

REAL ESTATE PURCHASE CONTRACT FOR LAND

(As is Property Condition)

This is a legally binding contract. If you desire legal or tax advice, consult your attorney or tax advisor.

EARNEST MONEY RECEIPT

Buyer Galaxie Lighting or assignee offers to purchase the Property described below and hereby delivers to the Brokerage, as Earnest Money, the amount of \$ Ten Thousand (\$10,000.00) Dollars in the form of Check made payable to Title Co. which, upon Acceptance of this offer by all parties (as defined in Section 23), shall be deposited in accordance with state law.

Received by: _____ on _____ (Date)
(Signature of agent/broker acknowledges receipt of Earnest Money)

Brokerage: Colliers International Phone Number: 801.610.1300

OFFER TO PURCHASE

1. **PROPERTY:** 2.65 acres located in the Payson Business Park Parcel # 49:887:0003

City of Payson, County of Utah, State of Utah, ZIP 84651 (the "Property").

1.1 **Included Items.** (specify) none.

1.2 **Water Rights/Water Shares.** The following water rights and/or water shares are included in the Purchase Price.

☐ _____ Shares of Stock in the _____ (Name of Water Company)

☒ Other (specify) Payson city water to the property.

2. **PURCHASE PRICE** The purchase price for the Property is \$ 375,150 *Je*

The purchase price will be paid as follows:

\$ 10,000 (a) **Earnest Money Deposit.** Under certain conditions described in this Contract **THIS DEPOSIT MAY BECOME TOTALLY NON-REFUNDABLE.**

\$ 0 (b) **New Loan.** Buyer agrees to apply for one or more of the following loans:

☐ **CONVENTIONAL** ☐ **OTHER (specify)** _____

If the loan is to include any particular terms, then check below and give details:

☐ **SPECIFIC LOAN TERMS** _____

\$ 0 (c) **Seller Financing.** (see attached Seller Financing Addendum, if applicable)

\$ 0 (d) **Other (specify).** _____

\$ 365,150 (e) **Balance of Purchase Price in Cash at Settlement.**

\$ 375,150 **PURCHASE PRICE. Total of lines (a) through (e)**

3. **SETTLEMENT AND CLOSING.** Settlement shall take place on the Settlement Deadline referenced in Section 24(c), or on a date upon which Buyer and Seller agree in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by this Contract, by the Lender, by written escrow instructions or by applicable law; (b) any monies required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered by Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds; and (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each pay one-half (Y2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 24(c), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The transaction will be considered closed when Settlement has been completed, and when all of the following have been completed: (i) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (ii) the applicable Closing documents

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have been recorded in the office of the county recorder. The actions described in parts (i) and (ii) of the preceding sentence shall be completed within four calendar days of Settlement.

4. POSSESSION. Seller shall deliver physical possession to Buyer within: ☒ **Upon Closing** ☐ **Other (specify)**

5. CONFIRMATION OF AGENCY DISCLOSURE. At the signing of this contract: _____ Seller's Initials _____
Buyer's Initials _____

Listing Agents Ross McClintock & Mary Street _____, represents ☐ Seller ☐ Buyer ☒ **both Buyer and Seller as a Limited Agent;**

Listing Broker-Colliers International represents ☐ Seller ☐ Buyer ☒ **both Buyer and Seller as a Limited Agent;**

Buyer's Agents Ross McClintock and Mary Street represents ☐ Seller ☐ Buyer ☒ **both Buyer and Seller as a Limited Agent;**

Buyer's Broker-Colliers International represents ☐ Seller ☐ Buyer ☒ **both Buyer and Seller as a Limited Agent;**

6. TITLE INSURANCE. At Settlement, Seller agrees to pay for a standard-coverage owner's policy of title insurance insuring Buyer in the amount of the Purchase Price. Any additional title insurance coverage shall be at Buyer's expense.

