

**LAND PURCHASE AGREEMENT**

THIS LAND PURCHASE AGREEMENT (this “**Agreement**”) is made as of the Agreement Date (as hereinafter defined) and is by and between \_\_\_\_\_, with a mailing address of \_\_\_\_\_ (“**Buyer**”), and \_\_\_\_\_, with a mailing address of \_\_\_\_\_ (“**Seller**”).

RECITALS

WHEREAS, Seller is the owner of the Property (as hereinafter defined); and

WHEREAS, subject to the terms, covenants, and conditions set forth herein, Seller desires to sell the Property to Buyer and Buyer desires to purchase the Property from Seller.

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

1. Definitions. As used in this Agreement, the terms below shall have the following meanings unless the context requires otherwise.

a. “*Agreement*” means this Land Purchase Agreement, as amended or supplemented from time to time.

b. “*Agreement Date*” means the date that a fully executed original or electronic copy of this Agreement and the Deposit has been received by Escrow Agent, which Agreement Date shall be indicated on the Escrow Agent Acceptance set forth at the end of this Agreement.

c. “*Closing*” means the date upon which Buyer acquires title to the Property as more specifically described in Section 7(b).

d. “*Deed*” means the General Warranty Deed to be provided by Seller to Buyer in connection with the Closing.

e. “*Escrow Agent*” means \_\_\_\_\_, with an address of \_\_\_\_\_.

f. “*Feasibility Expiration Date*” [if applicable] means \_\_\_\_\_.

g. “*Permitted Title Exceptions*” means the various matters with respect to the title of the Property approved by Buyer pursuant to Section 4(b).

h. “*Property*” means the real property identified on Exhibit A hereto, containing approximately \_\_\_\_\_ net acres of bare land, including all improvements thereon and appurtenances thereto.



i. “Purchase Price” means the total consideration to be paid to acquire the Property as described in Section 3.

2. Agreement of Purchase and Sale. At the Closing, subject to the terms, covenants, and conditions of this Agreement, Seller shall sell to Buyer, and Buyer shall purchase from Seller, the Property.

3. Purchase Price. Subject to adjustment as provided below, the purchase price to be paid for the Property (the **“Purchase Price”**) shall be \_\_\_\_\_ Dollars (\$\_\_\_), payable by Buyer as follows:

a. Earnest Money Deposit.

Within three (3) business days after execution of this Agreement, Buyer shall deposit with Escrow Agent \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the **“Deposit”**) in cash, cashier’s check, or other immediately available funds to be held in escrow by Escrow Agent. At 5 p.m. Property-local time on the Feasibility Expiration Date, the Deposit shall become fully non-refundable to Buyer except in the event of Seller’s default or as otherwise provided herein. The Deposit shall be applied in full as a credit to Buyer’s payment of the Purchase Price at Closing.

There shall be no earnest money deposit in connection with this transaction.

b. Cash at Closing. Subject to any Note pursuant to Section 3(c) hereof, on or before the Closing, Buyer shall cause to be delivered to Escrow Agent, for the benefit of Seller, the Purchase Price (or the balance thereof, as the case may be), by wire transfer of immediately available funds to the account of Escrow Agent.

c. Seller Carry Back Financing.

\$\_\_\_\_\_ of the Purchase Price shall be evidenced by a promissory note (**“Note”**) to be delivered from Buyer to Seller at Closing. In such event, the terms of such Note (including without limitation, the interest rate, maturity date, and amortization schedule) shall be mutually determined prior to Closing.

There shall be no note or other Seller carry-back financing at Closing.

d. Interest on Deposits. All monies deposited by Buyer hereunder shall be invested by Escrow Agent and interest on such funds shall belong to Buyer.

4. Buyer’s Contingencies.



- There shall be no Buyer contingencies under this Agreement. All references throughout this Agreement to “Feasibility Study,” “Feasibility Period” and the like are inapplicable and shall be disregarded.
- The obligation of Buyer to purchase the Property from Seller is contingent upon the satisfaction, or waiver in writing by Buyer, of each of the following conditions within the time periods provided.

a. General Feasibility Contingency.

