Docket #0489 Date Filed: 10/15/2026

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE: **CASE NO. 26-030215**

BRD LAND & INVESTMENT, et al., **Chapter 11**
Debtors

OBJECTION OF ALEXANDER M. SIMS FAMILY LIMITED PARTNERSHIP TO CONFIRMATION OF DEBTORS' JOINT SECOND AMENDED PLAN OF LIQUIDATION

COMES NOW Alexander M. Sims Family Limited Partnership ("Sims"), by and through undersigned counsel, hereby objects to confirmation of the Joint Second Amended Plan of Liquidation of BRD Land & Investment, BRDL Warden Station, LLC, and BRDL Warden Station Holding Co, LLC (the "Plan") pursuant to 11 U.S.C. §§ 365 and 1129. In support, Sims states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2).

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTUAL BACKGROUND

3. On or about October 12, 2022, BRD Land & Investment, (the "Debtor" or "BRD"), a South Carolina general partnership, entered into a Land Purchase Contract (the "FE PSA") with Alexander M. Sims Family Limited Partnership, a South Carolina limited partnership, as Seller.

4. The FE PSA concerns approximately 153.14 acres located in Lancaster County, South Carolina, identified as a portion of property designated as PIN 0027-00-026.01, with an address of 180 Rock Hill Highway, Lancaster, South Carolina 29729.

5. The stated purchase price is $4,287,920.00, payable at closing by cash or other immediately available funds, subject to contractual adjustments, prorations, and credits.

26302152610150000000000001

6. The FE PSA requires Sims to sell and convey the Property and requires BRD to purchase it on the stated terms and conditions.

7. The FE PSA imposes substantial continuing obligations on Sims, including title delivery, satisfaction of monetary liens, cooperation with BRD's development efforts, delivery of property and entitlement materials, execution of documents, maintenance of representations and warranties, and delivery of exclusive possession at closing.

8. The FE PSA also imposes substantial continuing obligations on BRD, including payment of the purchase price, funding of earnest money and extension deposits, satisfaction of closing conditions, and performance of the obligations necessary to consummate the transaction.

9. The FE PSA restricts Sims from conveying or encumbering the Property or granting third parties rights in the Property from the Effective Date through closing. Sims must also execute a recordable memorandum of contract that BRD may record.

10. BRD's obligation to close is subject to numerous conditions, including governmental approvals, permits, subdivision approval, offsite easements, absence of a moratorium, acceptable title and title insurance, and an approved and recorded subdivision plat. Several conditions are subject to BRD's "sole and absolute discretion" or "sole discretion."

11. "Preliminary Plat Approval" requires approval of a project creating at least 308 residential or townhome lots, together with related infrastructure and amenities, on terms and conditions acceptable to BRD.

12. The Inspection Period ends on the later of 180 days after the Effective Date or the date BRD receives final zoning approval. The FE PSA does not establish a fixed outside date for final zoning approval.

13. Before expiration of the Inspection Period, BRD may terminate the FE PSA "for any reason or no reason."

14. BRD may extend closing for up to three consecutive 45-day periods by paying a $10,000 extension deposit for each extension. The closing date, time, and location are designated by BRD.

15. BRD may enter the Property and conduct whatever inspections, tests, and studies it deems necessary or appropriate. BRD's obligation to close is also conditioned on environmental reports and results acceptable to BRD in its sole discretion.

16. BRD may assign its rights and obligations under the FE PSA. Sims may not assign without BRD's prior written consent.

17. If BRD defaults, Sims' sole and exclusive remedy is termination and receipt of the earnest money and extension deposits then held as liquidated damages. By contrast, BRD has broader remedies for a Sims default, including termination, reimbursement of expenses, specific performance, and potentially damages.

18. Exhibit C to the FE PSA requires Sims to assign broad property-related rights, permits, approvals, claims, and development rights, while stating that the assignment does not constitute BRD's assumption of liabilities and is made "WITHOUT RECOURSE."

19. The Plan purports to automatically assume all unexpired leases and executory contracts that have not previously been assumed, rejected, or assumed and assigned. The Plan states that this provision is deemed a motion to assume those agreements pursuant to 11 U.S.C. §§ 365 and 1123.

20. The Plan further provides that, except for agreements listed on its Cure Schedule, any cure payment required for assumption "shall be deemed to be $0.00."

21. The Cure Schedule does not identify Sims, BRD, the FE PSA, or any land purchase contract. It lists only five unrelated counterparties and cure amounts.

22. After filing, the Debtor was authorized to market its land sale contracts for sale. The disclosed intention was to identify profitable assets from liabilities and bring those valuable contracts before the Court for sale.

23. Instead, the Debtor is utilizing the plan process.

24. The Plan requires any counterparty disputing the proposed cure amount or objecting to assumption to file an objection by the Plan-objection deadline, and purports to bar any later assertion of cure rights or objection to assumption if no timely objection is filed.

25. The Plan contains no separate provision establishing adequate assurance of prompt cure, compensation for actual pecuniary loss, or adequate assurance of future performance concerning the FE PSA.

26. The Plan proposes to fund distributions through property sales and "the assumption and assignment of the Assumed Agreements."

27. The Plan authorizes the sale of estate property, including specified commercial properties, through motions to sell, possible auction procedures, and subsequent closings following entry of final sale orders.

28. The Plan does not identify a purchaser or assignee for the FE PSA, does not provide the identity or financial capability of any proposed assignee, and does not establish that any proposed assignee will provide adequate assurance of future performance. The Plan's general sale provisions therefore cannot substitute for the contract-specific protections required before assumption and assignment.

ARGUMENT

I. The Plan does not comply with 11 U.S.C. §§ 365 and 1129.

29. Section 1129(a)(1) requires that a plan comply with the applicable provisions of title 11, and § 1129(a)(2) requires that the plan proponent comply with the applicable provisions of title 11.

30. Section 365(a) permits a debtor in possession, subject to court approval, to assume or reject an executory contract.

31. The Fourth Circuit applies the *Countryman* test in determining whether a contract is executory. Under that test, a contract is executory when the obligations of both parties are so far unperformed that the failure of either party to complete performance would constitute a material breach excusing the other party's performance.

32. Land sale contracts are not categorically executory or non-executory; the inquiry depends on the parties' remaining obligations and whether failure to perform would constitute a material breach. (In re Leefers, 101 BR 24, 25-28 (C.D. Ill. 1989))

33. Courts have treated real-estate purchase agreements as executory where the seller still must clear title and deliver a deed and the buyer still must pay the purchase price. (Butler v. Resident Care Innovation Corp., 241 BR 37, 42-48 (D. R.I. 1999))

34. The FE PSA contains substantially greater remaining obligations than the ministerial delivery of title. Sims must provide marketable title, satisfy monetary liens, deliver possession and documents, cooperate with approvals, and execute assignments, while BRD retains payment and closing obligations. The FE PSA therefore falls within the Countryman definition.

35. However, rather than having to meet the requirements of Section 365, the Debtor is attempting to utilize the plan process to avoid that scrutiny and deny Sims due process.

36. The Plan's automatic-assumption provision improperly attempts to accomplish assumption without a contract-specific determination that the FE PSA is executory, without a meaningful hearing on assumption, and without findings that assumption satisfies § 365.

37. A plan may not evade § 365 by declaring that every unaddressed contract is assumed while simultaneously declaring the cure amount to be zero.

A. The Plan improperly deems the cure amount to be $0.

38. Section 365(b)(1) prohibits assumption of an executory contract in default unless the debtor:

a. cures, or provides adequate assurance of promptly curing, the default;

b. compensates, or provides adequate assurance of promptly compensating, the counterparty for actual pecuniary loss resulting from the default; and

c. provides adequate assurance of future performance.

39. The Plan does not identify the FE PSA's defaults, establish a cure amount, provide a method for determining the cure amount, or provide adequate assurance of prompt cure.

40. The Plan's blanket statement that any cure payment "shall be deemed to be $0.00" cannot eliminate amounts actually owed under the FE PSA or satisfy § 365(b)(1). A bankruptcy court's equitable powers do not permit it to disregard clear statutory cure requirements. (In re Building Block Child Care Centers, Inc., 234 BR 762, 765-766 (B.A.P. 9th Cir. 1999))

41. The FE PSA contains ongoing obligations and potential losses that cannot be reduced to zero by unilateral plan language, including obligations concerning title, liens, carrying costs, inspections, approvals, exclusivity, property rights, and closing performance.

42. The Plan also purports to bar Sims from asserting cure rights unless Sims objected by the Plan-objection deadline. That provision cannot transform an inaccurate cure amount into a legally

sufficient cure or eliminate the statutory requirement that assumption be approved only after cure, compensation, and adequate assurance have been established.

43. A cure amount for assumption is not necessarily identical to the amount or validity of a counterparty's broader contractual claim. The court must separately determine the obligations required to cure and the counterparty's rights arising from prepetition breaches. (Solimano Framing Grp. LLC v. Pier Constr. & Dev., LLC (In re Solimano Framing Grp. LLC), 664 B.R. 803, 815 (B.A.P. 9th Cir. 2024))

44. Sims objects to the proposed $0.00 cure amount and requests that the Court require the Debtors to establish, through evidence and a contract-specific determination, all amounts necessary to cure defaults and compensate Sims for actual pecuniary loss before any assumption is effective.

B. The Plan does not provide adequate assurance of future performance.

45. The Plan contains no contract-specific evidence or provision establishing BRD's ability to perform the FE PSA after assumption.

