the Property at the time a change of use occurs and will continue to own the Fee Estate of the Property for the Term. To the extent rollback taxes are owed on all or any portion of the Leased Premises, the City agrees to rebate the City portion of such rollback taxes as a grant to Tenant pursuant to Chapter 380 of the Texas Local Government Code. Within 90 days after the date the City receives a written request from the Tenant requesting that the City seek an exemption determination, the City will request from the Texas Comptroller the determination of rollback tax exemption contemplated by Texas Tax Code Section 23.55(m). Such a rollback tax determination by the Texas Comptroller is binding on the City but not on the Developer or the Tenant.
- (C) Tenant shall have the right, at its sole cost and expense, to contest the amount, validity, or applicability, in whole or in part, of any Taxes affecting, against, or attaching to the Leased Premises or any portion of the Property by appropriate proceedings. The City acknowledges that the determination of property tax valuation, equalization, exemption, special open space valuation and tax rollback are within the exclusive province of the appraisal district and as a result, the City takes no position on these matters. The City grants to the Tenant the right to file any and all applications, documents, requests, forms or other required submissions with respect to any Taxes affecting, against, or attaching to the Leased Premises or any portion of the Property, and does hereby appoint the Tenant as the agent of the City for all such actions. The City covenants that it will not avail itself of the tax challenge provisions contained in Chapter 41 of the Texas Tax Code for the duration of this Agreement. The City further covenants that it will fully cooperate with the Tenant's efforts to obtain maximum property tax relief for the Property and will make available all relevant documents and witnesses pertaining to the transaction for any and all property tax proceedings pertaining to the Property.
- (D) This Section 5.2 shall survive the expiration of the Term or termination of this Agreement.

5.3 Operations and Management of the Leased Premises. Tenant shall be exclusively responsible for the operations and management of the Project, Improvements, and Leased Premises during the Term of this Agreement.

Notwithstanding anything to the contrary in this Agreement, operations and management of the Project may be performed by (i) Tenant or its Affiliates, (ii) an unrelated third-party management company engaged by Tenant and/or (iii) any other third-party contracted by Tenant to perform such services. During the Term, Tenant shall have the exclusive right to negotiate, execute and perform, and to receive allocate, use and distribute, in its sole discretion, all revenues from, all use agreements, licenses and other agreements with respect to the use of Project or Leased Premises (or any part thereof).

6. Assignment and Subletting

- 6.1 *Covenant Regarding Assignment and Subletting.*** *Tenant shall have the right at any time, and without the consent of City and with no limitation as to frequency or number, to assign, in whole or in part, this Agreement or sublet all or any portion of the Leased Premises and all or any portion of the Improvements. Tenant shall provide a copy of such assignment or sublease to City within 15 days after the effective date of such assignment or sublease. City shall not assign this Agreement.*
- 6.2 *Covenant Regarding Encumbrances.*** *Tenant, its successors and assigns, shall have the right, without the consent of City, to mortgage, pledge, or otherwise encumber this Lease, the Improvements or Tenant's interest herein, in accordance with the requirements of Section 15.*
- 6.3 *Tenant's Right to Lease.*** *Tenant may, without the consent of City, enter into subleases, licenses, concession agreements, leases, or other occupancy agreements related to the Project or Leased Premises. Notwithstanding any such subleases, licenses, concessions, leases, or other occupancy agreements, Tenant shall at all times remain liable for the performance of all of the covenants and agreements under this Agreement due on Tenant's part to be so performed.*
- 6.4 *Assignment of Purchase Option.*** *Tenant may, without the consent of City, make an Assignment of the Purchase Option to any Person, provided that such Person shall agree to be bound by all terms and conditions in this Agreement regarding the Purchase Option.*
- 6.5 *City Encumbrances or Fee Mortgages.*** *The City shall not mortgage or otherwise encumber the City's Fee Estate with any mortgage, deed of trust, security deed, deed to secure debt, or any other similar instrument or agreement constituting a lien upon, or similarly encumbering, the Fee Estate.*

7. Insurance

- 7.1 *Required Insurance.*** *Tenant shall, at its sole expense, unless otherwise agreed by the City in writing, procure and maintain (or cause to be procured and maintained by appropriate contractors or vendors) the following insurance coverage during the Term; provided that nothing herein shall prohibit Tenant from procuring and maintaining additional insurance coverages that Tenant deems desirable:*

(A) Commercial general liability insurance (CGL) written on an “occurrence” policy form and covering liability for death, bodily injury, personal injury, and property damage with limits of not less than \$5,000,000 per occurrence relating, directly or indirectly, to Tenant’s business operations, conduct or use or occupancy of the Improvements. Such coverage shall include all activities and operations conducted by any Person on or about the Leased Premises, and any work performed by or on behalf of Tenant at the Leased Premises. Coverage should be as broad as ISO policy form CG 0001, or any replacement thereof that becomes standard in the insurance industry, or an equivalent form reasonably acceptable to the City.

(B) Physical property damage insurance covering all real and personal property, excluding personal property paid for by subtenants or paid for by Tenant for which subtenants have reimbursed Tenant, located on or in, or constituting a part of, the Leased Premises, in an amount equal to at least one hundred percent (100%) of the new replacement cost of all such property (or such lesser amount as Landlord may approve in writing). Tenant shall not be required to maintain insurance for earthquake, flood or war risks.

8. Damage or Destruction; Condemnation

8.1 *Damage; Destruction.* In the event of damage to, or destruction of, the Project, this Agreement shall remain in full force and effect and Tenant, in its sole discretion, may elect to repair and restore the Project.

8.2 *Insurance Proceeds.* Any insurance proceeds paid under any property insurance for the Project as a result of damage or destruction of any portion of the Project shall be deposited with Tenant or a Leasehold Mortgagee.

8.3 *Condemnation.*

(A) *Total Condemnation.* In the event of any Condemnation Action, other than a temporary taking, that prevents the use or occupancy of any portion of the Leased Premises necessary for the location or use of Improvements (including access to and from Improvements), then, subject to Tenant’s rights under Section 16 (which survive the termination of this Agreement) and the rights of any Leasehold Mortgagee under Section 15, Tenant shall have the right to terminate this Agreement by delivering written notice to the City within ninety (90) days after the Condemnation Action becomes final and non-appealable. If this Agreement is so terminated, any such termination shall be without penalty to Tenant or the City. If Tenant terminates this Agreement, it shall not be entitled to a refund of any rent payments made.

- (B) *Partial Condemnation.* If Tenant does not have a right to terminate this Agreement as a result of a Condemnation Action or elects not to do so, Tenant, at its option, may, at no cost to City, as promptly as practicable and in any event within twelve (12) months after such Condemnation Action, repair and restore any damage to the Project resulting from such Condemnation Action.
- (C) *Proceedings.* To the maximum extent permitted by Applicable Law, Tenant and the City each shall have the right, at its own expense, to appear in any Condemnation Action and to participate in any and all hearings, trials, and appeals relating thereto even if this Agreement has been terminated. The Leasehold Mortgagee shall also be entitled to appear and participate in any Condemnation Action and in any and all hearings, trials and appeals relating thereto even if this Agreement has been terminated. Neither Party shall settle or compromise any right of the other Party to receive a Condemnation Award without the prior written consent of the other Party and, with respect to Tenant's rights, the prior written consent of each Leasehold Mortgagee. Subject to the other provisions of this Section 8.3, in any Condemnation Action Tenant shall have the right to assert a claim for any Condemnation Awards for the value of the Improvements. Tenant and the City shall each have the right to assert a claim for any Condemnation Awards for (x) the loss in value of its rights under this Agreement as if this Agreement had not terminated, and (y) any other damages to which the City or Tenant, as applicable, may be entitled under Applicable Law. City agrees that Tenant or Leasehold Mortgagee shall be entitled to receive any Condemnation Awards received by City in connection with the Leased Premises.

8.4 *Survival.* This Section 8 survives the expiration or earlier termination of this Agreement, but only insofar as such provisions relate to any damage or destruction of the Project (or insurance proceeds therefrom) or Condemnation Action (or Condemnation Award therefrom) that arose prior to the expiration or earlier termination of this Agreement.