(i) License to Inspect. Seller hereby grants to Buyer, its engineers, consultants and agents, a license to go upon the Property for the purpose of making inspections and conducting feasibility studies with respect to the Property, including, without limitation, physical site inspections and utilities, drainage, soil tests, hazardous waste studies including a Phase I and a Phase II as deemed appropriate, zoning studies, flood control, appraisal, marketability and economic feasibility studies (the “**Feasibility Study**”). Buyer shall diligently pursue its investigation and shall have the right to conduct its Feasibility Study as Buyer deems appropriate in Buyer’s sole discretion. Buyer shall have the right to terminate this Agreement in Buyer’s sole discretion for any reason or no reason on or prior to 5:00 p.m., Property-local time on the Feasibility Expiration Date and in such event shall receive a full refund of the Deposit, subject to the \$100 independent consideration which shall be released to Seller upon termination of this Agreement, as provided in Section 5 hereof.

(ii) Insurance Coverage. Buyer shall maintain insurance, including through a blanket insurance policy with Buyer’s affiliates, which policy shall name Seller as an additional insured, for comprehensive commercial general liability for personal injury (including wrongful death) and damage to property covering any act or omission by Buyer and its agents and invitees in connection with the Feasibility Study, with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 per occurrence.

(iii) Indemnity. Buyer shall indemnify, defend and hold harmless Seller for, from, and against all injuries, losses, liens, claims, demands, judgments, liabilities, damages, costs, and expenses sustained by Seller which directly result from the Feasibility Study, excluding, however, any of the foregoing that are proximately caused by the sole, contributory or comparative negligence or willful misconduct of Seller, its agents or invitees.

(iv) Documents and Other Items. During the Feasibility Period, Seller shall provide Buyer with true and correct copies of all documents and other items in the Seller’s possession or that Seller may obtain with reasonable effort with respect to the Property, including, without limitation, surveys, title policies, plans and specifications, notices, correspondence, environmental reports, licenses, permits, and approvals.

(v) Election to Terminate. Buyer shall have until 5:00 p.m. Property-local time on the Feasibility Expiration Date to conduct its Feasibility Study. In Buyer’s sole discretion and for any reason whatsoever, Buyer may elect to terminate this Agreement by providing notice of termination to Seller on or before 5:00 p.m. Property-local time on the Feasibility Expiration Date as provided in Section 5, and in such an event, Buyer shall receive a full refund of the Deposit



(less the \$100 independent consideration). If Buyer fails to so terminate this Agreement, Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to Section 5.

b. Survey and Title Review Contingency.

(i) Survey and Title Report. Within ten (10) days following the Agreement Date, Buyer may, at its sole cost and expense, cause an ALTA survey (the “**Survey**”) of the Property to be prepared by a licensed engineer. Promptly following the Agreement Date, Buyer shall cause Escrow Agent to deliver to Buyer a current preliminary title report of the Property prepared by Escrow Agent (the “**Title Report**”) leading to the issuance of an ALTA extended coverage owner’s policy of title insurance in the amount of the Purchase Price, together with legible copies of all instruments of records referred to on Schedule B thereof. Buyer shall have until the Feasibility Expiration Date to review and disapprove, in its reasonable discretion, the Title Report and Survey. If Buyer does not expressly disapprove the status of title to the Property as described in the Survey and Title Report (and any amendment to the Title Report) by giving written notice to Seller and Escrow Agent on or before the Feasibility Expiration Date, Buyer shall be deemed to have approved the status of title to the Property as reflected on the Survey and Title Report, as may be amended. If Buyer objects to the status of title to the Property by delivering written notice thereof to Seller on or before 5:00 p.m. Property-local time on the Feasibility Expiration Date, then Buyer shall have the right to terminate this Agreement as provided in Section 5.