46. The FE PSA requires BRD to pay $4,287,920.00 at closing and to satisfy conditions and obligations necessary to consummate the transaction. The Plan does not establish that BRD has the funds, financing, approvals, or operational ability to perform those obligations.

47. Adequate assurance of future performance is determined from the facts and circumstances of the particular case. (Smart Capital Invs. I, LLC v. Hawkeye Entm't, LLC (In re Hawkeye Entm't, LLC), 49 F.4th 1232 (9th Cir. 2022), [1240])

48. The Plan's generalized authorization to assume agreements and sell assets is not adequate assurance of performance under this particular land sale contract.

C. Any assumption and assignment requires compliance with § 365(f)(2).

49. The Plan contemplates funding through assumption and assignment of executory contracts.

50. To the extent the Debtors intend to assume and assign the FE PSA, they must establish that the assignment is authorized, that applicable defaults are cured or adequately assured of cure, and that the proposed assignee provides adequate assurance of future performance.

51. The Plan does not identify any assignee for the FE PSA, disclose the proposed assignee's financial capacity, or provide any binding commitment by an assignee to perform the FE PSA.

52. A generic future sale or auction process cannot establish adequate assurance concerning an unidentified purchaser. The Court should not confirm a Plan that authorizes assumption and assignment while leaving the required assignee, transaction terms, cure obligations, and performance assurances for later determination.

53. By "end running" the scrutiny of Section 365, the Plan denies Sims the protections afforded it by the Code to examine the assignee's ability to perform under the contract.

D. The FE PSA's broad discretionary provisions require a contract-specific determination before assumption.

54. The FE PSA permits BRD to terminate during the Inspection Period "for any reason or no reason."

55. BRD's closing obligation is subject to conditions measured by BRD's sole or absolute discretion, including development approvals, subdivision terms, environmental reports and results, and deed form.

56. The Inspection Period may extend beyond 180 days until BRD receives final zoning approval, without a stated outside date.

57. These provisions create substantial uncertainty concerning whether BRD is presently bound to close, whether the contract remains enforceable on its stated terms, and what obligations would remain after assumption.

58. The Plan cannot assume and monetize the FE PSA while disregarding the contract's conditions, discretionary termination rights, assignment restrictions, and the parties' respective remedies.

59. At minimum, the Court must determine before confirmation whether the FE PSA remains an enforceable executory contract, what obligations remain due from each party, whether BRD has defaulted, what cure is required, and whether assumption and any subsequent assignment are permissible.

II. The Plan does not meet the requirements of § 1129.

A. Confirmation must be denied under § 1129(a)(1) because the Plan does not comply with §§ 365 and 1123(d).

60. Section 1129(a)(1) requires that a plan comply with the applicable provisions of title 11. Section 1123(d) requires a plan providing for assumption of an executory contract to provide for cure of defaults in accordance with § 365(b)(1).

61. Section 365(a) permits a debtor, subject to court approval, to assume or reject an executory contract. The FE PSA remains executory because both BRD and Sims retain material unperformed obligations necessary to complete the transaction.

62. The Plan cannot satisfy § 1129(a)(1) merely by declaring that all otherwise unaddressed contracts are assumed. The Plan must establish, on a contract-specific basis, that the FE PSA is assumable and that the requirements of § 365 have been satisfied.

63. As set forth above, § 365(b)(1) prohibits assumption after default unless the debtor:

a. cures, or provides adequate assurance of promptly curing, the default;

b. compensates, or provides adequate assurance of promptly compensating, the nondebtor party for actual pecuniary loss resulting from the default; and

c. provides adequate assurance of future performance.

64. The Plan does not identify the FE PSA's defaults, determine any cure amount, provide a contract-specific mechanism for resolving disputed cure issues, compensate Sims for actual pecuniary loss, or provide adequate assurance of BRD's future performance.

65. The Plan's deemed $0.00 cure provision cannot eliminate amounts actually due under the FE PSA or substitute for the findings required by § 365(b)(1). In National Gypsum, the court held that assumption requires cure protections and specific notice of the proposed assumption and cure amount; general knowledge of the bankruptcy case is insufficient. In the Matter of National Gypsum Co., 208 F.3d 498, 505-514 (5th Cir. 2000).

66. The Plan's structure is materially different from plans that identified contracts, served contract-specific cure notices, provided proposed cure amounts, and established procedures for resolving disputed cure amounts. *See* In Re: Lincolnshire Campus LLC, 441 B.R. 524 (Bankr. N.D. Tex. 2010) (Bankr. N.D. Tex. 2010); In re Wyly, No. 14-35043-bjh11, 2019 Bankr. LEXIS 1837 (Bankr. N.D. Tex. June 24, 2019)).

67. The Plan also fails to provide Sims adequate notice of the specific treatment proposed for the FE PSA. The Plan does not identify Sims or the FE PSA by name, does not state that the FE PSA is assumed, and does not disclose the proposed cure amount other than through a generalized $0.00 provision.

68. A plan may not use boilerplate assumption language to revive, alter, or bind a nondebtor counterparty without clear identification of the contract and meaningful opportunity to contest assumption and cure. Solimano Framing Grp. LLC v. Pier Constr. & Dev., LLC (In re Solimano Framing Grp. LLC), 664 B.R. 803, 813-815 (B.A.P. 9th Cir. 2024).

69. To the extent the Debtor intends to assume and assign the FE PSA, they must also comply with § 365(f)(2), including establishing adequate assurance of the assignee's future performance. The Plan identifies no assignee and provides no evidence concerning any assignee's financial capacity or commitment to perform.

70. Accordingly, the Plan does not comply with §§ 365, 1123(d), or 1129(a)(1), and confirmation must be denied.

B. The Plan is not proposed in good faith under § 1129(a)(3).

71. Section 1129(a)(3) requires that a plan be proposed in good faith and not by any means forbidden by law.

72. The Plan attempts to bind Sims to an assumption of the FE PSA through omission: the contract is absent from the Cure Schedule, the cure is deemed to be $0.00, and Sims is required to object by the general Plan-objection deadline or risk forfeiting statutory and contractual rights.

73. This structure improperly attempts to bypass the specific cure, compensation, adequate-assurance, notice, and hearing protections required by § 365.

74. The Plan also purports to use confirmation to determine the treatment of the FE PSA while leaving unresolved the contract's enforceability, defaults, cure amount, future performance, assignment, and closing requirements.

75. A plan cannot assume favorable contractual rights while disregarding the burdens and protections associated with the same contract. An assuming debtor must take the contract *cum onere*. In the Matter of National Gypsum Co., at 506-507; In re The Minesen Co., Case No. 19-00849 (Bankr. D. Haw. Nov. 17, 2021) (ECF No. 505) pp. 4–6.

76. The Plan's attempt to deem the cure amount zero and bar later assertion of Sims's rights is not a lawful substitute for a contract-specific assumption process. It therefore constitutes an improper means of implementing the Plan and independently warrants denial of confirmation under § 1129(a)(3).

C. The Plan is not feasible under § 1129(a)(11).

77. Section 1129(a)(11) requires evidence that confirmation is not likely to be followed by liquidation or further financial reorganization, except to the extent contemplated by the Plan. The plan proponent bears the burden of establishing that the Plan has a reasonable prospect of success and is workable.

78. Although the Plan is styled as a liquidating plan, a liquidation plan is not exempt from the feasibility requirement. At a minimum, a plan must provide adequate means of execution of the proposed plan.

79. The Plan depends on property sales and assumption and assignment of executory contracts.

80. The Plan does not establish that the FE PSA or any of its other contracts can be assumed, cured, performed, assigned, or closed. It does not identify an assignee, establish the availability of funds to pay the $4,287,920.00 purchase price, or establish the ability to satisfy the FE PSA's approval, title, environmental, subdivision, and closing conditions.

81. The Plan's generalized authority to conduct future sales and enter into future transactions does not establish that the specific transaction involving the FE PSA will occur on the terms or within the time required by the Plan.

82. Courts have denied confirmation where a proposed plan depended on uncertain future operations, unresolved contractual disputes, and speculative financial projections. *See* In re Patriot Place, Ltd., 486 B.R. 773, 807-812 (Bankr. W.D. Tex. 2013).

83. The Debtor must present competent evidence concerning the funds available for cure and closing, the identity and financial capacity of any proposed assignee, the timing and terms of any assignment, and the resulting treatment of Sims. Without that evidence, the Plan is not feasible under § 1129(a)(11).

D. Sims preserves its objections under § 1129(a)(7).

84. Section 1129(a)(7) requires that each holder of an impaired claim either accept the plan or receive at least the value it would receive in a Chapter 7 liquidation.

85. Sims reserves its right to object under § 1129(a)(7) because the Plan's liquidation analysis, recoveries, treatment of the FE PSA, and valuation of Sims's contractual and property-related rights have not been established in the materials presently available.

86. Sims specifically objects to any liquidation analysis that assumes the FE PSA has no cure obligation, no damages exposure, no value to Sims, or no effect on the value of the Property without competent evidence and a contract-specific determination.

E. Sims preserves its objections under § 1129(a)(8).

87. Section 1129(a)(8) requires each impaired class to accept the Plan or be unimpaired.

88. The Plan designates all listed classes as impaired and provides that holders of impaired claims are entitled to vote.