9. Representations and Warranties

9.1 *Representations and Warranties.* The City represents and warrants to the Tenant that: (a) this Agreement is within its authority, (b) it is duly authorized and empowered to enter into this Agreement, (c) this Agreement is enforceable against the City; and (d) all obligations of the City are proprietary, unless otherwise ordered by a court of competent jurisdiction. Tenant represents and warrants to City that it has the requisite authority to enter into this Agreement. Neither Party has incurred or created any liabilities or claims for broker's commissions or finder's fees in connection with the negotiation, execution or delivery of this Agreement.

- 9.2 “As Is”; No Representations or Warranties.** Except as expressly set forth herein, it is understood and agreed that the Leased Premises will be leased and, if applicable, conveyed “as is” with any and all faults and latent and patent defects without any express or implied representation or warranty by the City. Specifically, City disclaims any warranty of suitability that may otherwise arise by operation of law. Tenant accepts the Leased Premises whether suitable or not, and waives the implied warranty of suitability.
- 9.3 Mutual Covenants.** Commencing with the Effective Date, each Party covenants and agrees to the other Party as follows:
- (A) *Additional Documents and Approval.* Each Party, upon the reasonable request of the other Party, shall execute or cause to be executed any further documents, take any further actions and grant any further approvals as may be reasonably necessary in order to consummate the transactions provided for in this Agreement.
 - (B) *Notice of Matters.* Should Tenant or the City receive knowledge about any matter that may constitute a breach of any of its representations, warranties or covenants set forth in this Agreement, it shall promptly notify the other Party of the same in writing.

10. Default and Remedies

10.1 Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure, such reasonable time determined based on the nature of the alleged failure, but in no event less than 30 days or more than 90 days after written notice of the alleged failure has been given (subject to Force Majeure Events), provided, however, such 90 day period shall be extended as may be reasonably necessary provided that the such defaulting Party is pursuing cure with due diligence. In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. Notwithstanding the foregoing, however, a Party shall be in default of its obligation to make any payment required under this Agreement if such payment is not made within five Business Days after it is due.

10.2 Remedies.

10.2.1 If a Party is in default, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, including the remedies under Section 10.2.2, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus, and

injunctive relief. Notwithstanding the foregoing, however, no default under this Agreement shall: (a) entitle the aggrieved Party to terminate this Agreement; (b) entitle City to suspend performance under this Agreement; (c) adversely affect or impair the current or future obligations of the City of Round Rock to provide water or sewer service or any other service to the Leased Premises; (d) entitle the aggrieved Party to seek or recover monetary damages of any kind; or (e) reduce the Term of this Agreement.

10.2.2 If the Tenant is in default of Section 4.1 (Rental Payments) the amount of any overdue rent may be deducted from the payments required to be paid by the City of Round Rock to Tenant pursuant to the Economic Development Program Agreement. If the Deferred Rent is not paid when due as provided at Section 4.1(D) herein, the City may alternatively elect to terminate this Agreement with respect to all or a portion of the Deferred Rent Security. If the City elects such remedy, the City may terminate this Agreement as to all or a portion of the Deferred Rent Security only after an additional 90 days prior written notice to the Tenant of default under Section 4.1(D) of this Agreement and the election by the City to seek such remedy and Tenant's failure to cure such default within such 90 day period. The Deferred Rent Security is valued at \$12,800,000. At Tenant's option, but subject to the prior written consent of the City, which shall not be unreasonably withheld, the Deferred Rent Security may be replaced with an alternative portion of the Leased Premises or reduced acreage if the Tenant provides to the City (a) a legal description for the portion of the Leased Premises that will replace the Deferred Rent Security; and (b) an appraisal or other evidence acceptable to the City confirming the substituted security has a value equal to at least \$12,800,000. The value determination may not be the basis for the City to withhold its consent to the Deferred Rent Security if the City selects the appraiser who provides the appraisal confirming the minimum value of \$12,800,000. These remedies shall be the exclusive remedy for a Tenant default of the obligations in Section 4.1 (Rental Payments) of this Agreement.

10.3 Immunity. The Parties agree that the City's functions under this Agreement are proprietary, not governmental. Pursuant to *Wasson Interests, Ltd. v. City of Jacksonville*, 489 S.W.3d 427 (Tex. 2016), the City agrees that it cannot assert governmental immunity in connection with any claim under this Agreement.

11. Title; Surrender

11.1 Title. Notwithstanding any other provisions of this Agreement, the Improvements erected on the Leased Premises and all alterations, additions, equipment and fixtures built, made, or installed by Tenant in, on, under, or to the Improvements shall be the sole property of Tenant (subject to the terms of this Agreement and any Leasehold Mortgage) until the termination of this Agreement by the passage of time or otherwise (but shall become the property of City thereafter, subject to the terms of Section 16 hereof) and Tenant shall have all corresponding tax and

other rights associated therewith until the expiration or other termination of the Term.

- 11.2 *Surrender.*** Upon the expiration of the Term, if Tenant has not exercised the Purchase Option pursuant to Section 16, then Tenant shall, on or before the Expiration Date, peaceably and quietly leave, surrender and yield to the City the Improvements and the Leased Premises.

12. Indemnification

- 12.1 *Tenant.*** To the extent permitted by Applicable Law, Tenant hereby agrees to defend, hold harmless and indemnify the City from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, whether arising on or off the Leased Premises (hereafter collectively referred to as “**Liabilities**”), suffered or incurred by City as a result of Tenant’s use or operation of the Leased Premises; provided that the foregoing indemnity does not apply to any Liability to the extent arising from (A) the negligence or willful misconduct of the City or its agents, consultants or employees, or (B) any breach by the City of this Agreement.

13. *Covenant of Quiet Enjoyment.* So long as Tenant performs in all material respects its obligations under this Agreement, the City shall do nothing (other than the acts permitted or required by this Agreement) that will prevent Tenant or its licensees, guests or invitees from peaceably and quietly enjoying, using and occupying the Leased Premises or Improvements in the manner described in this Agreement, and the City shall (i) defend Tenant’s quiet enjoyment, use and occupancy of the Leased Premises and Improvements in the manner described in this Agreement against the claims of all Persons claiming by, under, or through the City and (ii) not permit any lien, encumbrance, right-of-way, covenant, condition, invalidity or other matter adversely affecting the City’s right to possess and use, or its title to, the Leased Premises to diminish, disturb or impair Tenant’s and its licensees’, guests’ and invitees’ quiet enjoyment, use and occupancy of the Leased Premises and Improvements hereunder.

14. Estoppel Certificate; Memorandum of Agreement

- 14.1 *Estoppel Certificate.*** Each of the Parties shall, upon the reasonable request of the other (or any current or prospective source of financing for the City, Tenant, or any of their Affiliates or any transferee or assignee), and in each case within ten (10) Business Days after the other Party has requested it, execute and deliver to the appropriate Persons a certificate in recordable form stating:

- (A) That this Agreement is unmodified and is in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the modifications or, if this Agreement is not in full force and effect, that such is the case);
- (B) That, to the knowledge of the Party providing the certificate, there are no defaults by it or the other Party under this Agreement (or specifying each such default as to which it may have knowledge);

- (C) The Effective Date and the then-current Expiration Date;
- (D) The date(s) to which any financial obligation of the Party has been paid under this Agreement;
- (E) To the knowledge of the Party providing the certificate, whether there are any counterclaims against the enforcement of any Party's obligations under this Agreement; and
- (F) Any other matters reasonably requested.

14.2 Memorandum of Agreement.

- (A) *Recordation.* At any time Tenant may cause a memorandum of this Agreement or any amendment hereto to be recorded in the Real Property Records of Williamson County, Texas and Tenant shall pay and discharge the costs, fees and taxes in connection therewith. The initial form of such memorandum shall be as set forth in **Exhibit F** attached hereto, and upon any amendment to this Agreement, the form of any memorandum of amendment shall be subject to the approval of the City (not to be unreasonably withheld, conditioned or delayed) prior to the recordation thereof, and the City shall sign such memorandum when so requested by Tenant. The City Manager is authorized to grant such City approval.
- (B) *Release of Memorandum of Agreement.* Tenant shall, at its cost, execute and record a release of any such memorandum within ten (10) Business Days after the expiration of Tenant's Purchase Option under Section 16 without the exercise thereof by Tenant, which release shall include language whereby Tenant acknowledges that the Purchase Option has terminated and Tenant quitclaims to the City all rights of Tenant in and to the Leased Premises.