(ii) Buyer’s Objection; Seller’s Cure. If Buyer delivers a notice specifying its objection to any matter(s) affecting the Property contained in the Title Report or any amendment thereto, Seller shall attempt to cure the matter(s) objected to by Buyer. If Seller notifies Buyer of its inability to cure such objections, or if Seller is unable to cure such matters to Buyer’s satisfaction (determined in Buyer’s reasonable discretion), Buyer shall have the right to terminate this Agreement as provided in Section 5.

c. Zoning Contingency. Buyer shall until

the Feasibility Expiration Date

the following date: \_\_\_\_\_

(the “**Zoning Deadline**”) to obtain the necessary zoning and land use permits and approvals for Buyer’s intended use of the Property, in Buyer’s sole discretion (the “**Permits**”). Buyer shall have the right to terminate this Agreement on or prior to 5:00 pm, Property-local time on the Zoning Deadline in the event Buyer is unable to obtain such Permits, in which event Buyer shall receive a full refund of any Deposit.

5. Termination of Agreement. If either Buyer or Seller is granted the right to terminate this Agreement in accordance with any provisions of this Agreement, such party may exercise such right by delivering written notice (the “**Termination Notice**”) to the other party indicating both its election to terminate and the specific provision pursuant to which it is making that election. Upon delivery of the Termination Notice, this Agreement shall terminate, and if Buyer is not then in default hereunder, the Deposit, together with the interest thereon, shall be returned to Buyer;



*provided, however,* that \$100 of the Deposit shall not be refundable to Buyer but shall instead be released to Seller, such amount constituting independent consideration for Seller's willingness to enter this Agreement, remove the Property from the market and provide Buyer with a feasibility period hereunder. Upon Seller's receipt of the Termination Notice, Seller hereby authorizes Escrow Agent to release the Deposit to Buyer unless Seller provides Buyer and Escrow Agent written notice within five (5) business days of receipt of the Termination Notice that Buyer is in default under this Agreement and not entitled to the Deposit. If requested by Escrow Agent, Seller agrees to consent to the release of the Deposit in writing. If written consent is not received by Escrow Agent within five (5) business days of said request, Seller is hereby deemed to have given its consent to the release of the Deposit to Buyer. Thereafter (except as otherwise expressly provided in this Agreement), neither Buyer, Seller, or Escrow Agent shall have any further obligations or liabilities under this Agreement.

6. Title Insurance; Deed.

a. Owner's Insurance Policy. At the Closing, Buyer shall cause Escrow Agent to deliver to Buyer, at Buyer's option, an extended coverage ALTA owner's policy of title insurance issued by Escrow Agent or its principal, or the unconditional commitment of the title insurer to issue such policy, insuring title to the Property to Buyer in the amount of the Purchase Price; the policy to be subject to the usual printed exclusions, exceptions, conditions and stipulations set forth in the printed form policy, the Permitted Title Exceptions and such other matters approved in writing by Buyer or resulting from Buyer's actions (the "**Title Policy**"). Seller shall only be responsible for paying the portion of the title insurance premium relating to standard owner's coverage; if Buyer elects to obtain extended coverage, then Buyer shall pay the additional portion of the premium relating to extended coverage and the cost of any endorsements requested by Buyer.

b. Deed. At the Closing, Seller shall deliver to Buyer the Deed granting and conveying to Buyer the Property free and clear of all liens other than the Permitted Title Exceptions and monetary liens other than taxes which are a lien but not yet delinquent.