89. Sims reserves its right to object if the class containing Sims's claim or rights does not accept the Plan, if Sims's vote is improperly excluded, or if Sims's rights are treated as unimpaired without satisfying the requirements of the Bankruptcy Code.

F. Sims preserves its objections under § 1129(b).

90. The Plan requests confirmation under § 1129(b) if any impaired class rejects or is deemed to reject the Plan.

91. Confirmation over Sims's objection requires proof that the Plan does not unfairly discriminate and is fair and equitable with respect to the rejecting class.

92. Sims reserves all objections to cramdown, including objections based on classification, unequal treatment of substantially similar claims, manipulation of voting rights, inadequate liquidation value, and treatment that deprives Sims of contractual rights without satisfying §§ 365 and 1129.

93. The Debtor may not rely on § 1129(b) to cure a failure to comply with § 365. Cramdown does not authorize assumption of an executory contract without cure, compensation, adequate assurance, proper notice, and court approval.

REQUEST FOR RELIEF

WHEREFORE, Alexander M. Sims Family Limited Partnership respectfully requests that the Court:

1. Sustain this Objection;
2. Deny confirmation of the Plan;
3. Determine that the FE PSA may not be assumed automatically through the Plan without a contract-specific hearing and order;
4. In the alternative, should the Court allow the Plan's wholesale assumption/assignment provision:
    a. Reject the Plan's proposed $0.00 cure amount as to the FE PSA;

b. Require the Debtors to cure all defaults, compensate Sims for actual pecuniary loss, and provide adequate assurance of future performance before any assumption becomes effective;

c. Require identification of any proposed assignee and proof of that assignee's adequate assurance of future performance before any assumption and assignment;

and

5. Grant Sims such other and further relief as the Court deems just and proper.

This 15th day of October 2026.

J.M. Cook, P.A.

By: /s/ J.M. Cook

J.M. Cook
NC State Bar No. 25352
5886 Faringdon Place
Suite 100
Raleigh, NC 27609
Tel: 919.675.2411
Fax: 919.882.1719
Email: J.M.Cook@jmcookesq.com

CERTIFICATE OF SERVICE

I, J.M. Cook, of 5886 Faringdon Place, Suite 100, Raleigh, North Carolina, 27609, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on this day, I served copies of the foregoing Notice electronically upon the Trustee and other counsel of record utilizing the CM/ECF noticing system, and upon the Debtor by mailing, postage prepaid, first class mail, addressed as follows:

BRD Land & Investment
Attn: Managing Agent or Officer
6433 Bannington Road
Charlotte, NC 28226

I certify under penalty of perjury that the foregoing is true and correct.

This 15th day of October 2026.

J.M. Cook, P.A.

By: /s/ J.M. Cook

J.M. Cook
5886 Faringdon Place
Suite 100
Raleigh, NC 27609
Tel: 919.675.2411
Fax: 919.882.1719
Email: J.M.Cook@jmcookesq.com

EXHIBIT A

SOUTH CAROLINA

LANCASTER COUNTY

Land Purchase Contract

THIS LAND PURCHASE CONTRACT (this "Contract") is made by and between **BRD LAND & INVESTMENT, a South Carolina general partnership** ("Buyer"), and **ALEXANDER M. SIMS FAMILY LIMITED PARTNERSHIP, a South Carolina limited partnership** ("Seller"). The parties state and acknowledge as follows:

A. Seller owns that certain parcel of land located in Lancaster County, South Carolina, being designated as PIN 0027-00-026.01 by Lancaster County, South Carolina containing approximately 203.14 acres and having an address of 180 Rock Hill Hwy, Lancaster, SC 29729 (the "Land").

B. Seller desires to sell a 153.14 acre portion of the Land, which is depicted on the plan attached hereto and incorporated herein as **Exhibit A** (the "Site Plan"), to Buyer, and Buyer desires to purchase that portion of the Land from Seller.

C. The portion of the Land being sold to Buyer described in Section B above and pursuant to this Contract, and all rights, permits, privileges, licenses and easements appurtenant thereto, and all vegetation and improvements located thereon, are hereinafter collectively referred to as the "Property".

THEREFORE, for and in consideration of the reciprocal covenants stated herein, the parties agree as follows:

1. Conveyance. Seller shall sell and convey the Property to Buyer, and Buyer shall purchase the Property from Seller, on the terms and conditions stated herein.

2. Effective Date. The "Effective Date" means the later of the following dates: (a) the date this Contract is executed by Buyer and (b) the date this Contract is executed by Seller.

3. Purchase Price. The purchase price of the Property (the "Purchase Price") shall be Four Million Two Hundred Eighty Seven Thousand Nine Hundred Twenty and No/100 Dollars ($4,287,920.00). The Purchase Price shall be payable at the Closing by delivery of cash or other immediately available funds, subject to adjustments, prorations and credits as herein provided.

4. Earnest Money.

(a) Within five (5) business days after the Effective Date, the parties shall execute an escrow agreement in form substantially as shown by **Exhibit B** attached hereto and incorporated herein (the "Escrow Agreement"), whereupon Buyer shall deposit the sum of Twenty-Five Thousand and No/100th Dollars ($25,000.00) (the "Earnest Money") with Chicago Title Insurance Company, 200 S. Tryon Street, Suite 800, Charlotte, NC 28202 ("Escrow Agent"). The Escrow Agent shall deposit such cash in an escrow account with a federally insured bank, as required by the Escrow Agreement. Buyer shall determine, at Buyer's sole discretion, whether the escrow account shall be interest-bearing; however, any interest earned on any funds held in escrow shall be for the benefit of Buyer.

(b) Provided that this Contract has not been terminated within one hundred twenty (120) days following the Effective Date, Twelve Thousand Five Hundred and No/100th Dollars ($12,500.00) of the Earnest Money shall be non-refundable (the "Non-Refundable Earnest Money Portion"), except that all of the Earnest Money and Extension Deposits (as defined below) shall be refunded to Buyer in the event this

DS TS DS WS

Contract is terminated by Buyer as a result of an uncured default by Seller or as otherwise expressly set forth in this Agreement.

(c) Provided that this Contract has not been terminated, after the expiration of the Inspection Period (as provided in Section 10) the Earnest Money and Extension Deposits (defined below) (if applicable) shall be non-refundable, except that the Earnest Money and Extension Deposits (if applicable) shall be refunded to Buyer in the event this Contract is terminated by Buyer as a result of an uncured default by Seller or as otherwise expressly set forth in this Agreement. The Escrow Agent shall deposit such cash in an escrow account with a federally insured bank, as required by the Escrow Agreement. Buyer shall determine, at Buyer's sole discretion, whether the escrow account shall be interest-bearing; however, any interest earned on any funds held in escrow shall be for the benefit of Buyer.

(d) Escrow Agent shall hold and disburse the Earnest Money and the Extension Deposits pursuant to the terms of this Contract and the Escrow Agreement. At the Closing, the Earnest Money shall be credited to Buyer against the Purchase Price, or as otherwise provided herein. Upon the request of either party, the other party shall promptly execute and deliver written instructions to the Escrow Agent to disburse the Earnest Money and Extension Deposits as required by this Contract.

5. Primary Contingencies; Definitions.

(a) Primary Contingencies. Buyer's obligation to close on the purchase of the Property under this Contract is contingent upon each and all of the following (collectively, the "Primary Contingencies"): (1) all of Seller's warranties, representations and covenants contained in this Contract shall be and remain true, correct, complete and fully performed as of the Effective Date and through the Closing hereunder; (2) all applicable governmental authorities having jurisdiction over the Property, including, without limitation, Town of Lancaster, Lancaster County and the State of South Carolina (and their respective agencies) (collectively and as applicable, the "Governing Jurisdiction") shall have issued all final, non-appealable site plan approvals, construction plan approvals, rezoning approvals, variances, land disturbance permits, building permits, wetlands permits, curb cut approvals, and other Federal, State and municipal approvals and permits that Buyer deems, in its sole and absolute discretion, necessary or desirable for the development of the Project (as defined below) as intended by Buyer (collectively the "Approvals"), including but not limited to Preliminary Plat Approval (as defined below) with conditions to approval of the final subdivision plat acceptable to Buyer in Buyer's sole and absolute discretion; (3) there shall have occurred no material adverse change in the physical (including environmental), financial or legal conditions of the Property from the conditions existing as of the Effective Date; (4) all offsite easements reasonably required for Buyer's intended use and/or development of the Project (as defined below) shall be existing of record, appurtenant to the Property, and part of the Property (the "Offsite Easements"); (5) there shall not be in effect on the date of Closing any Moratorium (as defined below); (6) Seller shall be ready, willing and able to deliver good and marketable title (as described in Section 8 below) to the Property to Buyer, and Buyer's title insurer (the "Title Company") shall be unconditionally prepared to issue a standard ALTA owner's form title policy insuring good and marketable fee simple title to the Property, including all appurtenant easements and interests, with a liability limit in the amount of the Purchase Price at standard premium rates; and (7) any required subdivision plat showing the Property as a separately existing parcel of land shall have been approved by the Governing Jurisdiction and recorded at the Lancaster County Registry. Buyer, at Buyer's expense, shall be responsible for the costs associated with obtaining the Approvals and Offsite Easements. In connection with Buyer's applications for and efforts to obtain the Approvals, Seller, at no cost to Seller, shall cooperate with Buyer's efforts and shall execute such applications and take such actions as are reasonably requested by Buyer. Should any of the Primary Contingencies not be satisfied or waived in writing by Buyer prior to Closing, then Buyer, at its option, may terminate this Contract by giving written Notice to Seller, in which event, all of the Earnest Money and Extension Deposits (if applicable) shall be immediately forwarded to Seller, except that in the event of a termination due to a Moratorium the provisions of Section 5(c) shall be controlling.