15. Leasehold Mortgages

- 15.1 Right to Obtain Leasehold Mortgages.** Notwithstanding anything to the contrary contained in this Agreement, Tenant shall have the right, without the City's consent, to execute and deliver one or more Leasehold Mortgages encumbering the Leasehold Estate or the direct or indirect ownership interests in Tenant at any time and from time to time; provided, that no such Leasehold Mortgage shall encumber the Fee Estate. The City's interests in the Leased Premises shall be subject and subordinate to any such Leasehold Mortgages, provided, however, no Leasehold Mortgage shall encumber the Fee Estate and the City's interest in the Fee Estate shall remain in priority to that of Tenant or any Leasehold Mortgagee during the Term. Each Leasehold Mortgage shall provide that the Leasehold Mortgagee shall send to the City copies of all notices of material default sent to Tenant in connection with the Leasehold Mortgage or the debt secured thereby, provided that the failure to provide any such notice shall not affect the validity of the notice in any manner.

15.2 *Effect of a Leasehold Mortgage.* Notwithstanding anything to the contrary in this Agreement, Tenant's making of a Leasehold Mortgage shall not be deemed to constitute an Assignment of the Leasehold Estate, nor shall any Leasehold Mortgagee, as such, or in the exercise of its rights under this Agreement, be deemed to be an assignee or transferee or mortgagee in possession of the Leasehold Estate so as to require such Leasehold Mortgagee, as such, to assume or otherwise be obligated to perform any of Tenant's obligations under this Agreement except when, and then only for so long as, such Leasehold Mortgagee has acquired ownership and possession of the Leasehold Estate pursuant to a Foreclosure Event (as distinct from its rights under this Agreement to cure defaults or exercise Mortgagee's Cure Rights). No Leasehold Mortgagee (or other Person acquiring the Leasehold Estate pursuant to a Foreclosure Event) shall have any liability beyond its interest in this Agreement nor shall Leasehold Mortgagee (or any Person acquiring the Leasehold Estate pursuant to a Foreclosure Event under a Leasehold Mortgage) be liable under this Agreement unless and until such time as it becomes the owner of the Leasehold Estate. Without further notice to or consent from the City, the City recognizes and agrees that a Leasehold Mortgagee may acquire directly, or may cause its assignee, nominee, or designee to acquire, the Leasehold Estate through a Foreclosure Event and such party shall enjoy all the rights and protections granted to Leasehold Mortgagee under this Agreement with the same force and effect as if such party were the Leasehold Mortgagee itself.

15.3 *Foreclosure; Further Assignment.* Notwithstanding anything to the contrary in this Agreement, any Foreclosure Event or any exercise of rights or remedies under any Leasehold Mortgage shall not be deemed to violate this Agreement or require the consent of the City. If a Leasehold Mortgagee or a successor or assignee of a Leasehold Mortgagee, or an Affiliate thereof, acquires Tenant's Leasehold Estate following a Foreclosure Event, or if a Leasehold Mortgagee or a successor or assignee of a Leasehold Mortgagee, or an Affiliate thereof, enters into a New Agreement, such Leasehold Mortgagee or successor or assignee of a Leasehold Mortgagee, or an Affiliate thereof, shall enjoy all of the rights and protections granted to Leasehold Mortgagee under this Agreement with the same force and effect as if such successor, assign or Affiliate were the Leasehold Mortgagee itself and may thereafter assign or transfer this Agreement or such New Agreement without prior notice to or consent of the City; provided, that the assignee or transferee expressly agrees in writing to assume and to perform all of the obligations under this Agreement or such New Agreement, as the case may be, from and after the effective date of such assignment or transfer. No Leasehold Mortgagee (or Person acquiring the Leasehold Estate pursuant to a Foreclosure Event under a Leasehold Mortgage) shall have any liability beyond its interest in this Agreement nor shall Leasehold Mortgagee (or person acquiring the Leasehold Estate pursuant to a Foreclosure Event under a Leasehold Mortgage) be liable under this Agreement unless and until such time as it becomes, and then only for so long as it remains, the owner of the Leasehold Estate.

- 15.4 *Notice of Leasehold Mortgages.*** Promptly after Tenant enters into any Leasehold Mortgage, Tenant or the Leasehold Mortgagee shall deliver to the City a true and correct copy of the Leasehold Mortgage together with written notification specifying the name and address of the Leasehold Mortgagee. The Leasehold Mortgagee identified in such notice or the mortgage filed of record shall be entitled to all the rights and protections of a Leasehold Mortgagee under this Agreement (as against both the City and any successor holder of the Fee Estate). The City agrees to acknowledge to Tenant and such Leasehold Mortgagee the City's receipt of any such materials and, following notification thereof, notice of any Assignment of such Leasehold Mortgage and to confirm that such Leasehold Mortgagee is or will be, upon closing of its financing or its acquisition of an existing Leasehold Mortgage, entitled to all of the rights and protections granted to Leasehold Mortgagee under this Agreement with the same force and effect as if such successor, assign or Affiliate were the Leasehold Mortgagee itself, in this Agreement, including after any premature termination of this Agreement. If the City has received actual or constructive notice of any Leasehold Mortgage, then such notice shall automatically bind the City's successors and assigns.
- 15.5 *Modifications Required by Leasehold Mortgagee.*** If, in connection with obtaining, continuing or renewing any financing for which the Leasehold Estate, or the direct or indirect equity interests in Tenant, represents collateral in whole or in part, the Leasehold Mortgagee requires any modifications of this Agreement as a condition to such financing, then the City shall, at Tenant's or such Leasehold Mortgagee's request, promptly consider any such modifications in good faith. If such modifications do not (A) modify the Rent or the Term or (B) lessen the City's rights or increase the City's obligations under this Agreement by more than a de minimis amount in the reasonable judgment of the City, then the City shall execute and deliver to Tenant an amendment to this Agreement to effect such modifications.
- 15.6 *Further Assurances.*** Upon request by Tenant or by any existing or prospective Leasehold Mortgagee, the City shall deliver to the requesting party such documents and agreements as the requesting party shall reasonably request to further effectuate the terms of this Agreement, including a separate written instrument in recordable form signed and acknowledged by the City setting forth and confirming, directly for the benefit of Leasehold Mortgagee and its successors and assigns, any or all rights of Leasehold Mortgagee; provided, however, that Tenant shall reimburse the City immediately upon demand therefor for any and all reasonable third-party costs or expenses actually incurred by the City in complying with this Section 15.6.
- 15.7 *Protection of Leasehold Mortgagees.*** Notwithstanding anything to the contrary set forth in this Agreement, if, and only for so long as, any Leasehold Mortgage is in effect, the following shall apply:
- (A) *Lease Impairments.* Any Lease Impairment made without First Leasehold Mortgagee's prior written consent (or any deemed consent under its

Leasehold Mortgage) shall be null, void, and of no further force or effect, and shall not bind Tenant, Leasehold Mortgagee or New Operator. For clarification, this Section 15.7(A) shall be inapplicable during any period that no Leasehold Mortgage is in effect.