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents which are collectively referred to as the "Seller Disclosures":

- (a) a Seller property condition disclosure for the Property, signed and dated by Seller;
- (b) a commitment for the policy of title insurance;
- (c) a copy of any leases affecting the Property not expiring prior to Closing;
- (d) written notice of any claims and/or conditions known to Seller relating to environmental problems;
- (e) evidence of any water rights and/or water shares referenced in Section 1.2 above; and
- (f) Other (specify) _____

8. BUYER'S RIGHT TO CANCEL BASED ON BUYER'S DUE DILIGENCE. Buyer's obligation to purchase under this Contract (check applicable boxes):

- (a) ☒ **IS** ☐ **IS NOT** conditioned upon Buyer's approval of the content of all the Seller Disclosures referenced in Section 7;
- (b) ☒ **IS** ☐ **IS NOT** conditioned upon Buyer's approval of a physical condition inspection of the Property;
- (c) ☒ **IS** ☐ **IS NOT** conditioned upon Buyer's approval of a survey of the Property by a licensed surveyor;
- (d) ☒ **IS** ☐ **IS NOT** conditioned upon Buyer's approval of applicable federal, state and local governmental laws, ordinances and regulations affecting the Property; and any applicable deed restrictions and/or CC&R's (covenants, conditions and restrictions) affecting the Property;
- (e) ☒ **IS** ☐ **IS NOT** conditioned upon the Property appraising for not less than the Purchase Price;
- (f) ☐ **IS** ☒ **IS NOT** conditioned upon Buyer's approval of the terms and conditions of any mortgage financing referenced in Section 2 above;
- (g) ☒ **IS** ☐ **IS NOT** conditioned upon Buyer's approval of the following tests and evaluations of the Property:
Phase 1 and/or Phase 2, soils report, compaction, or any other tests Buyer deems necessary at buyers expense.

If any of items 8(a) through 8(g) are checked in the affirmative, then Sections 8.1, 8.2, 8.3 and 8.4 apply; otherwise, they do not apply. The items checked in the affirmative above are collectively referred to as Buyer's "Due Diligence." Unless otherwise provided in this Contract, Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence and with a final pre-closing inspection under Section 11.

8.1 Due Diligence Deadline. No later than the Due Diligence Deadline referenced in Section 24(b) Buyer shall: (a) complete all of Buyer's Due Diligence; and (b) determine if the results of Buyer's Due Diligence are acceptable to Buyer.

8.2 Right to Cancel or Object. If Buyer determines that the results of Buyer's Due Diligence are unacceptable, Buyer may, no later than the Due Diligence Deadline, either: (a) cancel this Contract by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer; or (b) provide Seller with written notice of objections.

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8.3 Failure to Respond. If by the expiration of the Due Diligence Deadline, Buyer does not: (a) cancel this Contract as provided in Section 8.2; or (b) deliver a written objection to Seller regarding the Buyer's Due Diligence, The Buyer's Due Diligence shall be deemed approved by Buyer; and the contingencies referenced in Sections 8(a) through 8(g), including but not limited to, any financing contingency, shall be deemed waived by Buyer.

8.4 Response by Seller. If Buyer provides written objections to Seller, Buyer and Seller shall have seven calendar days after Seller's receipt of Buyer's objections (the "Response Period") in which to agree in writing upon the manner of resolving Buyer's objections. Except as provided in Section 10.2, Seller may, but shall not be required to, resolve Buyer's objections. If Buyer and Seller have not agreed in writing upon the manner of resolving Buyer's objections, Buyer may cancel this Contract by providing written notice to Seller no later than three calendar days after expiration of the Response Period; whereupon the Earnest Money Deposit shall be released to Buyer. If this Contract is not canceled by Buyer under this Section 8.4, Buyer's objections shall be deemed waived by Buyer. This waiver shall not affect those items warranted in Section 10.