(b) Preliminary Plat Approval. As used herein, "Preliminary Plat Approval" means: (1) that the Governing Jurisdiction has issued written, final and irrevocable approval of a subdivision plat creating out of the Property not less than three hundred eight (308) (being two (2) per acre) single-family residential

home (or townhome, or both) lots, together with related infrastructure, roads, drives, common areas and amenities (the "Preliminary Plat"), on terms and conditions acceptable to Buyer (collectively, the "Project"), and (2) that Buyer shall be authorized by the Governing Jurisdiction to develop the Project pursuant to such Preliminary Plat. Seller, at no cost to Seller, agrees to cooperate in obtaining Preliminary Plat Approval, including signing such applications and attending such meetings as may be required by Buyer. Buyer shall pay all fees required by the Governing Jurisdiction in connection with obtaining Preliminary Plat Approval.

(c) Moratorium. As used herein, "Moratorium" collectively means any Federal, state, county, town or municipal moratoriums upon approval of site development plans, issuance of building and development permits, or availability of sewer and water or any requirements to satisfy any "adequate public facilities" criteria or statute which materially and adversely affects Buyer's development of the Property, and shall specifically include The Town of Van Wyke, South Carolina Municipal Code 12.05.010 Ord. 2021-03, as may be extended or amended thereto. In the event of a Moratorium, the parties agree that the date of Closing shall be extended, at Buyer's option, until the date that is sixty (60) days after the date that the Moratorium ends. If, upon the expiration of such period, such Moratorium is still in effect, Buyer may, but is not obligated to, terminate this Contract, and Seller shall receive the Earnest Money and the Extension Deposits (if applicable).

6. Closing. Closing on the purchase and sale of the Property (the "Closing") shall take place as follows (the "Closing Schedule"):

> The Closing shall be held no more than sixty (60) days after the date on which all conditions to Buyer's obligation to close have been either satisfied or waived by Buyer. However, Buyer shall have the right to extend such deadline date for Closing for up to three (3) consecutive forty-five (45) day periods with the payment of $10,000.00 per exercised extension to Escrow Agent (each, an "Extension Deposit"). Each Extension Deposit shall be nonrefundable to Buyer except in the event of a default by Seller hereunder or as may be otherwise expressly provided herein, and shall not be credited against the Purchase Price.

The Closing shall be held at a time, date and location designated by Buyer. Seller shall deliver exclusive possession of the Property to Buyer at Closing. At Closing, Seller shall deliver a general warranty deed conveying fee simple title to the Property in recordable form acceptable to Buyer in Buyer's sole discretion (the "Deed"). At Closing, Seller shall also execute and deliver to Buyer a general assignment of rights against third-parties in the form of Exhibit C attached hereto and incorporated herein and specific assignments of any Seller Entitlements (defined below) that Buyer desires to assume, including any consents to such assignments from the applicable authority if required.

7. Closing Costs and Prorations. Seller shall pay the state transfer tax, the cost of preparation of the deed, the cost of satisfaction of any liens on the Property, Seller's attorneys' fees and all other expenses incurred by Seller related to the Closing. Buyer shall pay Buyer's attorneys' fees, the cost of any title search and survey and the cost for preparation and issuance of an owner's title insurance policy.

Ad valorem taxes on the Property for the tax year of Closing shall be prorated between Seller and Buyer as of Closing based on the latest assessment available, and Seller shall be responsible for and shall pay any past due taxes. Should such proration be inaccurate based on the actual ad valorem tax bill when received, either party shall be entitled, upon demand, to adjustment of the proration and corresponding reimbursement from the other party.

Buyer shall be responsible for and shall pay any roll-back taxes or other taxes attributable to the Property having been assessed or exempted for agricultural or other special uses prior to Closing, whether such taxes become due before, at or after Closing. At Closing, Seller shall credit to Buyer the estimated amount of roll-back taxes for the fifty (50) acres of the Land not being purchased as part of the Property (the "Roll-Back Credit"). The formula to be used for the Roll-Back Credit shall be the same as used by the tax assessor issuing the actual roll-back tax invoice. Notwithstanding anything contained herein, in the event that the Roll-Back Credit is not adequate to pay the roll-back tax bill for the Seller-retained portion of

the Land, Seller shall be responsible for paying the applicable taxing authority the shortfall within thirty (30) days after receiving notice from Buyer.

Notwithstanding anything to the contrary herein, but subject to the rollback tax provisions set forth in the preceding paragraph, if the Property being conveyed at Closing will be taxed as part of a larger parcel or parcels of land (the "Parent Parcels") for the tax year of such Closing and the tax bill for the Parent Parcels has not yet been issued and has not yet been paid, the estimated ad valorem taxes for the Parent Parcels, based on the latest assessment available, shall be deducted from Seller's sales proceeds as part of that Closing and placed in escrow with Escrow Agent (the "Tax Escrow Funds") and on the settlement statement for that Closing, except that Buyer (and not Seller) shall place in escrow as part of the Tax Escrow Funds Buyer's pro-rata share of the taxes for the Property. Upon receipt of a copy of the tax bill for the Parent Parcels from the applicable taxing authority for the tax year of such Closing, Escrow Agent shall be authorized to pay the applicable taxing authority the tax bill directly from the Tax Escrow Funds. Any remaining Tax Escrow Funds held in escrow following such payment shall be paid by Escrow Agent to Seller, less any unpaid fees and costs for delivery or wiring charges to Escrow Agent. If the Tax Escrow Funds are not adequate to pay the tax bill for the Parent Parcels, Seller shall be responsible for paying the applicable taxing authority the shortfall within thirty (30) days after receiving notice from Buyer. The provisions of this Section shall survive all Closings and any termination of this Contract.

8. Conveyance of Title. At Closing, Seller shall convey good and marketable title to the Property to Buyer pursuant to the Deed. As used in this Contract, "good and marketable title" shall mean title that is free and clear of all liens, encumbrances and other exceptions to title and rights of others except those Permitted Exceptions listed on Exhibit D attached hereto and incorporated herein. Buyer shall examine title to the Property and give written notice to Seller of any objections that Buyer may have prior to the expiration of the Inspection Period (the "Initial Objection to Title Notice"). Within ten (10) days after receipt of the Initial Objection to Title Notice, Seller shall provide written notice to Buyer whether Seller will cure any such objections or refuse to cure such objections. Failure by Seller to give written notice of its election within ten (10) days after receipt of the Initial Objection to Title Notice shall be deemed an election by Seller not to cure the objections. In the event Seller elects, or is deemed to have elected, not to cure any objections, then Buyer shall have the right to elect either: (a) to waive the unsatisfied objections and proceed with Closing, or (b) to terminate this Contract in its entirety, in which case the Earnest Money shall be forwarded to Seller. Failure by Buyer to give written notice of its election within ten (10) days after Seller's election or deemed election shall constitute an election by Buyer to terminate this Contract. In the event Seller elects to cure the objections, Seller shall have thirty (30) days from the date of the notice to cure all such objections, at Seller's sole cost. The Closing shall be delayed during and extended for any such cure period. If Seller fails for any reason to cure the objections within thirty (30) days, then Seller shall be in default hereunder. In such event, in addition to any rights and remedies which Buyer may have pursuant to Section 16 below, Buyer may: (1) waive the unsatisfied objections and complete the purchase of the Property, or (2) terminate this Contract in its entirety and receive an immediate refund of the Earnest Money and the Extension Deposits (if applicable). Any objections that are waived in writing by Buyer or deemed to be waived by Buyer pursuant to this Section 8, shall become "Permitted Exceptions." Notwithstanding anything to the contrary contained herein, Seller shall be obligated to remove any exception that can be cured by the payment of money, such as a deed of trust, mortgage, lien, judgment, deferred tax or confirmed assessment (collectively, "Monetary Liens"). Buyer may re-examine title up to Closing and give written notice to Seller of any objections that Buyer may have as to matters first appearing of record subsequent to Buyer's Initial Objection to Title Notice, which new title objections must be cured by Seller (or else Seller shall be in default hereunder). At Closing, Seller shall execute an Owner's Affidavit and any other affidavits, certificates and documents reasonably required by Buyer or the Title Company to deliver title as required by this Contract.

9. Buyer's Survey; Adjustment Property. Buyer may obtain at its expense an ALTA survey (the "Survey") of the Property (and, unless otherwise provided herein, specifically excluding the other portions of the Land not being conveyed herein). If Buyer obtains a survey, Buyer shall provide Seller with a copy of the Survey, and the legal description of the Property in the Deed shall include a metes and bounds description of the Property derived from Buyer's survey. Notwithstanding anything contained herein, Seller acknowledges that Buyer may, as part of its site plan and development process determine that the common

boundaries between the Property and certain twenty (20) acre portion of the Land located north of Highway 5, and that certain one (1) acre portion of the Land located in the Southeast corner (collectively, the "Adjustment Property") may require adjustment and request reasonable adjustments to such common boundaries, subject to Seller's prior consent, which shall not be unreasonably withheld of delayed. The Adjustment Property is further described and depicted on Exhibit A.