- (B) *Copies of Notices.* If the City shall give any notice to Tenant under this Agreement, then the City shall at the same time and by the same means give a copy of such notice to any Leasehold Mortgagee. No notice to Tenant shall be effective unless and until such notice has been duly given to Leasehold Mortgagee, provided the City has received notice of such Leasehold Mortgagee pursuant to Section 15.4. No exercise of the City's rights and remedies under or termination of this Agreement shall be deemed to have occurred or arisen or be effective unless the City has given like notice to each Leasehold Mortgagee as this Section 15.7(B) requires. Any such notice shall describe in reasonable detail the alleged Tenant default or other event allegedly entitling the City to exercise such rights or remedies.
- (C) *Tenant's Cure Period Expiration Notice.* If Tenant is in default under this Agreement and the cure period applicable to Tenant expires without cure of Tenant's default, then the City shall promptly give notice of such fact to any Leasehold Mortgagee, which notice shall describe in reasonable detail Tenant's default (an "**Tenant's Cure Period Expiration Notice**").
- (D) *Right to Perform Covenants and Agreements.* Any Leasehold Mortgagee shall have the right, but not the obligation, to perform any obligation of Tenant under this Agreement and to remedy any default by Tenant. The City shall accept performance by or at the instigation of a Leasehold Mortgagee in fulfillment of Tenant's obligations, for the account of Tenant, and with the same force and effect as if performed by Tenant. No performance by or on behalf of such Leasehold Mortgagee shall cause it to become a "mortgagee in possession" or otherwise cause it to be deemed to be in possession of the Improvements or bound by or liable under this Agreement.
- (E) *Notice of Default and Cure Rights.* Upon receiving any notice of default, any Leasehold Mortgagee shall have the right within the same cure period granted to Tenant under this Agreement, extended through the date 90 days after such Leasehold Mortgagee shall have received Tenant's Cure Period Expiration Notice within which to take (if any Leasehold Mortgagee so elects; such actions, "**Mortgagee's Cure**"; and a Leasehold Mortgagee's rights to take such actions, including pursuit of an Enforcement Action, collectively, "**Mortgagee's Cure Rights**").
- (F) *During Cure Period.* At any time during the cure period (if any) that applies to Tenant, extended through the date that is 120 days after such Leasehold Mortgagee's receipt of Tenant's Cure Period Expiration Notice

as to such nonmonetary default, or if no cure period applies to Tenant, then within 120 days after such Leasehold Mortgagee's receipt of notice of such default, such Leasehold Mortgagee shall be entitled to institute proceedings, and (subject to any stay in any Bankruptcy Proceedings affecting Tenant or any injunction, unless such stay or injunction is lifted) provided that from and after the institution of such proceedings, such Leasehold Mortgagee shall diligently prosecute the same to completion, to obtain possession of the Improvements as mortgagee (including possession by a receiver), or acquire directly, or cause its assignee, nominee, or designee to acquire, the Leasehold Estate through a Foreclosure Event, or foreclose on its pledged collateral, as applicable (the obtaining of such possession or the completion of such acquisition, "**Control of the Leased Premises**").

- (1) *Further Cure After Control of Leased Premises.* Upon obtaining Control of the Leased Premises (whether before or after expiration of any otherwise applicable cure period), such Leasehold Mortgagee or, in the event the Leasehold Estate is acquired through a Foreclosure Event, such New Operator, shall be required to proceed with reasonable diligence and reasonable continuity to cure such nonmonetary defaults as are then reasonably susceptible of being cured by such Leasehold Mortgagee or New Operator (excluding Tenant's Personal Defaults, which Leasehold Mortgagee need not cure), within a reasonable time under the circumstances, but, subject to Force Majeure Events, in no event more than 120 days after Leasehold Mortgagee obtains Control of the Leased Premises.
- (2) *Effect of Cure.* Upon the cure of a default by such Leasehold Mortgagee or New Operator, as the case may be, in accordance with this Agreement, this Agreement shall continue in full force and effect as if no default(s) had occurred. Leasehold Mortgagee's exercise of Mortgagee's Cure Rights shall not be deemed an assumption of this Agreement in whole or in part.

(G) *Forbearance by the City.*

- (1) So long as a Leasehold Mortgagee shall be diligently exercising its Mortgagee's Cure Rights, including the commencement and pursuit of an Enforcement Action, within the applicable cure periods set forth above, the City shall not, to the extent permitted under this Agreement, (i) re-enter the Leased Premises to cure the Tenant Event of Default, (ii) bring a proceeding on account of such default to (a) re-enter the Leased Premises to cure the Tenant Event of Default, (b) dispossess Tenant or other occupants of the Leased Premises, (c) terminate the Leasehold Estate, or

- (d) accelerate payment of Rent or any other amounts payable by Tenant under this Agreement.
- (2) Nothing in this Section 15 shall, however, be construed to either (i) extend the Term beyond the Expiration Date that would have applied if no default had occurred or (ii) require any Leasehold Mortgagee to cure any Personal Default by Tenant as a condition to preserving this Agreement or to obtaining a New Agreement (but this shall not limit such Leasehold Mortgagee's obligation to seek to obtain Control of the Leased Premises, and thereafter consummate a Foreclosure Event, by way of Mortgagee's Cure Rights, if such Leasehold Mortgagee desires to preclude the City from terminating this Agreement on account of a Personal Default of Tenant).
- (3) Nothing in this Section 15 shall preclude the City from exercising its rights to sue for damages, specific performance, or other equitable relief (excluding "self-help", dispossession, termination or engagement of new management company) under Section 10.2(B).
- (H) *Leasehold Mortgagee's Right to Enter Leased Premises.* The City and Tenant authorize each Leasehold Mortgagee to enter the Improvements and the Leased Premises as necessary to affect Mortgagee's Cure and take any action(s) reasonably necessary to effect Mortgagee's Cure without such action being deemed to give Leasehold Mortgagee possession of the Leased Premises.
- (I) *Rights of New Operator Upon Acquiring Control.* If any New Operator shall acquire the Leasehold Estate pursuant to a Foreclosure Event and shall continue to exercise Mortgagee's Cure Rights as to any remaining defaults (other than Personal Defaults, which New Operator need not cure), then any Personal Defaults by Tenant shall no longer be deemed defaults and the City shall recognize the rights of such New Operator hereunder as if such New Operator were Tenant.
- (J) *Interaction Between Agreement and Leasehold Mortgage.* Tenant's default as mortgagor under a Leasehold Mortgage shall not constitute a default under this Agreement, except to the extent that Tenant's actions or failure to act in and of itself constitutes a breach of this Agreement. The exercise of any rights or remedies of a Leasehold Mortgagee under a Leasehold Mortgage, including the consummation of any Foreclosure Event, shall not constitute a default under this Agreement (except to the extent such actions otherwise constitute a breach of this Agreement).

15.8 *First Leasehold Mortgagee's Right to a New Agreement.*

- (A) If this Agreement shall terminate by reason of the City exercising any right it has under this Agreement to terminate, a rejection in Tenant's bankruptcy, or option of Tenant to treat this Agreement as terminated under 11 U.S.C. § 365(h)(1)(A)(i), or any comparable provision of Applicable Law, the City shall promptly give notice of such termination to any Leasehold Mortgagee of which the City has notice. The City shall, upon a First Leasehold Mortgagee's request given within 30 days after such First Leasehold Mortgagee's receipt of such notice, enter into (and if the City fails to do so, shall be deemed to have entered into) a new lease of the Leased Premises effective as of (or retroactively to) the date of the termination of this Agreement, for the remainder of the Term, as if no termination had occurred, with a New Operator on the same terms and provisions of this Agreement, including the Purchase Option and all other rights, options, privileges and obligations of Tenant under this Agreement, but excluding any requirements that have already been performed or no longer apply (a "**New Agreement**"); provided, that the First Leasehold Mortgagee shall, at the time of execution and delivery of such New Agreement, (i) pay the City any and all Rent and any other amounts required to be paid by Tenant to the City under this Agreement (determined as if this Agreement had not been terminated), and (ii) cure any nonmonetary defaults (other than Personal Defaults, which First Leasehold Mortgagee need not cure) under this Agreement (determined as if this Agreement had not been terminated) or, if such nonmonetary default is of a nature that it cannot with due diligence be cured upon such execution and delivery, then the First Leasehold Mortgagee shall (x) upon such execution and delivery, advise the City of its intention to take all steps necessary to remedy such nonmonetary default (other than Personal Defaults, which First Leasehold Mortgagee need not cure), and (y) promptly and duly commence the cure of such default and thereafter diligently prosecute to completion the remedy of such default, which completion must be achieved within a reasonable time under the circumstances, subject to Force Majeure Events. In no event, however, shall the New Operator be required to cure a Personal Default of Tenant as a condition to obtaining or retaining a New Agreement or otherwise. From the date this Agreement terminates until the date of execution and delivery of any such New Agreement (the "**New Agreement Delivery Date**"), the City may, at its option, perform maintenance and repair of the Improvements and the Leased Premises; provided, however, the City shall not (1) operate the Leased Premises in an unreasonable manner, (2) take any affirmative action to cancel any license or sublease or accept any cancellation, termination or surrender of a sublease, except due to such licensee's or subtenant's default, or (3) lease any of the Leased Premises except to New Operator.
- (B) The following additional provisions shall apply to any New Agreement:

- (1) *Form and Priority.* Any New Agreement (or, at the City's option, a memorandum thereof) shall be in recordable form. Such New Agreement shall not be subject to any rights, liens, or interests other than permitted exceptions and other exceptions to title existing as of the date of such New Agreement which were not created by the City.
- (2) *Adjustment for Expenses.* On the New Agreement Delivery Date, the New Operator shall pay to the City expenses incurred by the City during the period from the termination date of this Agreement to the New Agreement Delivery Date.
- (3) *Assignment of Certain Items.* On the New Agreement Delivery Date, the City shall assign to New Operator all of the City's right, title and interest in and to all moneys (including security deposits, insurance proceeds and condemnation awards), if any, then held by, or payable to, the City that Tenant (or Leasehold Mortgagee) would have been entitled to receive but for termination of this Agreement. On the New Agreement Delivery Date, the City shall also transfer to New Operator all sublease and service contracts to the extent assignable by the City.
- (4) *Preservation of Licenses and Subleases.* Between the date of the termination of this Agreement and the New Agreement Delivery Date, the City shall not take any affirmative action to cancel any license or sublease or accept any cancellation, termination or surrender of a license or sublease (it being understood that the City shall not be obligated to take any action to keep any licenses or subleases in effect). Any license or sublease which was terminated upon the termination of this Agreement as a matter of law, shall, at New Operator's option, be reinstated upon execution of the New Agreement.
- (5) *Separate Instrument.* The City hereby agrees, at the request of any Leasehold Mortgagee, to enter into a separate instrument (and memorandum thereof in recordable form) memorializing such Leasehold Mortgagee's rights under this Section 15.8.

15.9 *Priority of Leasehold Mortgages.* If there is more than one Leasehold Mortgage, then whenever this Agreement provides a Leasehold Mortgagee with the right to consent or approve or exercise any right granted in this Agreement, the exercise or waiver of same by the First Leasehold Mortgagee shall control and be binding upon the holder(s) of all junior Leasehold Mortgages or other holders of debt, such as Mezzanine Lenders.

15.10 *Liability of Leasehold Mortgagee.* If a New Operator shall acquire Tenant's Leasehold Estate through a Foreclosure Event or a New Agreement shall be

granted to a New Operator pursuant to Section 15.8, such New Operator shall be liable for the performance of all of Tenant's covenants under this Agreement or such New Agreement, as the case may be, from and after the effective date of such Foreclosure Event or New Agreement. If (A) the New Operator is a Leasehold Mortgagee or its assignee, nominee or designee, (B) such Leasehold Mortgagee, or its assignee, designee or nominee, as applicable, then assigns this Agreement or the New Agreement to a third-party assignee, and (C) such third-party assignee delivers to the City an agreement under which such assignee assumes and agrees to perform all the terms, covenants, and conditions of this Agreement or such New Agreement, in form reasonably acceptable to the City, the Leasehold Mortgagee, or its assignee, designee or nominee, as applicable, shall be automatically and entirely released and discharged from the performance, covenants, and obligations of the New Operator under this Agreement or the New Agreement, thereafter accruing.

15.11 *Casualty and Condemnation Proceeds.* If a casualty or a Condemnation Action shall occur with respect to all or any portion of the Improvements and the Leased Premises and restoration is to occur pursuant to the provisions of this Agreement, any insurance proceeds shall be handled in accordance with Section 8. The City understands that Tenant may irrevocably appoint Leasehold Mortgagee as its representative to participate in any settlement regarding, and with regard to, the disposition and application of said insurance proceeds or Condemnation Awards. The City will recognize and deal with Leasehold Mortgagee for such purposes. The City hereby acknowledges that no election by Tenant not to restore in the event of a casualty or Condemnation Action shall be effective unless Leasehold Mortgagee's consent has been granted to such election.

15.12 *Mezzanine Lenders as Leasehold Mortgagees.* The Parties agree that each lender under a Mezzanine Financing (as hereinafter defined) (each such lender, a "**Mezzanine Lender**") is intended to and shall be entitled to substantially the same protections and rights set forth in this Section 15 as provided to a Leasehold Mortgagee, modified as appropriate to reflect the nature of the limited liability company or limited partnership interest or stock pledge, as applicable, in favor of each such Mezzanine Lender, *mutatis mutandis*. If requested by Tenant in connection with a Mezzanine Financing, the Parties agree to negotiate, in good faith and with due diligence, an amendment to this Agreement or a separate agreement, containing commercially reasonable terms and conditions in order to specifically reflect such protections and rights set forth in this Section 15 as applicable to a Mezzanine Lender. Tenant shall be responsible for the out-of-pocket costs and expenses of the City's participation in such negotiations, including reasonable attorney's fees. As used herein, a "**Mezzanine Financing**" means a financing transaction which is secured by, *inter alia*, a pledge or collateral assignment of any or all of the limited liability company or limited partnership interests or the corporate stock of Tenant (or any entity holding a direct or indirect interest in Tenant), as applicable, either together with or in lieu of a Leasehold Mortgage (provided that if the same lender holds both a Leasehold Mortgage and such a pledge or collateral assignment, such lender shall be a

Leasehold Mortgagee, and such financing transaction shall be a Leasehold Mortgage, hereunder).

15.13 *Rights of City. Notwithstanding anything contained herein to the contrary, any Leasehold Mortgage executed by Tenant shall comply with the following requirements:*

- (A) the Leasehold Mortgage and all rights acquired thereunder shall be subject to each and all of the covenants, conditions, restrictions and provisions set forth in this Ground Lease, and to all rights of City hereunder; and
- (B) no Leasehold Mortgage shall encumber any interest in real property other than Tenant's leasehold interest in the Property, or secure debt which is not utilized for the purpose of the Project.

16. Purchase Option

16.1 *Purchase Option.* Tenant shall have the option to purchase all, or any part of, the Property (including, without limitation the Fee Estate and all rights and appurtenances thereto, and all Improvements (if any are owned by the City) thereon from the City on the terms and conditions set forth in this Section 16 (the "**Purchase Option**"). The Purchase Option shall be a continuing right and there shall be no limitation on the frequency or number of times Tenant may exercise its rights under the Purchase Option and this Section 16.

16.2 *Exercise.* Tenant may exercise the Purchase Option (i) by delivering written notice thereof to the City at any time during the Term; or (ii) if this Agreement is terminated pursuant to Section 8, by delivering written notice thereof to the City within six (6) months after the effective date of such termination. Tenant acknowledges that exercising the Purchase Option may trigger the collection of rollback taxes assessed upon a change of use of the Property, if any are owed.

16.3 *Option Purchase Price.* The purchase price to be paid by Tenant to the City in connection with the exercise of the Purchase Option (the "**Option Purchase Price**") shall be equal to One Dollar (\$1.00) per acre of the Property plus assessed, but uncollected rollback taxes, if any are owed, provided the Deferred Rent has been paid pursuant to Section 4.1(c), otherwise it shall be equal to One Dollar (\$1.00) per acre of Property plus assessed, but uncollected rollback taxes, if any are owed, plus the Deferred Rent that has not been paid.

16.4 *Closing.* If Tenant exercises the Purchase Option in accordance with this Section 16, then the closing of the conveyance of the Property and all Improvements thereon shall occur on a date set forth by Tenant in the notice by which Tenant exercised its Purchase Option, subject to the City's approval of such date, which will not be unreasonably withheld, conditioned or delayed. At such closing, (A) the City shall convey fee title to the Leased Premises and all Improvements thereon (to the extent of City's interest in such Improvements if any), free and clear of any liens, encumbrances and obligations, except for

easements and similar restrictions that do not adversely affect or impact the use and operation of the Improvements and the Leased Premises for their intended purposes and that impose no monetary obligations for Tenant, to Tenant, (B) Tenant shall pay the Option Purchase Price to the City and (C) the City and Tenant shall deliver such customary closing documents (e.g., settlement statements, title insurance, a survey tax reporting forms) and take such customary actions as shall be required in order to effect such conveyance in accordance with then-common Texas real estate conveyancing practice. The Parties agree that any transfer Taxes that are imposed in connection with the conveyance of the Leased Premises and all Improvements thereon to Tenant pursuant to this Section 16 shall be paid by the City.

