



Administrative Site Review Application

Development Services Customer Service Center • One Exchange Plaza, Suite 400 | Raleigh, NC 27601 | 919-996-2495

This form is required when submitting site plans as referenced in Unified Development Ordinance (UDO) Section 10.2.8. Please check the appropriate building types and include the plan checklist document when submitting.

Office Use Only: Transaction #: <u>ASR-0096-2019</u> Planning Coordinator: <u>Mike Waters</u>	
Building Type	Site Transaction History
<input type="checkbox"/> Detached <input type="checkbox"/> Attached <input checked="" type="checkbox"/> Apartment <input type="checkbox"/> Townhouse	<input type="checkbox"/> General <input type="checkbox"/> Mixed use <input type="checkbox"/> Open lot <input type="checkbox"/> Civic Subdivision transaction #: _____ Sketch transaction #: _____ Certificate of Appropriateness #: _____ Board of Adjustment #: _____ Zoning Case #: _____ Administrative Alternate #: _____
GENERAL INFORMATION	
Development name: <u>Crabtree Village Phase II</u>	
Inside City limits? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Property address(es): <u>5201 and 5301 Homewood Banks Drive, Raleigh, NC 27612</u>	
Site P.I.N.(s): <u>5201 (Lot 3): 0795592600; 5301 (Lot 2): 0795592353</u>	
Please describe the scope of work. Include any additions, expansions, and change of use. Proposed Lot 2: Development of a multi-family project with attached parking garage. 230 residential units, 289 parking spaces within the deck, and 79 surface spaces in parking area. Proposed Lot 3: Future phase consisting of 15,000 SF of retail/restaurant	
Current Property Owner/Developer Contact Name: NOTE: please attach purchase agreement when submitting this form.	
Company: <u>Silver Hills Development, Inc. / Seth Mendelsohn</u>	Title: <u>Principal</u>
Address: <u>23500 Shelburne Road, Shaker Heights, OH 44122</u>	
Phone #: <u>312-502-8222</u>	Email: <u>sm.silverhills@gmail.com</u>
Applicant Name: <u>John Kuzenski, P.E</u>	
Company: <u>Kimley-Horn and Associates, Inc.</u>	Address: <u>421 Fayetteville St, Suite 600, Raleigh, NC 27601</u>
Phone #: <u>919-653-2990</u>	Email: <u>john.kuzenski@kimley-horn.com</u>

DEVELOPMENT TYPE + SITE DATE TABLE
(Applicable to all developments)

SITE DATA	BUILDING DATA
Zoning district (if more than one, please provide the acreage of each): PD	Existing gross floor area (not to be demolished): 0
	Existing gross floor area to be demolished: 0
Gross site acreage: 5.77	New gross floor area: 256,979 SF (MF building) + 99,843 SF (parking deck)
# of parking spaces required: 360	Total sf gross (to remain and new): 356,822 SF
# of parking spaces proposed: 368	Proposed # of buildings: 2, MF building + parking deck
Overlay District (if applicable): N/A	Proposed # of stories for each: 5 (MF building), 4 (parking deck)
Existing use (UDO 6.1.4): Vacant	
Proposed use (UDO 6.1.4): Apartments	

STORMWATER INFORMATION

Existing Impervious Surface: Acres: <u>0.87</u> Square Feet: <u>37,897</u>	Proposed Impervious Surface: Acres: <u>3.33</u> Square Feet: <u>145,055</u>
Is this a flood hazard area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If yes, please provide: Alluvial soils: _____ Flood stu _____ FEMA Map Panel #: _____	
Neuse River Buffer <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Wetlands <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

RESIDENTIAL DEVELOPMENTS

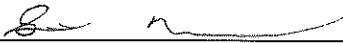
Total # of dwelling units: 230	Total # of hotel units: 0
# of bedroom units: 1br: 160 2br: 70 3br: _____ 4br or more: _____	
# of lots: 2	Is your project a cottage court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

SIGNATURE BLOCK

In filing this plan as the property owner(s), I/we do hereby agree and firmly bind ourselves, my/our heirs, executors, administrators, successors, and assigns jointly and severally to construct all improvements and make all dedications as shown on this proposed development plan as approved by the City of Raleigh.

I hereby designate Kimley-Horn and Associates, Inc. to serve as my agent regarding this application, to receive and response to administrative comments, to resubmit plans on my behalf, and to represent me in any public meeting regarding this application.