10. Inspection Period.

(a) Duration. The inspection period shall be the period of time beginning on the Effective Date and ending on the later to occur of 11:59 p.m. on that date (i) which is one hundred eighty (180) days following the Effective Date, and (ii) that Buyer's receives final zoning approval for the Property (the "Inspection Period"). Upon the expiration of the Inspection Period, the Earnest Money shall be non-refundable and applied to the Purchase Price at Closing, except that the Earnest Money and Extension Deposits (if applicable) shall be refunded to Buyer in the event this Contract is terminated by Buyer as a result of an uncured default by Seller and as otherwise expressly provided herein.

(b) Rights and Obligations. From the Effective Date through the Closing hereunder, Buyer may enter upon the Property to inspect and examine the Property and to perform whatever tests and studies of the Property Buyer deems necessary or appropriate. Seller shall cooperate with Buyer in its entry upon, and its inspections, tests, examinations, and studies of the Property. Buyer shall indemnify Seller for any and all claims of bodily injury or damage to property (including the Property itself) arising out of Buyer's inspections of the Property. Buyer shall also indemnify Seller for liens which may be filed against the Property by persons or entities employed or contracted by Buyer to perform inspections of the Property. However, Buyer's indemnity of Seller shall not cover or apply to: (1) any loss, cost or expense arising or resulting from acts or omissions of Seller, (2) any diminution in the value of the Property arising or resulting from matters discovered by Buyer during its investigations of the Property, provided that such diminution was not caused by the activities of Buyer on the Property, (3) any latent defects in the Property discovered by Buyer, or (4) the release or spread of any Hazardous Substance discovered, but not deposited, by Buyer on or under the Property. Buyer's indemnity of Seller pursuant to this subsection (b) shall survive Closing or any earlier termination of this Contract for a period of one (1) year.

(c) Termination. At any time prior to the expiration of the Inspection Period, Buyer may terminate this Contract for any reason or no reason. If such termination occurs on or prior to the 120th day after the Effective Date, the Earnest Money shall be returned to Buyer. If such termination occurs after the 120th day after the Effective Date, the Non-Refundable Earnest Money Portion shall be forwarded to Seller and the remainder of the Earnest Money shall be forwarded to Buyer. Upon such termination, neither party shall have any further obligation to the other hereunder, except such obligations that survive termination by express provision herein. In the event of such termination by Buyer, Buyer shall forward to Seller copies of all non-proprietary reports, assessments and surveys prepared by third parties at Buyer's request in connection with Buyer's inspections of the Property hereunder.

11. Delivery of Information. Within five (5) business days after the Effective Date, Seller shall deliver to Buyer:

(a) Copies of all of the following materials, to the extent they are in the possession or control of Seller: (i) all surveys, (ii) all title reports, commitments and policies, (iii) all zoning documents, construction plans, approved site plans or plats, permits, development orders or other documents of entitlement obtained by or assigned to Seller prior to Closing, including any applications therefor (collectively, "Seller Entitlements"), (iv) all reports, documents and surveys regarding rock tests and other soil conditions, (v) all environmental studies and reports, (vi) all wetland delineation studies, (vii) all other reports, studies and other materials that pertain to environmental hazards, wetlands, flood studies or any aspect of the physical or environmental condition of the Property or other property in the vicinity of the Property, and (viii) all existing or proposed leases, licenses, easements and contracts affecting the Property; and

(b) A Notice of Transmittal, signed by Seller, certifying that each of the items listed in subsection (a) above are enclosed in the transmittal or have been previously delivered to Buyer, or identifying any such items that are not within the possession or control of Seller.

In addition to constituting a default hereunder, failure of Seller to deliver both the required materials and the Notice of Transmittal within the required time period shall automatically extend the Inspection Period one day for each day delivery of any of the materials or the Notice of Transmittal is delayed.

12. Condemnation and Casualty. If prior to Closing, all or any portion of the Property is condemned or taken, or threatened to be condemned or taken, by any authority, or any portion of the Property suffers a casualty loss, Seller shall give Buyer immediate Notice thereof with a complete description of all relevant information and complete copies of all relevant documentation. Within thirty (30) days of such Notice, Buyer may elect either: (i) to terminate this Contract, in which event all of the Earnest Money and Extension Deposits (if applicable) shall be forwarded (A) to Seller if such termination occurs after the expiration of the Inspection Period and (B) to Buyer if such termination occurs prior to the expiration of the Inspection Period; or (ii) to collect all awards and proceeds from any condemnation or insurance policy and keep this Contract in full force and effect, in which case Seller shall promptly execute all documents required by Buyer to assign Seller's rights therein to Buyer.

13. Seller's Representations and Warranties. Seller represents, warrants and covenants to Buyer that, as of the Effective Date, continuing through Closing:

(a) Seller has good and marketable fee simple title to the Property, free and clear of all liens, encumbrances and other matters other than the Permitted Exceptions;

(b) Seller is in sole and exclusive possession of the Property, and no person or entity claims any right of possession to all or any portion of the Property;

(c) Seller has full authority to execute this Contract and convey the Property to Buyer and execute and deliver the Deed and such other documents, instruments, affidavits and certificates as are necessary or desirable to effectuate this transaction, and no other signatures are required for this Contract to be fully enforceable by Buyer;

(d) To the best of Seller's knowledge: (i) all assessments against the Property are shown in the official records of the Governing Jurisdiction; (ii) no site or area improvements have been constructed or installed by any public authority, the cost of which may be assessed in whole or in part against any part of the Property; (iii) the Property is not subject to the imposition of impact or development fees; and (iv) Seller has not been notified of any possible future improvements that might create an assessment against any part of the Property;

(e) There is no pending or threatened taking or condemnation of the Property or any portion thereof, and no pending or threatened action, litigation or proceeding by any organization, entity, person or governmental agency affecting the Property or Seller;

(f) Seller has no notice or knowledge of any violation of law, order, ruling, ordinance, rule or regulation with respect to Seller or the Property or the use thereof;

(g) During the time Seller has owned the Property, and to the best of Seller's knowledge with regard to the time prior to Seller's ownership of the Property: (i) none of the Property has been excavated; (ii) no landfill has been located on or in the vicinity of the Property; (iii) no debris or materials (including, without limitation, organic materials, strippings, rocks, stumps or concrete) have been buried upon the Property; (iv) the Property has not contained a bury or borrow pit, and no fill has been taken from or deposited on the property; and (v) no wetlands or other protected areas on the Property have been filled or altered;

(h) To the best of Seller's knowledge, the Property has not been, and is not being, assessed or taxed under any agricultural, special use, open space, "Conservation Use," "Current Use," or "Green Acres" valuation or program, or similar valuation or program;

(i) Seller has filed all federal, state and local tax returns as required by law with respect to Seller and the Property;

(j) To the best of Seller's knowledge, the Property has full and free access to and from public streets and/or roads;

(k) The execution and delivery of this Contract, and the consummation of this transaction, will not result in a breach of any of the terms of, or constitute a default under, any (i) indenture, contract or instrument to which Seller is a party or by which Seller or the Property is bound, or (ii) law, order, ruling, ordinance, rule or regulation with respect to Seller or the Property or the use thereof;

(l) There are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy or under any applicable debtor relief laws pending or threatened against Seller or the Property;

(m) To the best of Seller's knowledge, the Property contains no threatened or endangered species or endangered or protected habitats or items of archaeological significance as defined by applicable state or federal laws;

(n) There are no signs, billboards or leases for same located on or promised in connection with the Property;

(o) To the best of Seller's knowledge, there are no cemeteries, grave sites or burial sites located on or immediately adjacent to the Property;

(p) The information and materials furnished and to be furnished to Buyer by Seller, and Seller's representations and warranties made herein or in connection herewith, are true, complete and accurate and do not omit to include any material information necessary to make the same true or not misleading; and

(q) Seller is not a "foreign person" as that term is defined in Internal Revenue Code Section 1445 (f)(3), nor is the sale of the Property subject to any withholding requirements imposed by the Internal Revenue Code, including, without limitation, Section 1445 thereof; and, at the Closing, Seller shall execute and deliver to Buyer a Non-Foreign Person Affidavit in form reasonably acceptable to Buyer stating such.

Seller will not allow or cause any action to be taken that will cause any of the foregoing representations or warranties to be untrue or incorrect at Closing or fail to take any action that may be required to keep such representations and warranties true and correct at Closing. The representations, warranties and obligations of Seller pursuant to this Section 13 shall survive Closing or any termination of this Contract.

14. Broker Fees. Except as to Hunter E. Suggs ("Seller's Broker"), for whose commission Seller is solely responsible, Seller represents to Buyer that Seller has not discussed this Contract or the subject matter hereof with any real estate broker, agent, or salesperson in any manner or context that would create any legal right of any such broker, agent, or salesperson to claim a real estate commission, finder's fee, or similar compensation with respect to the sale and/or conveyance of the Property contemplated in this Contract. Seller shall indemnify and hold Buyer harmless from and against any and all liabilities, losses, costs, damages and expenses (including reasonable attorneys' fees and expenses and costs of litigation) that Buyer may suffer or incur because of any claim by any broker, agent, or salesperson, whether or not meritorious, for any compensation with regard to this Contract or the sale and purchase of the Property contemplated herein, arising out of any acts or agreements of Seller. Buyer represents to Seller that Buyer

has not discussed this Contract or the subject matter hereof with any real estate broker, agent, or salesperson, in any manner or context that would create any legal right of any such broker, agent, or salesperson to claim a real estate commission, finder's fee, or similar compensation from Seller with respect to the sale and/or conveyance of the Property contemplated in this Contract. Buyer shall indemnify and hold Seller harmless from and against any and all liabilities, losses, costs, damages and expenses (including reasonable attorneys' fees and expenses and costs of litigation) that Seller may suffer or incur because of any claim by any broker, agent, or salesperson, whether or not meritorious, for any compensation with regard to this Contract or the sale and purchase of the Property contemplated herein, arising out of any acts or contracts of Buyer. The provisions of this Section shall survive Closing or any termination of this Contract.