7. The Escrow.

a. Escrow Instructions. Buyer and Seller shall establish an escrow (the "**Escrow**") with Escrow Agent to facilitate the consummation of the transaction contemplated by this Agreement. The provisions of this Agreement applicable to Escrow Agent shall together constitute escrow instructions between Seller, Buyer, and Escrow Agent.

b. Closing. Except as otherwise provided below, the Closing shall occur on the date (the "**Closing Date**") which is no later than fifteen (15) days after the Feasibility Expiration Date (or Zoning Deadline, as the case may be) or on the date otherwise mutually selected by Buyer and Seller. The Closing shall take place at 10:00 a.m. Property-local time on the Closing Date in the office of Escrow Agent, or at such other time and location as the parties may mutually agree, including by exchange of documents by electronic mail and/or FEDEX and by wire transfer of funds as provided herein. As a material inducement to this Agreement, Seller agrees that upon Closing hereunder, the Property shall be provided and delivered to Buyer with all debris, trash, and other objects and items of personal property removed by Seller prior to Closing.



c. Action at the Closing by Seller. Prior to the Closing, Seller shall deliver or cause to be delivered to Escrow Agent for the account of Buyer all of the following instruments or documents dated as of the Closing, fully executed and, if appropriate, acknowledged: (i) the Deed; (ii) an Affidavit of Property Value (or other similar instrument) if required in connection with the transfer of the Property; (iii) A Non-Foreign Person Affidavit; (iv) a bill of sale; (v) an Owner's Affidavit; and (vi) such other instruments or documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by Seller pursuant to this Agreement.

d. Action at the Closing by Buyer. At the Closing, as a condition to Seller's obligations hereunder, Buyer shall deliver or cause to be delivered to Escrow Agent for the account of Seller (if not otherwise delivered prior thereto) all of the following: (i) all funds required pursuant to the provisions of this Agreement; and (ii) such other funds, instruments, or documents as are reasonably necessary to fulfill the covenants and obligations to be performed by Buyer pursuant to this Agreement.

e. Closing Costs. The Escrow fee payable to Escrow Agent in respect of the conveyance and transfer of the Property to Buyer shall be shared equally by the parties. Land transfer taxes, if any, shall be paid by Seller. All other fees, recording costs, charges, or expenses incidental to the sale, transfer, and assignment of the Property to Buyer shall, except as otherwise herein expressly provided, be paid according to the customs for real estate transactions consummated in the county in which the Property is located. Notwithstanding the foregoing, if this Agreement is terminated due to the default of a party, the defaulting party shall be responsible for the payment of any escrow cancellation fees due upon any such termination.

f. Proration of Real Estate Taxes. All general and special assessments by any governmental authority which are a lien on the Property as of the Closing Date and which are not collected as part of the property tax assessment shall be paid by Seller in full at the Closing. Regular property taxes shall be prorated between the parties as of the Closing Date.

g. No Monetary Liens. Notwithstanding anything to the contrary contained in this Agreement, Seller shall be obligated to remove (regardless of whether Buyer objects thereto) all deeds of trust, mortgages, mechanics' liens, UCC filings, judgments, and other monetary liens voluntarily imposed on the Property by Seller or arising against the Property as a result of Seller's (or its agents' or affiliates') actions or negligent or intentional omissions or improvements made to, or services rendered in connection with the Property at the request of, or on behalf of, Seller; it being the intent of the parties that the Property be conveyed to Buyer free and clear of all such monetary liens, and in no event shall any such monetary liens be deemed Permitted Title Exceptions.

8. Possession; Risk of Loss. Seller shall deliver possession of the Property to Buyer at the Closing, subject only to the Permitted Title Exceptions. The risk of loss of any damage or destruction to the Property shall remain with Seller until the Closing.

9. Representations and Warranties of Seller.



- The sale of the Property to Buyer is on an as-is basis, with no representations or warranties whatsoever.
  
- The representations and warranties set forth on **Exhibit B** hereto shall apply. Aside from the representations and warranties expressly set forth on Exhibit B, the sale of the Property to Buyer is on an as-is basis, with no representations or warranties whatsoever.