9. ADDITIONAL TERMS. There ☒ **ARE** ☐ **ARE NOT** addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference: ☒ **Addenda No.'s 1**
☐ **Seller Financing Addendum** ☐ **Other (specify)** _____

10. SELLER WARRANTIES AND REPRESENTATIONS.

10.1 Condition of Title. Seller represents that Seller has fee title to the Property and will convey good and marketable title to Buyer at Closing by general warranty deed. Buyer agrees, however, to accept title to the Property subject to the following matters of record: easements, deed restrictions, CC&R's (meaning covenants, conditions and restrictions), and rights-of-way; and subject to the contents of the Commitment for Title Insurance as agreed to by Buyer under Section 8. Buyer also agrees to take the Property subject to existing leases affecting the Property and not expiring prior to Closing. Buyer agrees to be responsible for taxes, assessments, homeowners association dues, utilities, and other services provided to the Property after Closing. Seller will cause to be paid off by Closing all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. Seller will cause to be paid current by Closing all assessments and homeowners association dues.

IF ANY PORTION OF THE PROPERTY IS PRESENTLY ASSESSED AS "GREENBELT" (CHECK APPLICABLE BOX): N/A

☐ **SELLER** ☐ **BUYER** SHALL BE RESPONSIBLE FOR PAYMENT OF ANY ROLL-BACK TAXES ASSESSED AGAINST THE PROPERTY.

10.2 AS- IS CONDITION OF PROPERTY.

10.3 Condition of Property/Buyer Acknowledgements. Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is condition without expressed or implied warranties of any kind; (b) Buyer shall have during Buyer Due Diligence as referenced in Section 8.1 an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyers Due Diligence, Buyer elect to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's judgement and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property.

10.4 Condition of Property/Seller Acknowledgements. Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to; (a) disclosure in writing to Buyer defects in the Property known to seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller Property Conditional Disclosure (Land) as stated in Section 7 (a) and (c) deliver the property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23. The provision of Sections 10.1 and 10.2 shall survive Closing.

11. FINAL PRE-SETTLEMENT INSPECTION.

11.1 Pre-Settlement Inspection. At any time prior to Settlement, Buyer may conduct a final pre-Settlement inspection of the Property to determine only that the Property is "as represented", meaning that the items referenced in Section 1.1, 1.3 and 8.1(b)(ii) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a pre-Settlement inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date or possession, the items as represented. If the items are not as represented, Seller agrees to cause all applicable items to be corrected, repaired or replaced (the "Work") prior to the Settlement Deadline referenced in Section 24(d).

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11.2 Escrow to Complete the Work. If, as of Settlement, the work has not been completed, then Buyer and Seller agree to withhold in escrow at Settlement a reasonable amount agreed to by Seller, Buyer (and Lender, if applicable), sufficient to pay for completion of the Work. If the Work is not completed within thirty (30) calendar days after the Settlement Deadline, the amount so escrowed may, subject to lender's approval, be released to Buyer as liquidated damages for failure to complete the Work. The provisions of this Section 11.2 shall survive Closing.

12. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer: (a) no changes in any existing leases shall be made; (b) no new leases shall be entered into; (c) no substantial alterations or improvements to the Property shall be made or undertaken; and (d) no further financial encumbrances affecting the Property shall be made.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

14. COMPLETE CONTRACT. This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Contract cannot be changed except by written agreement of the parties.

15. DISPUTE RESOLUTION. The parties agree that any dispute, arising prior to or after Closing, related to this Contract (check applicable box)

☐] SHALL
☒] MAY AT THE OPTION OF THE PARTIES

First be submitted to mediation. If the parties agree to mediation, the dispute shall be submitted to mediation through a mediation provider mutually agreed upon by the parties. Each party agrees to bear its own costs of mediation. If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this Section 15 shall prohibit any party from seeking emergency equitable relief pending mediation.