15. Default.

(a) Buyer's Default. If Buyer defaults in the performance of any obligation or covenant hereunder, Seller's sole and exclusive remedy shall be to terminate this Contract and receive payment of the Earnest Money and Extension Deposits (if applicable) then held by the Escrow Agent as Seller's full liquidated damages as a result of such default. The parties hereby agree and acknowledge that: (i) ascertaining the actual damages in the event of a default by Buyer would be difficult, (ii) it is impossible more precisely to estimate the damages to be suffered by Seller upon Buyer's default, (iii) such payment of Earnest Money and Extension Deposits (if applicable) is intended not as a penalty, but as full liquidated damages, and (iv) the amount of the Earnest Money and Extension Deposits (if applicable) constitutes a good faith estimate of the potential damages that could arise from a default by Buyer hereunder.

(b) Seller's Default. If Seller defaults in the performance of any obligation or covenant hereunder, or if any of Seller's representations or warranties prove to be false or inaccurate in any material respect, then Buyer may either: (i) terminate this Contract and receive a full and immediate refund of the Earnest Money and Extension Deposits, and Seller shall also reimburse Buyer for all of its out-of-pocket costs and expenses in connection with this Contract, the investigation of the Property and the transaction contemplated hereby; or (ii) seek the remedy of specific performance; provided, however, if the remedy of specific performance is not available to Buyer, then Buyer shall have the right to sue for damages for Seller's breach.

(c) Post-Closing and Post-Termination Remedies. Notwithstanding subsections a and b above, from and after the Closing or any termination of this Contract, each party shall have the right to pursue its actual (but not consequential or punitive) damages against the other party for: (1) a breach of any covenant or agreement contained herein that is performable after or that expressly survives the Closing or termination of this Contract (including the indemnification obligations contained in this Contract), and (2) a breach of any representation or warranty in this Contract.

(d) Notice and Cure Rights. In the event of a default hereunder, the non-defaulting party shall give the defaulting party notice of such default, specifying in reasonable detail the nature of the default. Thereafter, the defaulting party shall have fifteen (15) days from the date notice of default is given to cure the default. If the defaulting party cures the default within the 15-day period, it shall not incur any liability to the other party for the default. Each party shall reasonably cooperate with any and all attempts by the other to cure any default within the aforesaid cure period.

(e) Legal Fees. In the event of any litigation between Buyer and Seller regarding this Contract, the losing party shall promptly pay the prevailing party's reasonable attorneys' fees (based on the local custom for attorneys' fee rates) and expenses and costs of litigation.

16. Notices. All notices required or permitted to be given hereunder shall be in writing and shall be deemed given: (a) upon hand-delivery, receipt required, (b) the next business day after deposit with Federal Express, UPS or other nationally recognized overnight courier service, or (c) when transmitted via email, provided a copy is sent the next business day by method (a) or (b) or by regular first-class U.S. Mail. All notices shall be addressed as follows:

If to Buyer, to: BRD Land & Investment
725 Cherry Road, Suite 323
Rock Hill, SC 29732
Attn: Lindsay Jarvis and Kevin Burrell
Email: (info@esteroproperty.co.nz and kevin@brdevelop.com)

with a copy to: Troutman Pepper Hamilton Sanders LLP
301 South College Street, 34th Floor
Charlotte, NC 28202
Attn: G. Lee Cory
Phone: 704.998.4042
Email: lee.cory@troutman.com

If to Seller: Alexander M. Sims Family Limited Partnership
Attn: Will Sims
4457 Charlotte Hwy
Lancaster, SC 29720
Phone: 803-288-3334
Email: williamasims56@gmail.com

DS WS DS TS

If to Escrow Agent: Chicago Title Insurance Company
200 S. Tryon St., Suite 800
Charlotte, NC 28202
Phone: 704.375.0700
Attention: Scott Mansfield
Email: smansfield@ctt.com

17. Covenants Pending Closing. From and after the Effective Date through Closing, Seller shall: (a) operate and maintain the Property in a good and workmanlike manner, at least as well as Seller has operated and maintained it prior to the Effective Date, and shall not commit or allow any waste of or on the Property; (b) within 3 business days after Seller's receipt thereof, give notice to Buyer of any litigation, arbitration or administrative proceeding concerning or affecting the Property, together with copies of all relevant documents; and (c) comply with all requirements of all laws, orders, rulings, ordinances, rules and regulations of any governmental authority having jurisdiction over Seller over the Property and/or the use thereof. From and after the Effective Date through the Closing, Seller shall not convey or encumber any portion of the Property or any rights therein, nor enter into any conveyance, mortgage, security document, option, right of first refusal, easement, lease or other contract granting to any person or entity any rights or interests in any portion of the Property.

18. Standard Provisions.

(a) This Contract shall be interpreted in accordance with the laws of the State of South Carolina.

(b) Time is of the essence in the occurrence of all events, the satisfaction of all conditions and the performance of all obligations hereunder.

(c) This Contract constitutes the sole and entire agreement between the parties with regard to its subject matter. All prior discussions, negotiations and agreements regarding the subject matter of this Contract are merged herein and shall have no further force or effect. No representations or warranties have been made by either party except as stated herein.

(d) All representations and warranties of both parties contained in this Contract, together with all covenants expressly surviving Closing, shall survive Closing and delivery of the deed and other documents delivered at Closing, and shall not be merged with delivery thereof.

(e) The term "business day" shall mean Monday through Friday, excluding days on which federally-chartered banks or banks chartered by the state in which the Property is located are closed for business. If the day for any action under this Contract falls on a day other than a business day, the day for the action shall automatically be extended until the next business day.

(f) If any provision of this Contract shall be declared invalid or unenforceable by laws applicable thereto, or unenforceable as to certain parties, then the performance of such provision shall be excused by the parties hereto and the remaining provisions of this Contract shall remain in full force and effect.

(g) The titles, captions and paragraph headings herein are inserted for convenience only and are in no way intended to interpret, define or limit the scope or content of this Contract or any provision hereof. Both parties have been represented by counsel in the drafting and negotiation of this Contract, and this Contract shall be construed without regard to any presumption or other rule requiring construction against the party causing this Contract to be drafted.

(h) Any failure or delay of Buyer or Seller to enforce any term of this Contract shall not constitute a waiver of such term. Any waiver of any term of this Contract by either party must be specifically stated in a writing delivered to the other party in compliance with Section 16 above. Any such waiver by Buyer or Seller shall not be deemed to be a waiver of any other term of this Contract or of a subsequent breach of the same term.

(i) If this Contract is terminated prior to Closing, the Earnest Money and Extension Deposits (if applicable) shall be disbursed to the party entitled thereto. Upon termination of this Contract and disbursement of the Earnest Money and Extension Deposits to the party entitled thereto, Buyer and Seller shall thereafter have no further rights, obligations or liabilities hereunder, other than those expressly surviving termination.

(j) This Contract shall be binding upon and shall inure to the benefit of Seller and Buyer, their respective heirs, successors, legal representatives and permitted assigns. Buyer may assign its rights and obligations hereunder. Seller may not assign its rights and obligations hereunder without the prior written consent of Buyer, which shall not be unreasonably withheld. Any change in control of Seller resulting from a merger, consolidation, or a transfer or transfers of ownership interest or interests shall be deemed to be an assignment of rights and obligations hereunder that requires the prior written consent of Buyer. If Seller consists of more than one person or entity, then: (1) each reference to Seller herein shall be deemed to refer to each person or entity constituting Seller, both individually and in the aggregate, and (2) each person or entity constituting Seller shall be jointly and severally liable for all liabilities and obligations of Seller hereunder.

(k) This Contract may be executed in multiple, separate counterparts, and such counterparts shall constitute one and the same document. This Contract may not be modified or amended except by a writing signed by both Buyer and Seller.

(l) This Contract and any amendments hereto may be executed by hand-signatures or by electronic signatures using DocuSign or other similar technology. Such signatures may be transmitted by facsimile or email. Any such electronic signatures or electronic transmissions of signatures shall be deemed to constitute originals. In addition, either party and/or the Escrow Agent may rely upon any electronic transmission of any document that is properly executed by the other party. The ratification of this Contract or any amendment hereto by Buyer also may be accomplished by either hand-signature or by electronic signature using DocuSign or other similar technology. Except as provided in this subsection, the Electronic Signatures in Global and National Commerce Act and any parallel, corresponding or similar state law or regulation shall not apply to the execution of this Contract or any amendment hereto, and Buyer shall not be bound by any electronic signature.