I/we have read, acknowledge, and affirm that this project is conforming to all application requirements applicable with the proposed development use. I acknowledge that this application is subject to the filing calendar and submittal policy, which states applications will expire after 180 days of inactivity.

Signature: 

Date: 11/4/19

Printed Name: Seth Mendelsohn, Principal

Michael Walters, Senior Planner
City of Raleigh Planning & Development
P.O. Box 590, Raleigh NC 27602-0590

Re: Request to Withdraw Administrative Site Review Application SR-026-19

Michael:

The undersigned is the owner of property located at 5301 Homewood Banks Dr., Raleigh, NC (Wake County PIN 0795592353, the "Property"), which Property is the subject of Administrative Site Review Application SR-26-19.

SR-26-19 was proposed by a party that is no longer a developer or contract purchaser of the Property. The undersigned does not wish to proceed with the development proposal outlined in SR-26-19 and hereby requests withdrawal of the same.

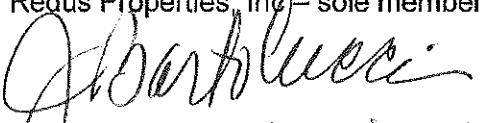
Please reply to this letter to confirm withdrawal of SR-26-19.

Thank you,

Redus NC Land, LLC

By: Redus Properties, Inc. - sole member

By:


J. Bartolucci, VP

FIRST AMENDMENT TO PURCHASE CONTRACT

THIS FIRST AMENDMENT TO PURCHASE CONTRACT (this "Amendment") is made and entered into to be effective as of the 18th day of October, 2019 (the "Amendment Effective Date"), by and between REDUS NC LAND, LLC, a Delaware limited liability company ("Seller"), and SILVER HILLS DEVELOPMENT, INC., an Ohio corporation ("Purchaser").

WITNESSETH:

WHEREAS, Seller and Purchaser are parties to that certain Purchase Contract dated to be effective as of August 26, 2019 (the "Contract"), pursuant to which Seller agreed to sell to Purchaser, and Purchaser agreed to purchase from Seller, the Property (as defined in the Contract); and,

WHEREAS, Seller and Purchaser now desire to amend the Contract pursuant to the terms and provisions set forth herein.

NOW, THEREFORE, for and in consideration of the premises and mutual agreements contained herein, the payment of [REDACTED] and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree that the Contract is amended as follows:

1. All capitalized terms used in this Amendment, to the extent not otherwise expressly defined herein, shall have the same meanings ascribed to such terms in the Contract.
2. Review Period. Purchaser and Seller hereby agree to extend the end date of the Review Period from the date that is sixty (60) days following the Effective Date to the date that is one hundred ten (110) days following the Effective Date. Accordingly, the term "Review Period" set forth in Exhibit A of the Contract is hereby deleted and replaced by the following: "Review Period" means the period beginning on the Effective Date and ending on the date that is one hundred ten (110) days following the Effective Date."
3. No Further Amendment. Except to the extent expressly modified or amended by this Amendment, the Contract shall remain unmodified and in full force and effect and is hereby ratified and affirmed. To the extent of any inconsistency between the Amendment and the Contract, the terms and conditions of this Amendment shall control.
4. Entire Agreement. The Contract, as amended by this Amendment, represents the entire agreement between the parties with respect to the subject matter hereof, and there are no other express or implied agreements, oral or written, between the parties.
5. Counterparts. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The delivery of an executed counterpart of this Amendment by a party or its legal counsel to the other party or its legal counsel, by electronic delivery of a scanned (i.e., .PDF) version of such document, shall constitute good and valid delivery hereof for all purposes (and Seller and

Purchaser each hereby waive any defense that it might otherwise have to the validity or enforceability of this Amendment by virtue of any such counterpart execution or any such facsimile delivery or electronic delivery).

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Executed to be effective as of the date first written above.

SELLER:

REDUS NC LAND, LLC, a Delaware limited liability company

By: REDUS Properties, Inc., its sole member

By: [Signature]
Name: J. Barbicci
Title: Vice President
Date: 10/21/19

PURCHASER:

SILVER HILLS DEVELOPMENT, INC., an Ohio corporation

By: [Signature]
Name: Keith M. ...
Title: President
Date: 10/21/2019



Administrative Site Review Checklist

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Use this checklist as a guide for Administrative Site Review submittals requirements.
This checklist must be submitted with your application.