10. Notices. All notices or other communications required or provided to be sent by either party or by Escrow Agent shall be in writing and shall be sent (i) by United States Postal Service, postage prepaid, certified, return receipt requested; or (ii) by any nationally known overnight delivery service; or (iii) by courier; or (iv) by facsimile transmission; or (v) in person; or (vi) by electronic mail. All notices shall be deemed to have been given forty-eight (48) hours following deposit in the United States Postal Service or upon personal delivery if sent by overnight delivery service, courier, facsimile transmission, electronic mail, or personally delivered. All notices shall be addressed to the party at the address below:

If to Seller:

Attn: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email: \_\_\_\_\_

If to Buyer:

Attn: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email: \_\_\_\_\_

Any address or name specified above may be changed by notice given to the addressee by the other party in accordance with this paragraph. The inability to deliver because of a changed address of which no notice was given, or rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. Any notice to be given by any party hereto may be given by the counsel for such party. Any notice to be given to Escrow Agent shall be sent to the address set forth in Section 1(e).



11. Seller's Remedies.

a. Remedies. If Buyer shall breach any of the material terms or provisions of this Agreement on or before the Closing, Seller may waive such breach and close the Escrow in accordance with the terms hereof, or Seller may, as its exclusive remedy, terminate this Agreement and retain the Deposit as liquidated damages and as consideration for the acceptance of this Agreement and for taking the Property off the market, and not as a penalty. Buyer and Seller acknowledge that it would be impractical and extremely difficult to estimate the actual damages which Seller may suffer as a result of a default by Buyer, and therefore, Buyer and Seller agree that the Deposit (if any) is calculated as a reasonable estimate of the amount of damages likely to be suffered by Seller under the circumstances existing at the time this Agreement is entered into.

b. Cure Period. Notwithstanding Section 11(a), Buyer shall not be deemed to be in default unless the breach or default complained of by Seller has not been cured within ten (10) business days after written notice thereof has been delivered from Seller to Buyer.

12. Buyer's Remedies.

a. Remedies. If Seller defaults on any of the material terms or provisions of this Agreement, Buyer may, at Buyer's election, either (i) terminate this Agreement by written notice to Seller, whereupon the Deposit shall be immediately returned to Buyer, and pursue recovery of all actual out-of-pocket third party expenses not to exceed \$10,000 suffered or incurred by Buyer (including, without limitation, costs incurred in connection with Buyer's feasibility study and rezoning efforts, if any) together with any other incidental, consequential or other monetary damages incurred as a result of such breach, and thereafter neither party shall have any further obligation or liability to the other; or (ii) waive such default and consummate the transaction contemplated hereby in accordance with the terms hereof; or (iii) seek specific performance or any other equitable remedy for any default of Seller.

b. Cure Period. Notwithstanding Section 12(a), Seller shall not be deemed to be in default hereunder unless the breach or default complained of by Buyer has not been cured within ten (10) business days after written notice thereof has been delivered from Buyer to Seller.

13. Survival of Covenants, Agreements, Representations, and Warranties. Except as otherwise may be limited by the specific terms of this Agreement, all covenants, agreements, representations, and warranties set forth in this Agreement, if any, shall survive the Closing for a period of three (3) years and shall not merge into any deed or other instrument executed or delivered in connection with the transaction contemplated hereby.

14. Indemnification. Seller shall and does hereby agree to indemnify, defend, and forever hold Buyer and Buyer's affiliates harmless of and from any and all liability, claim or damage attributable to (i) a breach of representation or warranty herein; and (ii) the Property or any other property or interest acquired in this transaction; and any contract assumed as part of this transaction arising on or prior to the Closing Date hereunder, including, without limitation, all reasonable attorney's fees and costs associated therewith. Buyer shall and does hereby agree to indemnify, defend and forever hold Seller and Seller's affiliates harmless of and from any and all liability, claim, or damage attributable to (i) a breach of representation or warranty herein; and (ii)



the Property or any other property or interest conveyed in this transaction or any contract assigned as part of this transaction arising after the Closing Date hereunder, including, without limitation, all reasonable attorney's fees and costs associated therewith. Notwithstanding any of the foregoing, no party shall be entitled to indemnification or defense for any liability, claim, or damage arising from such party's own negligence or willful misconduct.

15. Modification of Agreement. No modification of this Agreement shall be deemed effective unless in writing and signed by the parties hereto, and any waiver granted shall not be deemed effective except for the instance and in the circumstances particularly specified therein and unless in writing and executed by the party against whom enforcement of the waiver is sought.