19. Environmental Matters/Hazardous Substances.

(a) As used in this Contract, "Hazardous Substance" shall mean and include all hazardous or toxic substances, wastes or materials, any pollutants or contaminates (including, without limitation, petroleum, oil and gas, asbestos and raw materials which include hazardous constituents, radon and urea formaldehyde), and any other similar substances or materials which are regulated by, or are the subject of, any Environmental Law. As used in this Contract, "Environmental Law" shall mean and include any and all local, state, or Federal laws, rules, or regulations pertaining to regulation of the air, water, groundwater, land, natural resources and/or pertaining to the contamination, clean-up or disclosure of Hazardous Substances, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, the Endangered Species Act, the Federal Insecticide, Fungicide and Rodenticide Act, as amended, or by tort or other common law.

(b) Seller hereby represents and warrants to Buyer that: (i) Seller is in full compliance with all Environmental Laws, including, without limitation, that Seller has all permits required by Environmental Laws, (ii) neither Seller, nor any person during Seller's ownership of the Property, nor to the best of Seller's knowledge, any previous owner of the Property or any other person or entity, has ever used, generated, processed, stored, disposed of, released or discharged any Hazardous Substance on, under, or about the Property or transported it to or from the Property, nor, to the best of Seller's knowledge, has any party ever alleged that any such activities have occurred, (iii), no use by Seller, or, to the best of Seller's knowledge, any prior owner of the Property or any other person, has occurred which violates or violated, any applicable Environmental Law, nor to the best of Seller's knowledge has any party ever alleged that such violations have occurred, and (iv) the Property is not on any "Superfund" list under any applicable Environmental Law, nor is it subject to any lien related to any environmental matter. In the event Seller breaches the representations and warranties in this paragraph, Seller shall indemnify, defend and hold Buyer and its affiliates, agents, employees, directors, officers, managers, members, partners, shareholders, assigns and/or successors (collectively, the "Indemnitees") harmless from and against all fines and penalties and liabilities (including, without limitation, those arising under statute or government regulation, common law or contract), including all foreseeable and unforeseeable consequential damages, any other damages, costs and losses, including reasonable attorneys' fees, directly or indirectly and in whole or in part arising out of or attributable to Hazardous Substances' existing beneath or on the surface of the Property on or prior to Closing or the migration thereof within or from the Property at any time, whether before or after Closing, including without limitation the cost of any remedial, removal, response, abatement, clean-up, investigative and monitoring costs, and any other related costs and expenses. Notwithstanding anything to the contrary contained herein, the representations and warranties in this paragraph shall be deemed remade as of Closing, and such representations and warranties and the indemnification provisions in this paragraph shall survive Closing and shall not be merged therein. The provisions of this paragraph are in addition to any other rights Buyer may have under this Contract.

(c) Buyer's obligation to close on the purchase of the Property hereunder is expressly conditioned upon: (i) Buyer's receipt, at Buyer's expense, of an environmental report (or reports), addressed to Buyer, the form, content and preparer of which must be acceptable to Buyer in its sole discretion, presenting the results of an investigation of the Property, and such property in the vicinity of the Property, as may be deemed appropriate by Buyer, in Buyer's sole discretion in light of the intended use of the Property, with regard to the presence, generation, processing, storing, disposal, release or discharge of any Hazardous Substances, from, on, under, about, or in the vicinity of the Property and compliance with Environmental Laws relating to or affecting the Property, which investigation is commonly referred to as a Phase I Environmental Site Assessment, which report has been prepared or updated no more than six (6) months prior to the date of Closing, and such further investigations and/or reports as Buyer may require (collectively, the " Environmental Inspections and Reports"); and (ii) Buyer's satisfaction with the results of the Environmental Inspections and Reports.

(d) In the event Buyer is not satisfied with the results of any Environmental Inspections and Reports, or in the event there has been any change to the environmental condition of the Property or the

property in the vicinity of the Property as such condition was reflected in the Environmental Inspections and Reports, then Buyer, at its sole discretion and in addition to any other provision of this Contract, may (i) terminate this Contract, (ii) proceed to closing on the Property, or (iii) extend the Closing by a period of time specified by Buyer, not to exceed ninety (90) days. During any such extension period, Seller shall make commercially reasonable efforts to satisfy Buyer regarding the condition of the Property. In the event that Buyer, at the end of the extension period, is not satisfied with the condition of the Property, in its sole discretion, then Buyer may exercise any of its rights and remedies under clauses (i) or (ii) of this subsection. If any such termination of this Contract under this subsection (d) occurs on or prior to the expiration of the Inspection Period, the Earnest Money shall be returned to Buyer. If such termination occurs after the expiration of the Inspection Period, the Earnest Money and Extension Deposits (if applicable) shall be forwarded to Seller. Upon such termination, neither party shall have any further obligation to the other hereunder, except such obligations that survive termination by express provision herein.

20. Memorandum of Contract. Seller shall execute a short-form memorandum of this Contract in a recordable form reasonably acceptable to Buyer, which Buyer may record at the Lancaster County Registry. Seller shall deliver the recordable Memorandum of Contract to Buyer within five (5) business days after the Effective Date.

~~127629956v4~~
127629956v5

DS TS DS WS

IN WITNESS WHEREOF, the parties hereto have caused this Contact to be executed on the dates shown below.

Seller:

ALEXANDER M. SIMS FAMILY LIMITED PARTNERSHIP, a South Carolina limited partnership

DocuSigned by:
By: William Sims
820BD64FD33A87...
Name: William Sims
Its: General Partner

Date: 10/1/2022 | 2:00 PM PDT, 2022

Buyer:

BRD LAND & INVESTMENT,
a South Carolina general partnership

By: BRD Land & Investment Management, LLC, Its Managing Member

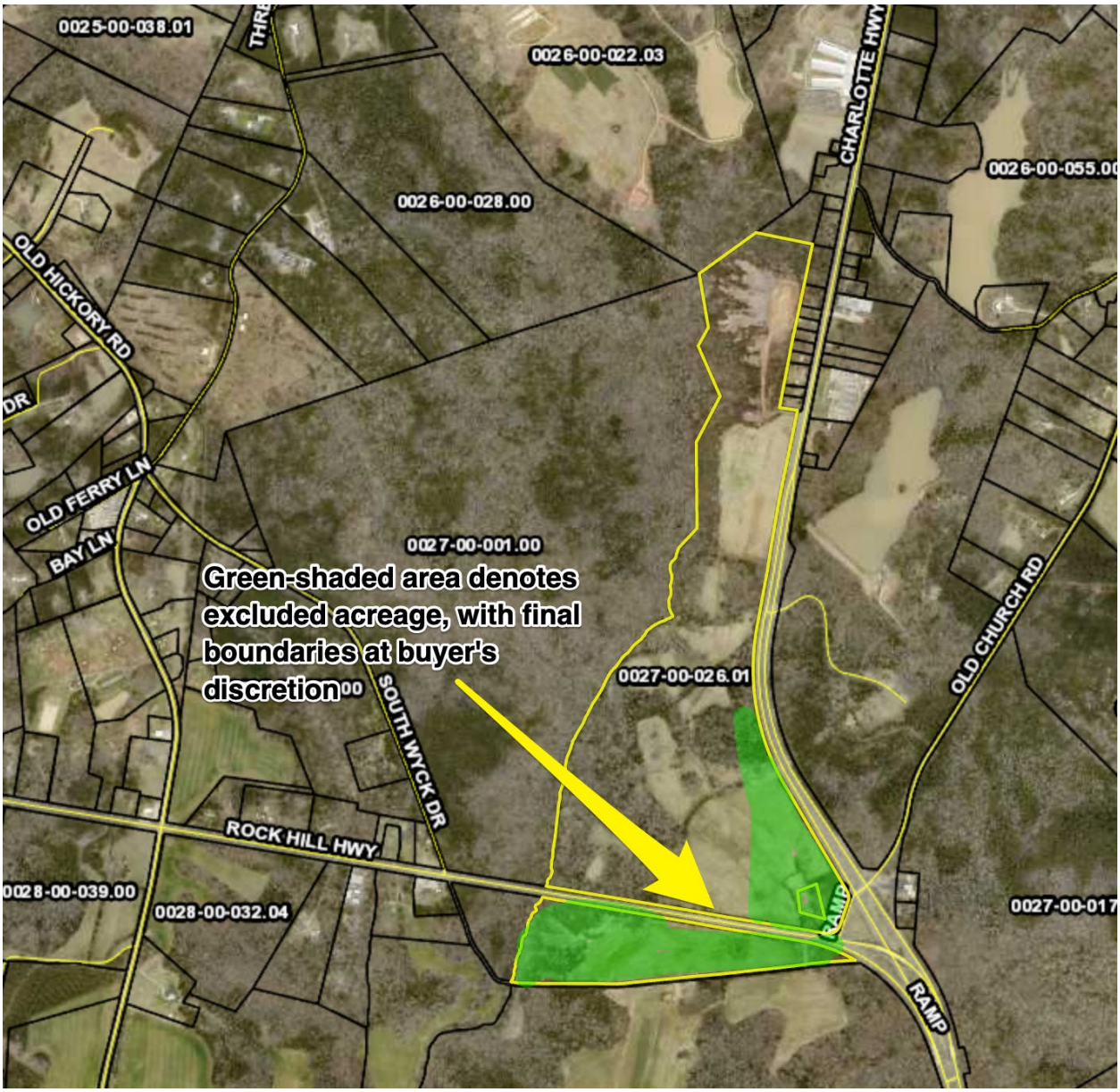
DocuSigned by:
By: Tim Samuels
6DFCCBC6534F420...
Name:
Its: Authorized Representative

Date: 10/12/2022, 2022

~~127629956v4~~
127629956v5

Exhibit A

DEPICTION OF PROPERTY AND ADJUSTMENT PROPERTY



DS TS DS WS

Exhibit B

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (hereinafter referred to as this "Agreement"), is made and entered into this _____ day of _____, 2022, by and among: ALEXANDER M. SIMS FAMILY LIMITED PARTNERSHIP, having a mailing address of 4457 Charlotte Hwy, Lancaster, SC 29720 (the "Seller"); BRD LAND & INVESTMENT, having as a mailing address of 725 Cherry Road, Suite 3234, Rock Hill, SC 29732 (hereinafter referred to as "Buyer"); and CHICAGO TITLE INSURANCE COMPANY, having as a mailing address of 200 S. Tryon St., Suite 800, Charlotte, NC 28202 (hereinafter referred to as "Escrow Agent").