MAILED NOTIFICATION REQUIREMENTS

Mailed notice is required for projects that:

1. Include new buildings greater than 25,000 square feet, or additions that represent a 10% increase in building area or 25,000 square feet (whichever is greater), AND;
2. The subject property is located within 100 feet of a property that is zoned: R-1, R-2, R-4, R-6, R-10

If your project requires mailed notice, [click here to download the letter template](#) and other helpful information.

Please check one of the following:

- Yes, my project meets the mailed notification requirement and my letters are provided with this application.
- The mailed notification is not applicable for my project.

GENERAL REQUIREMENTS Applicant to provide the following plan information:	APPLICANT		CITY STAFF		
	YES	N/A	YES	NO	N/A
1. Cover sheet and/or second sheet: include project name and location; site data table (<i>include Property Identification Numbers (PINs), Zoning, Overlay District(s), Frontage Type, Current Use(s), Proposed Use(s), Building Square Footage(s), residential density and unit data, existing and proposed parking calculations</i>); general notes; sheet index and legend defining symbols with north arrow; contact information for owner, applicant, and all consultants; vicinity map no smaller than 1"=500" and no larger than 1"=1000'; and adopted zoning conditions (if any)	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. Existing conditions sheet: including, but not limited to - graphic scale; site size with meets and bounds; setbacks/ build-to lines; existing structures; utilities and easements; topography, infrastructure (<i>adjacent streets with names and r/w width, sidewalks, water, and sewer</i>); built improvements (<i>parking, driveways, alleys</i>); and vegetation	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. Demolition plan: Clearly indicate items to be removed	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4. Proposed site plan: including but not limited to – north arrow and graphic scale; show and distinguish between existing and proposed conditions (<i>structures, streets, driveways, parking, storage areas, service areas, etc.</i>); setback/build-to lines; proposed property lines; streetscape; mechanical equipment (<i>HVAC, generators, etc.</i>); sidewalks, walkways, trails; solid waste facilities; parking and parking calculations (<i>UDO Section 7.1.2</i>); amenity area (<i>UDO Section 1.5.3</i> .) open space and/or greenways; transition protective yard (<i>UDO Section 7.2.4</i>); Site Data (<i>Square footages for proposed and existing uses; Parking calculations; amenity area calculations; Setback/Build-to; transitional protective yard type (UDO Section 7.2.4.A); street protective yard type (UDO Section 7.2.4.B.)</i>)	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Please continue to page two >

GENERAL REQUIREMENTS Applicant to provide the following plan information:	APPLICANT		CITY STAFF		
	YES	N/A	YES	NO	N/A
5. Proposed grading plan: including but not limited to - Limits of land disturbance; grading; structural improvements with finished floor elevations; stream buffers with labels; labeled impervious surfaces (and calculations); tree protection fencing information; retaining walls with top and bottom of wall; stormwater ponds, bioretention facilities, etc.	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6. Proposed stormwater plan: include preliminary stormwater quantity and quality summary and calculations package. If not required, provide notes indicating such and reference UDO section on front cover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Proposed Utility Plan: All utilities (shown underground); above ground utilities and equipment with required screening (<i>UDO Section 7.2.5.D.</i>); include Fire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Lighting Plan: Pole mounted fixture locations and details (with height labeled to top of fixture; building mounted fixture locations; graphics and notes conveying compliance with UDO Section 7.4	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Proposed tree conservation plan: for secondary tree conservation areas, include two copies of the tree cover report completed by a certified arborist, NC licensed landscape architect, or NC registered forester. If not required, provide notes indicating such and reference UDO section on front cover	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Proposed landscape plan: (<i>UDO Section 7.2</i>) including but not limited to – existing vegetation to remain; proposed landscaping meeting minimum size and species mixing requirements; plant list; label yard types; show and label parking lot landscaping (<i>UDO Section 7.1.7.</i>) include existing and/or proposed parking lot light fixtures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Architectural Elevations showing existing and/or proposed building height per UDO Section 1.5.7., 2.3, 3.2., and 3.3., transparency per UDO Section 1.5.9., 2.3 and 3.2, and blank wall area per UDO Section 1.5.10.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: Revisions to previously approved site plans must contain the following minimum information:

REQUIREMENTS FOR REVISIONS TO EXISTING SITE PLANS Applicant to provide the following plan information:	APPLICANT		CITY STAFF		
	YES	N/A	YES	NO	N/A
1. Provide documentation showing Development Services Staff have approved the proposed site plan changes as a revision	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Provide narrative of the proposed revisions on the cover page and modify the project name to include revision	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. List date of previously approved site plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Cloud areas of proposed change on all applicable sheets, and provide a legend specifying the proposed changes on all applicable sheets	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Provide updated site data table including building square footages, parking calculations, etc.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Provide documented history of impervious surfaces with dates	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PURCHASE CONTRACT
(Aster at Crabtree)

THIS PURCHASE CONTRACT (this "*Contract*"), is entered into as of the Effective Date (as hereinafter defined) by and between REDUS NC LAND, LLC, a Delaware limited liability company ("*Seller*"), and SILVER HILLS DEVELOPMENT, INC., an Ohio corporation ("*Purchaser*").

Recitals

Seller is the owner in fee simple of the REO Property (as hereinafter defined).

Seller desires to sell and Purchaser desires to purchase, Seller's interest in the REO Property, subject to all of the terms and conditions of this Contract.

Agreement

For good and valuable consideration, the receipt and sufficiency of which are acknowledged by Seller and Purchaser, and in consideration of the above recitals and the mutual covenants set forth in this Contract, the parties hereto agree as follows:

1. **Incorporation of Recitals; Certain Definitions**

Each of the Recitals set forth above are hereby incorporated herein by this reference. Initially capitalized terms not otherwise defined herein shall have the respective meanings ascribed thereto in Exhibit A attached to this Contract and hereby incorporated herein by this reference.

2. **Sale and Purchase**

(a) Seller agrees to sell, convey, and assign to Purchaser, without recourse and without representation or warranty except as expressly set forth herein, and Purchaser agrees to purchase and accept from Seller, for the Purchase Price (as hereinafter defined) on and subject to the terms and conditions set forth in this Contract, the REO Property.

(b) It is the intention of the parties hereto that the REO Property shall be sold by Seller and purchased by Purchaser at Closing, pursuant to and in accordance with the terms and provisions of this Contract. Purchaser hereby agrees and acknowledges that it shall have no right hereunder to purchase less than the entire REO Property.

3. **Purchase Price, Independent Contract Consideration, and Earnest Money**

(a) The purchase price ("*Purchase Price*") to be paid by Purchaser to Seller for the REO Property is [REDACTED]

- (b) The Purchase Price shall be payable in cash or via federal funds wire transfer at the Closing (as hereinafter defined).
- (c) Within three (3) Business Days after the execution and delivery of this Contract by the later party to execute and deliver this Contract, Purchaser shall deliver to the Escrow Agent, to the attention of Samantha Babcock at Samantha.Babcock@ctt.com, a copy of this Contract and the sum of [REDACTED] ("Earnest Money"), to be held in escrow in accordance with the terms hereof. Escrow Agent shall deposit the Earnest Money in an interest-bearing account held at Wells Fargo Bank, N.A.
- (d) On or before the end of the Review Period, Purchaser shall deliver to Seller the additional sum of [REDACTED] (the "*Additional Earnest Money*"). Such initial Earnest Money shall be increased by the amount of the Additional Earnest Money and, for all purposes hereunder, the term Earnest Money shall refer to the Earnest Money and Additional Earnest Money (if and to the extent applicable) together, totaling the amount of [REDACTED]. Except as otherwise expressly set forth herein, the Earnest Money shall be immediately fully earned by Seller, and non-refundable to Purchaser; provided, however, that the entirety of the Earnest Money shall be applied towards payment of the Purchase Price in the event Closing occurs pursuant to and in accordance with the terms hereof. Time is of the essence with respect to Purchaser's obligation to deposit the Earnest Money.