- 16.5 *Survival/Forfeiture.*** This Section 16 shall survive the expiration of the Term or termination of this Agreement pursuant to Section 8 (and regardless of Tenant, Leasehold Mortgagees or Mezzanine Lenders receiving any amounts set forth in Section 8.2 or 8.4).

17. Miscellaneous

- 17.1 *Notices.*** Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, by electronic mail, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

If to City: City of Round Rock
 221 E. Main Street
 Round Rock, TX 78664
 Attn: City Manager
 Phone: (512) 218-5400
 Email: citymanager@roundrocktexas.gov

With a required copy to:

Sheets & Crossfield
309 E. Main Street
Round Rock, TX 78664
Attn: Stephan L. Sheets
Phone: (512) 255-8877
Email: steve@scrllaw.com

If to Tenant: KR CC, INC.
 P.O. Box 590
 1305 Kalahari Drive
 Wisconsin Dells, WI 53965
 Attn: Mary Bonte Spath
 Phone: (608) 254-5320
 Email: mbonte@kalahariresorts.com

With required copy to:

Shupe Ventura Lindelow & Olson, PLLC
9406 Biscayne Blvd.
Dallas, Texas 74218
Attn: Misty Ventura
Phone: (214) 328-1101
Email: misty.ventura@svlandlaw.com

Michael Best & Friedrich LLP
One South Pinckney Street, Suite 700
Madison, Wisconsin 53703
Attn: Michael S. Green
Phone: (608) 257-3501
Email: msgreen@michaelbest.com

Either Party may designate a different address at any time upon written notice to the other Party.

- 17.2 Force Majeure.** Except as otherwise provided herein, an equitable adjustment shall be made for delay or failure in performing if such delay or failure is caused, prevented, or restricted by conditions beyond that Party's reasonable control (a "**Force Majeure Event**"). An event of force majeure for the purposes of this Agreement shall include, but not be limited to, acts of God, fire; explosion, vandalism; storm or similar occurrences; orders or acts of military or civil authority; litigation; changes in law, rules, or regulations outside the control of the affected Party; national emergencies or insurrections; riots; acts of terrorism; or supplier failures, shortages or breach or delay; unusual weather events; and unusual delays in obtaining City approvals of plats, permits, or other development approvals required to construct and operate the Project. Except as otherwise expressly provided herein, there shall be an equitable adjustment allowed for performance under this Agreement as the result of any event of force majeure.
- 17.3 Severability.** In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the Parties that the remainder of this Agreement shall not be affected. It is also the intention of the Parties of this Agreement that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.
- 17.4 Time of the Essence.** Time is of the essence in the performance of this Agreement.
- 17.5 Binding Effect; Amendments.** This Agreement binds and inures to the benefit of the Parties' permitted successors and assigns. This Agreement may be amended only by the mutual written agreement of the Parties.

17.6 Waiver. A Party's failure to insist on strict performance of this Agreement or to exercise any right or remedy upon breach of this Agreement will not constitute a waiver of the performance, right, or remedy. A Party's waiver of the other Party's breach of any provision in this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in a writing signed by the waiving Party.

17.7 Interpretation.

17.7.1 The term "including" shall mean "including, without limitation" and "including, but not limited to" and shall not be interpreted to imply any limitation on the more general preceding provision unless otherwise expressly stated. All references in this Agreement to Sections, Exhibits, or Schedules refer to the Sections, Exhibits, and Schedules of this Agreement unless otherwise expressly stated. Each Exhibit and Schedule referenced in this Agreement is incorporated herein by reference and made a part hereof. The headings and captions of the Sections, Exhibits and Schedules are included for convenience only and shall have no effect upon the construction or interpretation of this Agreement.

17.7.2 Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

17.8 Entire Agreement. This Agreement, together with the Master Development Agreement and the Economic Development Program Agreement, constitute the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement.

17.9 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture among the Parties.

17.10 No Third-Party Beneficiaries. Except for the rights of a Leasehold Mortgagee and a Mezzanine Lender provided herein, and as otherwise specifically provided in this Agreement, this Agreement is not intended to confer any rights, privileges, or causes of action upon any third party.

17.11 Attorneys' Fees. Except as otherwise expressly stated herein, the Parties shall bear their own costs and attorneys' fees incurred in connection with this Agreement.

17.12 Counterparts. The Parties may sign this Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same

Agreement. Facsimile signatures or signatures transmitted by e-mail or other electronic means shall be effective to bind the Parties.

- 17.13 *Applicable Law.*** This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in Williamson County, Texas.
- 17.14 *Interest.*** Except as otherwise expressly set forth in this Agreement, any payment required under this Agreement that is not timely made shall bear interest at the Interest Rate from the due date until paid in full.
- 17.15 *Paragraph Headings.*** The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.
- 17.16 *Survival.*** This Section 17 shall survive the expiration of the Term or termination of this Agreement.
- 17.17 *Hazardous Materials.*** Tenant shall not use, generate, manufacture, refine, produce process, store or dispose of any Hazardous Materials in, on, under or about the Property, except in strict compliance with all Applicable Laws.

[signature page follows]

IN WITNESS WHEREOF, the Parties have entered in this Agreement as of the day and year first above written.

CITY OF ROUND ROCK, TEXAS
a home rule city and municipal corporation

KR CC, INC.
a Delaware corporation

By: _____
Alan McGraw, Mayor

By: _____
Todd Nelson, President

[Signature Page to Ground Lease]

Exhibit A-1

Property

(see attached)

Exhibit A-2

Leased Premises

(see attached)

Exhibit B

Deferred Rent Security

(see attached)

Exhibit C

Program Resolution

(see attached)

Exhibit D

Authorizing Resolution

(see attached)

Exhibit E

Form of Assignment and Assumption Agreement and Lease-Back Agreement

(see attached)

Exhibit F

Form of Memorandum of Lease and Purchase Option

Recording Requested By and
When Recorded Mail To:

Michael Best & Friedrich LLP
One South Pinckney Street, Suite 700
Madison, Wisconsin 53703
Attention: Michael S. Green

MEMORANDUM OF LEASE AND OPTION

This **MEMORANDUM OF LEASE AND OPTION** (this “**Memorandum**”), dated as of December ____, 2016 is entered into between CITY OF ROUND ROCK, TEXAS, a Texas local government home rule corporation (the “**City**”), and _____, INC., a Delaware corporation (“**Tenant**”).

RECITALS

A. The City and Tenant entered into that certain Ground Lease Agreement, dated as of _____ (the “**Lease Agreement**”), pursuant to which the City will lease to Tenant, and Tenant will lease from the City, for the Term (as such term is defined in the Lease), the real property described in Exhibit “A” attached hereto and incorporated herein by reference (the “**Leased Premises**”).

B. The City and Tenant desire to execute this Memorandum to provide constructive notice of Tenant’s rights under the Lease Agreement to all third parties.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Term. The City has agreed to lease the Leased Premises to Tenant for the Term, which Term will end approximately 99 years after the Effective Date (as such term is defined in the Lease).

2. Lease Terms. The lease of the Leased Premises to Tenant is pursuant to the Lease Agreement, which is incorporated into this Memorandum by reference.

3. Purchase Option. Tenant shall have the option to purchase the Leased Premises from the City (the “**Purchase Option**”) upon and subject to the terms and conditions set forth in the Lease Agreement.

4. Assignment. Tenant's ability to transfer its rights under the Lease Agreement and to sublease the Leased Premises is set forth in more detail in the Lease Agreement.

5. Leasehold Mortgagee's Right to New Agreement. Tenant's leasehold mortgagees are granted certain rights and protections, including notice and cure rights with respect to Tenant's defaults and the right, under certain circumstances that result in the termination of the Lease Agreement, to require the City to enter into a new lease with Tenant's senior leasehold mortgagee or its assignee, nominee or designee, all as set forth in more detail in the Lease Agreement.

6. Encumbrances. The Lease Agreement prohibits City from mortgaging or otherwise encumbering City's fee title interest in the Leasehold Premises with any mortgage, deed of trust, security deed, deed to secure debt, or any other similar instrument or agreement constituting a lien upon, or similarly encumbering, City's fee title interest in the Leasehold Premises.

7. Successors and Assigns. This Memorandum and the Lease Agreement shall bind and inure to the benefit of the parties and their respective heirs, successors and assigns, subject, however, to the provisions of the Lease Agreement.