16. Further Instruments. Each party, promptly upon the request of the other or upon the request of Escrow Agent, shall execute and have acknowledged and delivered to the other or to Escrow Agent, as may be appropriate, any and all further instruments reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement and which are consistent with the provisions hereof.

17. Entire Contract. This Agreement (including the Exhibits and Addenda hereto) constitutes the entire contract between the parties with regard to the Property. All terms and conditions contained in any other writings previously executed by the parties and all other discussions, understandings, or agreements regarding the Property and the subject matter hereof shall be deemed to be superseded hereby.

18. Inurement. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns, if any.

19. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is located.

20. Commissions. Each party warrants and represents to the other that no real estate sales or brokerage commissions or like commissions are or may be due in connection with this transaction as a result of the act of the party so warranting, except for a commission payable by Seller to \_\_\_\_\_ ("**Broker**") in accordance with a separate agreement. Seller shall indemnify, defend and hold Buyer harmless from and against any claims by Broker and any other third parties made by or through the acts of Seller for real estate or brokerage commissions, or a finder's fee, in connection with the transactions provided for herein, and all costs and expenses incurred by Buyer in connection therewith including, but not limited to, reasonable attorneys' fees. Buyer shall indemnify, defend and hold Seller harmless from and against any claims by third parties other than Broker made by or through the acts of Buyer for real estate or brokerage commissions, or a finder's fee, in connection with the transactions provided for herein, and all costs and expenses incurred by Seller in connection therewith, including, but not limited to, reasonable attorneys' fees.

21. Condemnation. If, between the Agreement Date and the Closing, any portion of the Property shall be taken or appropriated for public or quasi-public use by right of eminent domain (or a deed or easement is voluntarily granted by Seller in lieu of an imminent taking), or if proceedings in condemnation or eminent domain shall be instituted or threatened, Seller shall



promptly notify Buyer and Buyer, at its option, may elect to (i) terminate this Agreement by written notice to Seller within thirty (30) days following Buyer's receipt of written notice of such event, whereupon the Deposit shall be returned to Buyer, and thereafter neither party shall have any further obligation or liability hereunder, or (ii) proceed with the purchase of the Property, in which event Buyer shall be entitled to the gross condemnation award relating to such portion of the Property so taken. If the proceeds are paid to Seller, the gross amount of such proceeds shall be applicable to, and netted against the Purchase Price of the Property owed by Buyer.

22. Assignment. Buyer shall have the right to assign its rights and obligations under this Agreement to any person or entity; provided, however, that in the event such assignee is not an affiliate of Buyer, Buyer shall remain liable for performance under this Agreement. If Buyer assigns to an affiliate, Buyer shall be relieved of all liability, duties, and obligations hereunder. Prior to Closing, Buyer shall notify Seller of the name of any entity who shall take title to the Property, so that the closing documents shall properly reflect the name of such entity.

23. Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any Addendum, amendments or Exhibits hereto.

24. Exhibit. All Exhibits attached hereto and referred to in this Agreement are incorporated herein by this reference and are part of this Agreement.

25. Counterparts; Facsimile Signature. This Agreement may be executed simultaneously or in counterparts, each of which counterpart shall be deemed an original, but all of which together shall constitute one and the same Agreement. Facsimile signatures and/or electronically transmitted pdf files of this Agreement are valid and carry the same effect as an original signature.

26. Miscellaneous. The captions and paragraph headings used herein are for convenience and reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement. If any relevant date hereunder (such as the Feasibility Expiration Date or Closing Date) falls on a weekend or national or state holiday for the state in which Closing will take place, the next following business day shall be the relevant date.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Agreement Date.