4. **Documents Delivered to or Obtained by Purchaser; Review Period**

- (a) The parties acknowledge and agree that Seller has delivered and Purchaser has received copies of the Due Diligence Materials on or prior to the Effective Date. The furnishing of the Due Diligence Materials is without any representation or warranty by Seller with respect thereto, whether express or implied, or with respect to the right of Purchaser to rely on the Due Diligence Materials, all of which were prepared by third parties.
- (b) Purchaser shall have the opportunity to review the Due Diligence Materials, to enter upon the REO Property and to perform such reviews, investigations and inquiries as it deems appropriate in order to determine that the REO Property is acceptable to Purchaser in its sole discretion (collectively, the "*Due Diligence*"); provided, however, Purchaser shall not, without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed, make any intrusive physical testing (environmental, structural or otherwise) at the REO Property (such as soil borings, water samplings or the like), except for a certain phase I environmental site assessment and soil borings which test the suitability of the soils of the REO Property for development that may be ordered by the Purchaser at its sole cost and expense. Furthermore, notwithstanding anything in this Contract to the contrary, Purchaser shall not be permitted to perform a phase II environmental site assessment of the REO Property without

Seller's prior written approval, which may be withheld for any reason or no reason. Purchaser shall promptly repair any damage to the REO Property resulting from any physical testing and replace, refill and regrade any holes made in or excavations of any portion of the REO Property used for such physical testing so that the REO Property shall be in substantially the same condition that existed prior to such physical testing. Purchaser, at Purchaser's expense, shall maintain or cause Purchaser's contractors to maintain the insurance coverages set forth in Section 4(e) below and deliver a copy of a certificate evidencing such insurance to Seller prior to Purchaser's first intrusive testing on the REO Property. Purchaser shall have the right to terminate this Contract in Purchaser's sole discretion, for any reason or no reason at all, at any time prior to the conclusion of the Review Period upon written notice thereof to Seller, in which event the Title Company shall promptly return the Earnest Money to Purchaser with no further action or right to object to the same by Seller and neither party shall have any further liability or obligation hereunder (except for any indemnification and other obligations that may survive any termination hereunder); provided, however, that if Purchaser does not give written notice to Seller prior to the expiration of the Review Period of the termination of this Contract, then all of the following shall apply: (i) Purchaser shall no longer have any right to terminate this Contract (except as otherwise provided herein); (ii) Purchaser shall be bound to proceed to Closing under and subject to the terms hereof; and (iii) Purchaser shall be bound by all of its obligations under this Contract, each of which shall apply without condition or contingency.

- (c) Purchaser acknowledges and agrees that, if Purchaser does not give written notice of Purchaser's termination prior to the expiration of the Review Period, Purchaser shall be deemed to have (i) had sufficient opportunity and access to the Due Diligence Materials and to the REO Property in order to conduct its Due Diligence, (ii) conducted such due diligence activities, inspections, and studies of the REO Property as it deems necessary or appropriate, and (iii) examined and investigated to its full satisfaction all facts, circumstances, and matters relating to the REO Property (including the physical condition and use, availability and adequacy of utilities, access, zoning, compliance with applicable laws, environmental conditions, engineering and structural matters of the REO Property), title and survey matters, and any other matters it deems necessary or appropriate for purposes of consummating the transactions contemplated by this Contract. The Due Diligence shall be conducted at Purchaser's sole cost and expense.
- (d) Purchaser shall defend, indemnify, and hold harmless Seller, the members and affiliates of Seller, and the property manager, if any, of the REO Property from and against all losses, costs, damages, claims, and liabilities (whether arising out of injury or death to persons or damage to any asset or otherwise) including, but not limited to, costs of remediation, restoration and other similar activities, mechanic's and materialmen's liens and reasonable attorneys' fees, resulting from the Due Diligence or the entry by Purchaser or any agent of Purchaser upon the REO Property, unless any of the same are caused by the gross negligence or

willful misconduct of Seller or are the result of a discovery of a condition on the REO Property which was not caused by Purchaser. The provisions of this Section 4(d) shall survive any termination of this Contract if the transactions contemplated herein are not consummated.

- (e) Prior to entering onto the REO Property to conduct any invasive testing, Purchaser shall cause its agents, contractors, subcontractors and other authorized representatives which are conducting such testing to obtain and maintain in effect, the following forms of insurance coverage:
- (i) Workers compensation and employer's liability insurance issued for protection of all employees engaged in Due Diligence activities.
 - (ii) Commercial general liability insurance with a minimum combined bodily injury and property damage limit of not less than [REDACTED] per occurrence. Such insurance shall include the following coverages with respect to such Due Diligence activities: (A) products and completed operations; (B) blanket contractual liability (including, without limitation, with respect to the indemnities in Section 4(d) and Section 30 of this Contract); (C) premises and operations; and (D) broad form property damage. Such insurance shall be written on an occurrence basis (and not on a claims made basis), shall be deemed to be primary and noncontributing with any insurance that may be carried by Seller or its tenants, and shall name Seller and any Affected Tenant as additional insureds.
 - (iii) Professional errors and omissions liability for consultants only with a limit of not less than [REDACTED] per occurrence.
 - (iv) Automotive liability for bodily injury with a limit of not less than [REDACTED] per occurrence.