8. Release. The Lease Agreement provides that Tenant will execute and record a release of this Memorandum within ten (10) Business Days (as defined in the Lease Agreement) following the expiration of the Purchase Option.

9. Governing Law. This Memorandum and the Lease Agreement are governed by Texas law.

* * *

IN WITNESS WHEREOF, the City and Tenant have entered in this Memorandum as of the day and year first above written.

CITY OF ROUND ROCK, TEXAS
a home rule city and municipal corporation

KR CC, INC.
a Delaware corporation

By: _____
Alan McGraw, Mayor

By: _____
Todd Nelson, President

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of December, 2016, by Alan McGraw, as Mayor of the CITY OF ROUND ROCK, TEXAS, a home rule city and municipal corporation.

Notary Public
State of Texas
My Commission: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of December, 2016, by Todd Nelson, as President of KR CC, INC., a Delaware corporation.

Notary Public
State of Wisconsin
My Commission: _____

Exhibit A

Leased Premises

(see attached)

Exhibit G

Krienke Tract Description

(see attached)

EXHIBIT F
FORM OF ESCROW INSTRUCTIONS
[Attached hereto]



**Michael Best & Friedrich LLP
Attorneys at Law**

One South Pinckney Street
Suite 700
Madison, WI 53703

P.O. Box 1806
Madison, WI 53701-1806

Phone 608.257.3501
Fax 608.283.2275

Michael S. Green

Direct 608.28257-7482
Email msgreen@michaelbest.com

December 15, 2016

Via E-mail & Hand Delivery

Ms. Pat Katte
First American Title Insurance Company
10 West Mifflin Street, Suite 302
Madison, WI 53703

Re: Escrow Instruction Letter for the Purchase & Sale of 156.769 acres of vacant land located at 3801 E. Palm Valley Blvd., Round Rock, Texas ("Property") on December 15, 2015 ("Closing Date")

Dear Pat:

This letter will serve as escrow instructions for the closing of the purchase and sale of the referenced Property, more specifically described in First American Title Insurance Company Commitment No. NCS-818999-MAD ("Title Commitment"), pursuant to the terms of that certain Commercial Contract – Unimproved Property dated December 23, 2015 ("Purchase Contract") by and between KR Acquisitions LLC ("KR Acquisitions") and Keith Krienke, Mark Meredith & Greg Carter and Greg Carter, Executer of Lisa M. Carter Estate (collectively, the "Seller"), as assigned to KR CC, Inc. ("KR CC") and further assigned to the City of Round Rock, Texas (the "City").

- A. City's Deposits. On or before the Closing Date, the City will deposit the following items:
1. Documentation sufficient to satisfy all City requirements as "Buyer" set forth in Item No. 3 of Schedule C of the Title Commitment;
 2. Assignment & Assumption Agreement and Lease-Back Agreement executed by KR CC and the City;
 3. Title Commitment Mark-up;
 4. Settlement Statement executed by the City; and
 5. A wire transfer in the amount of the closing funds due from the City as indicated on the Settlement Statement approved and executed by the City ("Closing Proceeds").

The Title Company shall hold the City's closing funds in trust until the Title Company confirms all requirements of this closing instruction letter have been met.

B. Seller's Deposits. On or before the Closing Date, Seller will deposit the following documents, in form and substance as attached hereto:

1. Documentation sufficient to satisfy all Seller requirements set forth in Item Nos. 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of Schedule C of the Title Commitment;

First American Title
December __, 2016
Page 2

2. Notice to Seller of Assignment & Assumption of Commercial Contract regarding assignment to KR CC and further assignment to the City;
3. Special Warranty Deed executed by Seller;
4. Commercial Owner's Affidavit executed by Seller;
5. Gap Indemnity executed by Seller;
6. Bill of Sale executed by Seller;
7. Certificate of Non-Foreign Status executed by Seller;
8. 1099-S Form executed by Seller;
9. [Termination of Leases executed by Lessor and Lessee];
10. Settlement Statement executed by Seller; and
11. Wire Instructions.

These documents will be delivered to you to hold in trust and disburse in accordance with the terms of this Escrow Instruction Letter. All documents delivered to you from the Seller and the City are hereinafter collectively referred to as the "Closing Documents."

CLOSING AND DISBURSEMENT INSTRUCTIONS. Upon receipt of the above items from the City, KR CC and the Seller, you are authorized and instructed on behalf of the City and KR CC to:

1. Indicate your willingness to comply with these instructions by countersigning where indicated below and returning the countersigned letter by e-mail to Steve Sheets at steve@scrllaw.com and Michael Green at msgreen@michaelbest.com upon receipt of this letter;
2. Transmit to the undersigned via email to the undersigned your acceptance (indicated by initialing) of the enclosed Title Commitment Mark-up of the Commitments provided by the City and KR CC;
3. Confirm all of Seller's deposits must be properly executed and notarized. In addition, each legal description of the Property attached to any of the Closing Documents must match the legal description set forth in the Title Commitment Mark-up;
4. Upon email confirmation from the undersigned and when you are irrevocably committed to: (i) record/file the Special Warranty Deed with the County Clerk in Williamson County, Texas; and (ii) issue an Owner's Policy in favor of the City, including the endorsements as shown in the attached markup of the Title Commitment Mark-up, you are then authorized to disburse the Closing Proceeds pursuant to the Settlement Statement; and
5. Forward copies of all Closing Documents to the undersigned.



First American Title
December __, 2016
Page 3

Notwithstanding any terms to the contrary contained herein, if you are unable to disburse the Closing Proceeds, or otherwise complete this transaction on the Closing Date, we ask that you hold all Closing Proceeds and Closing Documents pending receipt of instructions from both of the undersigned.

If you have questions regarding this matter, please contact either of the undersigned.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP

CITY OF ROUND ROCK, TEXAS

Michael S. Green
msgreen@michaelbest.com

Stephan L. Sheets
steve@scrllaw.com

Attachments

Cc: Ralph Gundrum (*via e-mail*)
Misty Ventura (*via e-mail*)
Merlin Lester (*via e-mail*)

**CLOSING ESCROW INSTRUCTION LETTER ACCEPTED
AS OF THE __ DAY OF DECEMBER, 2016:**

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____
Pat Katte, Authorized Representative



**Michael Best & Friedrich LLP
Attorneys at Law**

One South Pinckney Street
Suite 700
Madison, WI 53703
P.O. Box 1806
Madison, WI 53701-1806
Phone 608.257.3501
Fax 608.283.2275

Michael S. Green
Direct 608.28257-7482
Email msgreen@michaelbest.com

December 16, 2016

Via E-mail & Hand Delivery

Ms. Pat Katte
First American Title Insurance Company
10 West Mifflin Street, Suite 302
Madison, WI 53703

Re: Escrow Instruction Letter for the Purchase & Sale of 156.769 acres of vacant land located at 3401 E. Palm Valley Blvd., Round Rock, Texas ("Property") on December 16, 2015 ("Closing Date")

Dear Pat:

This letter will serve as escrow instructions for the closing of the purchase and sale of the referenced Property, more specifically described in First American Title Insurance Company Commitment No. NCS-818998-MAD ("Title Commitment"), pursuant to the terms of that certain Commercial Contract – Unimproved Property dated December 17, 2015, as amended by First Amendment to Commercial Contract – Unimproved Property dated December 21, 2015 ("Purchase Contract") by and between KR Acquisitions LLC ("KR Acquisitions") and Bertha M. Keller, John D. Johnson (collectively, the "Seller"), as assigned to KR CC, Inc. ("KR CC") and further assigned to the City of Round Rock, Texas (the "City").

- A. City's Deposits. On or before the Closing Date, the City will deposit the following items:
1. Documentation sufficient to satisfy all City requirements as "Buyer" set forth in Item No. 3 of Schedule C of the Title Commitment;
 2. Assignment & Assumption Agreement and Lease-Back Agreement executed by KR CC and the City;
 3. Title Commitment Mark-up;
 4. Settlement Statement executed by the City; and
 5. A wire transfer in the amount of the closing funds due from the City as indicated on the Settlement Statement approved and executed by the City ("Closing Proceeds").

The Title Company shall hold the City's closing funds in trust until the Title Company confirms all requirements of this closing instruction letter have been met.