BUYER:

SELLER:

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_



**Exhibit A**  
**Legal Description**



## Exhibit B

### Representations and Warranties

If applicable and if selected in Section 9 of the attached Agreement, Seller acknowledges, represents, and warrants to Buyer that the following are true as of the Agreement Date and will be true as of the Closing, and in entering into this Agreement Buyer is relying upon, the following:

[Note: Strike out and initial, or remove, any representations and warranties which are not applicable.]

a. Due Organization, Etc. Seller is a duly organized, validly existing \_\_\_\_\_ and is in good standing under the laws of the State of \_\_\_\_\_. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and its performance hereunder, have been duly authorized by Seller. The execution and delivery of this Agreement and any other document required herein and the consummation of the transactions contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any organizational document, agreement, instrument, mortgage, loan, or similar documents to which Seller is a party or by which Seller is bound.

b. No Litigation. There is no litigation, investigation, or proceeding pending or, to the knowledge of Seller, contemplated or threatened against Seller or the Property which would impair or adversely affect Seller's ability to perform its obligations under this Agreement or under any contract, instrument, or document related hereto.

c. Foreign Person. Seller is not a "foreign person" as such term is defined under Section 1445 of the Internal Revenue Code of 1986, as amended.

d. No Condemnation. There are no existing, or, to Seller's knowledge, pending or threatened condemnation or similar proceedings against or involving the Property.

e. No Leases. There are no commercial, farm, or other leases applicable to or affecting the Property and no parties in possession or adverse possession of the Property. To the extent that any such leases exist, Seller shall obtain a termination thereof prior to the Feasibility Expiration Date.

f. Agreements. There are no options or rights of first refusal, recorded or unrecorded, affecting the Property, nor any other unrecorded agreements affecting the development or use of the Property.

g. No Undisclosed Assessments. There are no taxes, assessments (special, general, or otherwise), or bonds of any nature affecting the Property, or any portion thereof, except as disclosed in the list of Permitted Title Exceptions. Seller has no understanding or agreement with any taxing authority respecting the imposition or deferment of any taxes or assessments respecting the Property. Seller shall not form nor consent to the formation of an improvement district or otherwise consent to the creation of any assessment lien against the Property.



h. No Violations. Seller has not received written notice of any violation of any applicable law pertaining to the Property, and neither the Seller nor the Property is in violation of any such applicable laws.

i. Hazardous Waste. (i) The Property is not nor has it been under investigation for a violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions in, at, on, under or about the Property including, but not limited to, soil and groundwater condition; (ii) Seller has not used, generated, manufactured, stored or disposed in, at, on, under or about the Property or transported to or from the Property any Hazardous Material (as defined below); and (iii) there is not now and there have not been on or in the Property underground storage tanks, any asbestos-containing materials or any polychlorinated biphenyls, including those used in hydraulic oils, electric transformers, or other equipment. As used herein, "Hazardous Material" shall mean any flammables, explosives, radioactive materials, hazardous wastes, hazardous and toxic substances or related materials, asbestos or any material containing asbestos (including, without limitation, vinyl asbestos tile), or any other substance or material, defined as a "hazardous substance" by any federal, state or local environmental law, ordinance, rule or regulation including, without limitation, the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, the Federal Hazardous Materials Transportation Act, as amended, the Federal Resource Conservation and Recovery Act, as amended, and the rules and regulations adopted and promulgated pursuant to each of the foregoing.

j. Mechanics Liens. No goods or services have been contracted for or furnished to the Property, which might give rise to any mechanic's liens affecting all or any part of the Property.

k. Further Encumbrances. Seller shall not further encumber the Property or allow an encumbrance upon the title to the Property, or modify the terms or conditions of any existing leases, contracts, or encumbrances, if any, without the prior written consent of Buyer.

l. Further Disclosure. Seller has disclosed to Buyer any and all known conditions of a material nature with respect to the Property which may affect the health or safety of any occupant of the Property or otherwise have an adverse impact on the property or any occupants thereof. Except as disclosed in writing by Seller to Buyer, the Property has no known structural defects, construction defects of a material nature, and none of the improvements have been constructed with materials known to be a potential health hazard to occupants of the Property