W I T N E S S E T H

WHEREAS, Seller and Buyer have entered into that Land Purchase Contract having an Effective Date of _____, (hereinafter referred to as "the Contract") as to certain real property situated in Lancaster County, South Carolina (hereinafter referred to as the "Property"); and

WHEREAS, Buyer and Seller have appointed Chicago Insurance Company, LLC to hold all earnest money under the Contract in accordance with the terms of the Contract and this Agreement.

NOW, THEREFORE, in furtherance of the transaction contemplated hereby and for and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. Seller and Buyer hereby designate, constitute and appoint Chicago Title as the "Escrow Agent" under this Agreement to hold all earnest money under the Contract, and Chicago Title accepts such designation and appointment and agrees to act in accordance with the terms of the Contract and this Agreement. In the event or a conflict between the terms of this Agreement and those of this Agreement, the terms of the Contract shall control. Seller and Buyer agree (a) that Escrow Agent shall be a stakeholder only and not liable for any losses, costs or damages it may incur in performing its responsibilities hereunder unless such losses, costs or damages shall arise out of the willful default or negligence of Escrow Agent or its agents, (b) that no releases or disbursements shall be made hereunder except upon consistent written instructions from both Seller and Buyer or their successors or assigns; and (c) that in the event of a dispute hereunder between Seiler and Buyer (or their successors or assigns), Escrow Agent shall have the right, exercisable in its sole discretion, to be discharged by tendering unto the registry or custody of any court of competent jurisdiction, the closing documents and funds held by Escrow Agent, together with any such legal pleadings as it deems appropriate. Escrow Agent shall be indemnified, saved and held harmless by the Seller and Buyer for all of its expenses, costs and reasonable attorney's fees incurred in connection with such interpleader action.

2. Upon receipt of consistent written instructions from both Seller and Buyer, or their respective counsel, then Escrow Agent shall disburse the funds held in escrow in accordance with the written instructions signed by both Buyer and Seller, or their respective counsel. Said written instructions may be given in duplicate counterparts and by facsimile. Escrow Agent shall have the right to deduct any costs Escrow Agent has incurred for overnight delivery charges or wire transfer fees from the funds held prior to disbursement.

3. All checks, money orders or drafts deposited with Escrow Agent under this Agreement will be processed for collection in the normal course of business. Escrow Agent will not commingle funds received by it in escrow with funds of others and shall deposit such funds in a separate escrow account with a federally insured Bank. Escrow Agent shall not be liable for any loss caused by the failure, suspension, bankruptcy or dissolution of any such investment vehicle or fund,

4. Escrow Agent shall not be liable for any loss or damage resulting from the following:

(a) Any default, error, action or omission of any other party;

(b) The expiration of any time limit unless such time limit was known to Escrow Agent and such loss is solely caused by failure of Escrow Agent to proceed in its ordinary course of business;

(c) Any loss or impairment of funds while on deposit with a federally insured Bank resulting from failure, insolvency or suspension of such institution; or

(d) Escrow Agent's complying with any and all legal process, writs, orders, judgments and decrees of any court whether issued with or without jurisdiction and whether or not subsequently vacated, modified, set aside or reversed.

5. Escrow Agent shall be entitled to rely upon the instructions and other matters covered thereby, and shall not be required to investigate the authority of the person executing and delivering such instructions, or otherwise verify the accuracy of the statements of information presented therein.

6. The terms and provisions of this Agreement are for the benefit of Seller, Buyer and Escrow Agent and their respective successors and assigns only. Nothing contained herein shall be deemed or construed to inure to the benefit of any other person or party, it being the express intent of Seller, Buyer and Escrow Agent that no such person party shall be entitled to any of the benefits hereof, except as herein expressly provided.

7. Time is of the essence of this Agreement.

8. This Agreement is intended as a contract under the laws of the State of and shall be governed thereby and construed in accordance therewith.

9. This Agreement may be executed by facsimile signatures, which for all purposes shall be deemed to constitute originals. This Agreement may be executed in counterparts, all of which when taken together shall be deemed one original.

10. Any interest earned on the funds held in escrow shall accrue to the benefit of Buyer, whose tax identification number is

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the day, month and year first above written.

NOTE: THIS IS AN EXHIBIT. INITIAL ONLY - DO NOT EXECUTE

DS TS DS WS

Exhibit C

GENERAL ASSIGNMENT

THIS GENERAL ASSIGNMENT (this "Assignment") is made as of the ___ day of _____, 2022, by ALEXANDER M. SIMS FAMILY LIMITED PARTNERSHIP ("**Seller**"), to BRD LAND & INVESTMENT ("**Buyer**").

WHEREAS, of even date herewith, Seller has conveyed to Buyer the land described in Exhibit "A" attached hereto ("**Land**"), together with all improvements (the "**Improvements**") located thereon (the Land and Improvements are referred to herein collectively as the "**Property**"); and

WHEREAS, Seller and Buyer intend that Seller also convey to Buyer all of the Conveyed Property Rights (as hereinafter defined).

NOW, THEREFORE, Seller, for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, hereby agrees as follows:

1. Seller has GRANTED, BARGAINED, SOLD, CONVEYED and ASSIGNED, and by these present does hereby GRANT, BARGAIN, SELL, CONVEY and ASSIGN to Buyer all of Seller's right, title and interest in and to the following, but only to the extent same pertain to the Property ("**Conveyed Property Rights**"):

(a) all surveys, engineering, soils, seismic, geological, environmental, reports, studies and certificates and other technical descriptions;

(b) all warranties, guaranties and indemnities received from third parties, and all claims, demands and causes of action against third parties, but only to the extent they are for the benefit of, and applicable to, the Property or the owner thereof, including, without limitation, any warranties, guaranties, indemnities, contractual rights, claims, demands and causes of action pertaining to the development, construction, design or completion of the Property and/or the common areas, streets, utilities or other subdivision infrastructure;

(c) all licenses, permits, governmental approvals, utility commitments, utility rights (including rights to capacity or service), drainage and detention rights, development rights or other similar rights, inclusive of any prepaid impact fees, impact fee credits or other similar development credits (but excluding any rights to MUD reimbursables other than reimbursement rights (i) accruing to Buyer by reason of funds expended by Buyer, or on behalf of Buyer, after the date hereof, or (ii) otherwise expressly agreed to by Seller in writing pursuant to the contract of sale for the Land by and between Seller and Buyer);

(d) all rights under any plats (preliminary or final) of any portion of the Property or any rights-of-way abutting the Property or any portion thereof, including any boundary plats and any right-of-way plats, submitted, approved or recorded;

(e) all unpaid awards or proceeds, including awards in connection with insurance and any eminent domain taking; and

(f) all other rights, powers, privileges, options, or other benefits associated with, that pertain to, are attributable to, are appurtenant to, apply to, or which otherwise benefit the Property.

TO HAVE AND TO HOLD the Conveyed Property Rights unto Buyer and Buyer's successors and assigns forever.

DS TS DS WS

2. This Assignment shall be binding on Seller, its successors and assigns, and shall inure to the benefit of Buyer, its successors and assigns.

3. This Assignment does not constitute an assumption of any liability or obligation by Buyer, nor shall it be deemed to impose on Buyer any liability or obligation. This Assignment is made WITHOUT RECOURSE. Furthermore, Seller assigns the Conveyed Property Rights only to the extent they may exist and in fact be assignable, and without any representation or warranty whatsoever.

4. Seller and Buyer will each cooperate with each other, their employees, and agents to facilitate the purpose and intent of this Assignment including, without limitation, the providing of information and documentation that may be reasonably required for the enforcement of the rights and interests assigned hereby.

5. This Assignment may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

EXECUTED as of the date first above written.

NOTE: THIS IS AN EXHIBIT ONLY – DO NOT EXECUTE.

DS TS DS WS

Exhibit D

Permitted Exceptions

1. Ad valorem taxes for the year of Closing (to be prorated) and subsequent years.

2. Utility easements and rights-of-ways of record that do not materially affect Buyer's intended use or the value of the Property.

DS TS DS WS

Summary report: **Litera Compare for Word 11.2.0.54 Document comparison done on 9/30/2022 1:23:58 PM**	
Style name: Standard	
Intelligent Table Comparison: Active	
Original filename: C:\Users\cabarrmb\AppData\Local\Litera\Temp\#127629956v5_Active_ - Purchase and Sale Agreement - 180 Rock Hill.docx	
Modified DMS: iw://workdms.troutman.com/ACTIVE/127629956/5	
Changes:	
Add	9
~~Delete~~	10
~~Move From~~	0
Move To	0
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	19