B. Seller's Deposits. On or before the Closing Date, Seller will deposit the following documents, in form and substance as attached hereto:

1. Documentation sufficient to satisfy all Seller requirements set forth in Item Nos. 1, 2, 4, 5, 6, 7, 8, 9, and 10 of Schedule C of the Title Commitment;



First American Title
December __, 2016
Page 2

2. Notice to Seller of Assignment & Assumption of Commercial Contract regarding assignment to KR CC and further assignment to the City;
3. Special Warranty Deed executed by Seller;
4. Commercial Owner's Affidavit executed by Seller;
5. Gap Indemnity executed by Seller;
6. Bill of Sale executed by Seller;
7. Certificate of Non-Foreign Status executed by Seller;
8. 1099-S Form executed by Seller;
9. [Termination of Leases executed by Lessor and Lessee];
10. Settlement Statement executed by Seller; and
11. Wire Instructions.

These documents will be delivered to you to hold in trust and disburse in accordance with the terms of this Escrow Instruction Letter. All documents delivered to you from the Seller and Buyer are hereinafter collectively referred to as the "Closing Documents."

CLOSING AND DISBURSEMENT INSTRUCTIONS. Upon receipt of the above items from the City, KR CC and the Seller, you are authorized and instructed on behalf of the City and KR CC to:

1. Indicate your willingness to comply with these instructions by countersigning where indicated below and returning the countersigned letter by e-mail to Steve Sheets at steve@scrllaw.com and Michael Green at msgreen@michaelbest.com upon receipt of this letter;
2. Transmit to the undersigned via email to the undersigned your acceptance (indicated by initialing) of the enclosed Title Commitment Mark-up of the Commitments provided by the City and KR CC;
3. Confirm all of Seller's deposits must be properly executed and notarized. In addition, each legal description of the Property attached to any of the Closing Documents must match the legal description set forth in the Title Commitment Mark-up;
4. Upon email confirmation from the undersigned and when you are irrevocably committed to: (i) record/file the Special Warranty Deed with the County Clerk in Williamson County, Texas; and (ii) issue an Owner's Policy in favor of the City, including the endorsements as shown in the attached mark-up of the Title Commitment Mark-up, you are then authorized to disburse the Closing Proceeds pursuant to the Settlement Statement; and
5. Forward copies of all Closing Documents to the undersigned.



First American Title
December __, 2016
Page 3

Notwithstanding any terms to the contrary contained herein, if you are unable to disburse the Closing Proceeds, or otherwise complete this transaction on the Closing Date, we ask that you hold all Closing Proceeds and Closing Documents pending receipt of instructions from both of the undersigned.

If you have questions regarding this matter, please contact either of the undersigned.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP

CITY OF ROUND ROCK, TEXAS

Michael S. Green
msgreen@michaelbest.com

Stephan L. Sheets
steve@scrllaw.com

Attachments

Cc: Ralph Gundrum (*via e-mail*)
Misty Ventura (*via e-mail*)
Merlin Lester (*via e-mail*)

**CLOSING ESCROW INSTRUCTION LETTER ACCEPTED
AS OF THE __ DAY OF DECEMBER, 2016:**

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____
Pat Katte, Authorized Representative



Michael Best & Friedrich LLP
Attorneys at Law
One South Pinckney Street
Suite 700
Madison, WI 53703
P.O. Box 1806
Madison, WI 53701-1806
Phone 608.257.3501
Fax 608.283.2275

Michael S. Green
Direct 608.28257-7482
Email msgreen@michaelbest.com

December __, 2016

Via E-mail & Fed Ex

Mr. Troy Conover
Austin Title Insurance Company
Hartland Plaza Building
1717 West 6th Street #105
Austin, Texas 78703

Re: Escrow Instruction Letter for the Purchase & Sale of 131.972 acres of vacant land located along Highway 79 & Kenney Fort Blvd. in Round Rock, Texas ("Property") on December __, 2015 ("Closing Date")

Dear Troy:

This letter will serve as escrow instructions for the closing of the purchase and sale of the referenced Property, more specifically described in Austin Title Insurance Company Commitment No. AUT15001885 ("Title Commitment"), pursuant to the terms of that certain Commercial Contract – Unimproved Property dated October 30, 2015, as amended by First Amendment to Commercial Contract ("Purchase Contract") by and between KR Acquisitions LLC ("KR Acquisitions") and Bison Tract 79, Ltd. ("Seller"), as assigned to KR CC, Inc. ("KR CC") and further assigned to the City of Round Rock, Texas (the "City").

- A. City's Deposits. On or before the Closing Date, the City will deposit the following items:
1. Documentation sufficient to satisfy all City requirements as "Buyer" set forth in Item Nos. 3, 6 and 9 of Schedule C of the Title Commitment;
 2. Assignment & Assumption Agreement and Lease-Back Agreement executed by KR CC and the City;
 3. Title Commitment Mark-up;
 4. Settlement Statement executed by the City; and
 5. A wire transfer in the amount of the closing funds due from the City as indicated on the Settlement Statement approved and executed by the City ("Closing Proceeds").

The Title Company shall hold the City's closing funds in trust until the Title Company confirms all requirements of this closing instruction letter have been met.

B. Seller's Deposits. On or before the Closing Date, Seller will deposit the following documents, in form and substance as attached hereto:

1. Documentation sufficient to satisfy all Seller requirements set forth in Item Nos. 1, 2, 7, 8 and 9 of Schedule C of the Title Commitment;

Austin Title
December __, 2016
Page 2

2. First Amendment to Commercial Contract executed by Seller;
3. Notice to Seller of Assignment & Assumption of Commercial Contract regarding assignment to KR CC and further assignment to the City;
4. Special Warranty Deed executed by Seller;
5. Commercial Owner's Affidavit executed by Seller;
6. Gap Indemnity executed by Seller;
7. Bill of Sale executed by Seller;
8. Certificate of Non-Foreign Status executed by Seller;
9. 1099-S Form executed by Seller;
10. [Termination of Leases executed by Lessor and Lessee];
11. Settlement Statement executed by Seller; and
12. Wire Instructions.

These documents will be delivered to you to hold in trust and disburse in accordance with the terms of this Escrow Instruction Letter. All documents delivered to you from the Seller and the City are hereinafter collectively referred to as the "Closing Documents."

CLOSING AND DISBURSEMENT INSTRUCTIONS. Upon receipt of the above items from the City, KR CC and the Seller, you are authorized and instructed on behalf of the City and KR CC to:

1. Indicate your willingness to comply with these instructions by countersigning where indicated below and returning the countersigned letter by e-mail to Steve Sheets at steve@scrllaw.com and Michael Green at msgreen@michaelbest.com upon receipt of this letter;
2. Transmit to the undersigned via email to the undersigned your acceptance (indicated by initialing) of the enclosed Title Commitment Mark-up of the Commitments provided by the City and KR CC;
3. Confirm all of Seller's deposits must be properly executed and notarized. In addition, each legal description of the Property attached to any of the Closing Documents must match the legal description set forth in the Title Commitment Mark-up;
4. Upon email confirmation from the undersigned and when you are irrevocably committed to: (i) record/file the Special Warranty Deed with the County Clerk in Williamson County, Texas; and (ii) issue an Owner's Policy in favor of the City, including the endorsements as shown in the attached markup of the Title Commitment Mark-up, you are then authorized to disburse the Closing Proceeds pursuant to the Settlement Statement; and
5. Forward copies of all Closing Documents to the undersigned.



Austin Title
December __, 2016
Page 3

Notwithstanding any terms to the contrary contained herein, if you are unable to disburse the Closing Proceeds, or otherwise complete this transaction on the Closing Date, we ask that you hold all Closing Proceeds and Closing Documents pending receipt of instructions from both of the undersigned.

If you have questions regarding this matter, please contact either of the undersigned.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP

CITY OF ROUND ROCK, TEXAS

Michael S. Green
msgreen@michaelbest.com

Stephan L. Sheets
steve@scrllaw.com

Attachments

Cc: Ralph Gundrum (*via e-mail*)
Misty Ventura (*via e-mail*)

**CLOSING ESCROW INSTRUCTION LETTER ACCEPTED
AS OF THE __ DAY OF DECEMBER, 2016:**

AUSTIN TITLE COMPANY

By: _____
Troy Conover, Authorized Representative