16. DEFAULT. If Buyer defaults, Seller may elect either to retain the Earnest Money Deposit as liquidated damages, or to return it and sue Buyer to specifically enforce this Contract or pursue other remedies available at law. If Seller defaults, in addition to return of the Earnest Money Deposit, Buyer may elect either to accept from Seller a sum equal to the Earnest Money Deposit as liquidated damages, or may sue Seller to specifically enforce this Contract or pursue other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

17. ATTORNEY FEES AND COSTS. In the event of litigation or binding arbitration to enforce this Contract, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15.

18. NOTICES. Except as provided in Section 23, all notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or the other party's agent no later than the applicable date referenced in this Contract.

19. ABROGATION. Except for the provisions of Sections 10.1, 10.2, 15 and 17 and express warranties made in this Contract, the provisions of this Contract shall not apply after Closing.

20. RISK OF LOSS. All risk of loss to the Property, including physical damage or destruction to the Property or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by Seller until the transaction is closed.

21. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in this Contract. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in this Contract: (a) performance under each Section of this Contract which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" shall mean calendar days and shall be counted beginning on the day following the event

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which triggers the timing requirement (Le., Acceptance, etc.). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to this Contract, except as otherwise agreed to in writing by such non-party.



22. FAX TRANSMISSION AND COUNTERPARTS. Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

23. ACCEPTANCE. "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicate acceptance; and (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

24. CONTRACT DEADLINES. Buyer and Seller agree that the following deadlines shall apply to this Contract:

- (a) **Seller Disclosure Deadline** **August 15, 2018**
- (b) **Due Diligence Deadline** **September 17, 2018 (Date)**
- (c) **Settlement Deadline** **Five business days after verification that the Highline Canal pipeline has been moved but no later than October 31, 2018.**

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by 5:00_ ☐ AM ☒ PM Mountain Time on **August 6, 2018** 10 9/1 (Date), this offer shall lapse; and the Brokerage shall return the Earnest Money Deposit to Buyer.

	<u>8/7/18</u>		<u>8/7/18</u>
(Buyer's Signature)	(Offer Date)	(Buyer's Signature)	(Offer Date)

The later of the above Offer Dates shall be referred to as the "Offer Reference Date"

<u>Jeremy Clawson</u>	<u>423 E. 1220 S. Salem, UT</u>	<u>84653</u>	<u>801-5146529</u>
(Buyers' Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

☒ **ACCEPTANCE OF OFFER TO PURCHASE:** Seller accepts the foregoing offer on the terms and conditions specified above.

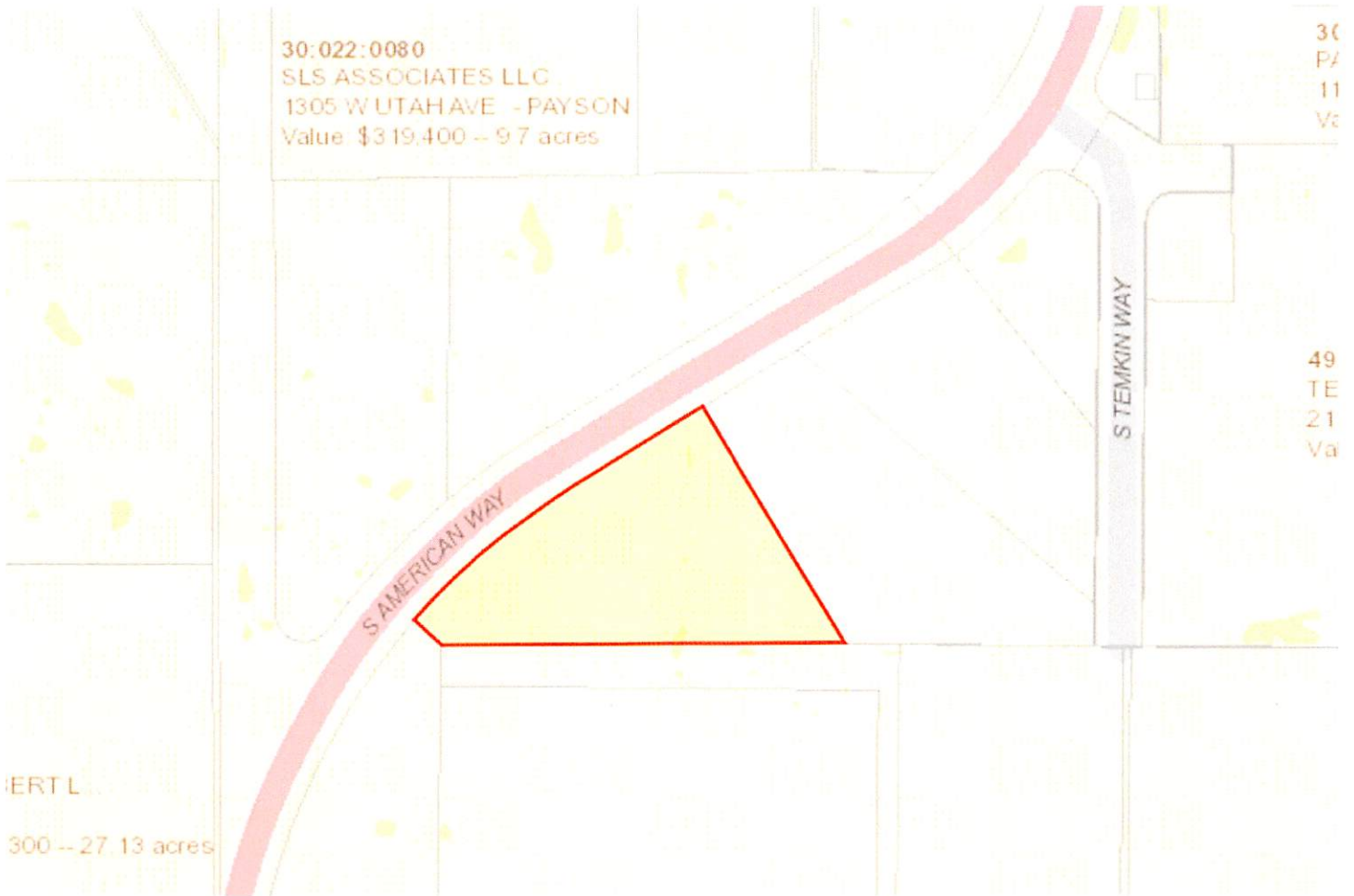
☐ **COUNTEROFFER:** Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. ____.

William R. Wright 8/7/17 2:50
(Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)
William R Wright
(Sellers' Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

☐ **REJECTION:** Seller rejects the foregoing offer.

(Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

Exhibit A



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Addendum #1

Sale shall be contingent upon the following:

1. Payson City Council approval of sale.
2. Seller moving the Highline Canal pipeline to an acceptable location that will not interfere with Buyers business activity at Sellers expense.

LIMITED AGENCY CONSENT AGREEMENT

This is a legally binding document. If it is not understood, consult with legal counsel.

Name of Buyer(s): GALAXIE LIGHTING Name of Seller(s): PAYSON CITY REDEVELOPMENT AGENCY

Agent Representing Buyer: ROSS MCCLINTOCK/MARY STREET Agent representing Seller: ROSS MCCLINTOCK/MARY STREET

Name of Brokerage: COLLIERS INTERNATIONAL (the "Company"). The Buyer and the Seller are both presently using the services of the Company in a possible real estate transaction involving real property located at: 2.65 acres located in the Payson Business Park Parcel # 49:887:0003 (referred to below as the "Property").

AS THE BUYER AND THE SELLER PROCEED WITH THIS TRANSACTION IT IS IMPORTANT THAT THEY EACH UNDERSTAND THEIR PROFESSIONAL RELATIONSHIP WITH THE REAL ESTATE AGENT(S) AND WITH THE COMPANY. WHAT FOLLOWS IS A BRIEF BUT VERY IMPORTANT EXPLANATION OF THE NATURE OF AGENCY RELATIONSHIPS BETWEEN THE BUYER, THE SELLER, THE COMPANY, AND THE REAL ESTATE AGENTS WORKING IN THIS TRANSACTION.

- Principal or Branch Broker.** Every real estate agent must affiliate with a real estate broker. The broker is referred to as a Principal Broker or a Branch Broker (if the brokerage has a branch office). The broker is responsible for operation of the brokerage and for the professional conduct of all agents.
- Right of Agents to Represent Seller and/or Buyer.** An agent may represent, through the brokerage, a seller who wants to sell property or a buyer who wants to buy property. On occasion, an agent will represent both seller and buyer in the same transaction. When an agent represents a seller, the agent is a "Seller's Agent"; when representing a buyer, the agent is a "Buyer's Agent"; and when representing both seller and buyer, the agent is a "Limited Agent".
- Seller's Agent.** A Seller's Agent works to assist the seller in locating a buyer and in negotiating a transaction suitable to the seller's specific needs. A Seller's Agent has fiduciary duties to the seller which include loyalty, full disclosure, confidentiality, diligence, obedience, reasonable care, and holding safe monies entrusted to the agent.
- Buyer's Agent.** A Buyer's Agent works to assist the buyer in locating and negotiating the acquisition of a property suitable to that buyer's specific needs. A Buyer's Agent has the same fiduciary duties to the buyer that the Seller's Agent has to the Seller.
- Limited Agent.** A Limited Agent represents both seller and buyer in the same transaction and works to assist in negotiating a mutually acceptable transaction. A Limited Agent has fiduciary duties to both seller and buyer. However, those duties are "limited" because the agent cannot provide to both parties undivided loyalty, full confidentiality and full disclosure of all information known to the agent. For this reason, a Limited Agent must remain neutral in the representation of a seller and buyer, and may not disclose to either party information likely to weaken the bargaining position of the other; such as, the highest price the buyer will pay or the lowest price the seller will accept. A Limited Agent must, however, disclose to both parties material information known to the Limited Agent regarding a defect in the Property and/or the ability of each party to fulfill agreed upon obligations, and must disclose information given to the Limited Agent in confidence, by either party, if the failure to disclose would be a material misrepresentation regarding the Property.
- In-House Sale.** If the buyer and the seller are both represented by one or more agents in the same brokerage, that transaction is commonly referred to as an "In-House Sale". Consequently, most In-House Sales involve limited agency because seller and buyer are represented by the same brokerage.
- Conflicts with the In-House Sale.** There are conflicts associated with an In-House Sale; for example, agents affiliated with the same brokerage discuss with each other the needs of their respective buyers or sellers. Such discussions could inadvertently compromise the confidentiality of information provided to those agents. For that reason, the Company has policies designed to protect the confidentiality of discussions between agents and access to confidential client and transaction files.
- Authorization for Limited Agency.** The Seller and Buyer are advised that they are not required to accept a limited agency situation in the Company and that Buyer and Seller are each entitled to be represented by their own agent. However, it is the business practice of the Company to participate in In-House Sales. By signing this agreement, Buyer and Seller consent to a limited agency within the Company as provided below: (Initial applicable box)

☒ **A. One Agent.** The Buyer and the Seller consent to ROSS MCCLINTOCK/MARY STREET (name of Agent); and the Principal/Branch Broker representing both the Buyer and the Seller as a Limited Agent as described above.

☐ **B. Two Agents.** The Buyer and the Seller consent to _____ (Seller's Agent) continuing to represent the Seller; and _____ (Buyer's Agent) continuing to represent the Buyer; and the Principal/Branch Broker acting as a Limited Agent as described above.

☐ **C. All Agents.** The Buyer and Seller consent to all agents in the Company, including the Principal/Branch Broker, representing both the Seller and the Buyer as Limited Agents.

Buyer

Date

Seller

Date

Buyer

Date

Seller

Date

The Company by:

(Authorized Agent)

Date