Prior to entering onto the REO Property as described above, Purchaser shall deliver to Seller a certificate of insurance with respect to the insurance required under this Section 4(e). Purchaser shall use commercially reasonable efforts to cause the company providing the insurance referenced above that such coverage therein evidenced shall not be terminated, amended or canceled, except by written notice to Seller at least thirty (30) days prior to the effective date thereof, regardless of whether such termination, amendment or cancellation is initiated by Purchaser or the insurance carrier. All insurance required of Purchaser hereunder shall be issued by insurance carriers which are authorized to transact business in the State and are rated at least "B+ Class V" by Best's Insurance Reports.

- (f) Notwithstanding anything to the contrary contained in this Contract, in the event of a termination of this Contract for any reason, Purchaser shall, upon request of Seller, forward to Seller copies of all inspections and tests performed by Purchaser in connection with the physical condition of the REO Property pursuant to this Contract; and in the event of any such termination entitling Purchaser to a refund of all or any portion of the Deposit, Purchaser shall not be entitled to a refund of any portion of the Deposit unless and until Purchaser has delivered copies of all such requested inspections, tests, examinations, investigations and reviews to Seller.

5. **Closing**

- (a) The Closing shall occur remotely by telecommunication and/or email coordinated by Escrow Agent, or such other location as the parties shall mutually designate, on a mutually agreeable date occurring on or before the Closing Date. Time is of the essence with respect to the Closing Date.
- (b) At the Closing, all of the following shall occur, all of which shall be deemed concurrent conditions:
- (i) Seller shall deliver or cause to be delivered to Purchaser or Escrow Agent all of the following:
- (1) the Deed;
 - (2) an Owner's Affidavit from Seller as reasonably requested by the Title Company so that all general exceptions listed in Schedule B-II of the Title Commitment which are customarily deleted by virtue of an Owner's Affidavit may be deleted;
 - (3) a FIRPTA affidavit of an authorized officer of Seller which certifies to Seller's non-foreign status as required by Section 1445 of the Internal Revenue Code;
 - (4) a duly executed assignment of all of Seller's right, title and interest in and to the Licenses, Entitlements and Permits in the form attached hereto as Exhibit D;
 - (5) a duly executed closing statement prepared by Purchaser or its title insurance company and reasonably satisfactory to Seller; and
 - (6) Such other documents as may be reasonably requested by Purchaser or the Title Company in connection with Purchaser's acquisition of the REO Property and/or the issuance of the New Title Policy.
- (ii) Purchaser shall deliver or cause to be delivered to Seller or Escrow Agent all of the following:

- (1) The Purchase Price in cash or immediately available wire transferred funds less the amount of the Earnest Money;
- (2) A duly executed closing statement;
- (3) Evidence reasonably satisfactory to Seller that the person executing any documents at the Closing on behalf of Purchaser has full right, power, and authority to do so; and
- (4) Such other documents as may be reasonably requested by Seller in connection with Purchaser's acquisition of the REO Property.

(iii) The obligation of Purchaser to consummate the transaction contemplated by this Contract is conditioned upon the fulfillment of each of the following conditions: (1) Seller shall have performed, observed and complied with all of the material covenants, agreements and conditions required by this Contract to be performed in all material respects, observed and complied with by Seller prior to or as of the Closing Date; (2) all of the representations and warranties made by Seller and set forth in this Contract shall be true and correct as of the Effective Date and as of the Closing Date; and (3) the Title Company shall be prepared to issue the New Policy in form and substance as required by the terms of this Contract. Subject to Section 6 of this Contract, if any of the conditions described in this paragraph are not fulfilled on or before the Closing Date, Purchaser shall have the right, exercisable by notice to Seller at any time prior to the Closing Date: (x) to waive such condition and proceed to close this transaction; (y) to terminate this Contract and receive return of all refundable funds paid by Purchaser to Escrow Agent hereunder (all title or escrow costs to the date of termination shall be split by Buyer and Seller) in which event this Contract shall have no further force or effect; or (z) to extend the Closing Date to satisfy such conditions as Seller may not have fulfilled.

- (c) At the conclusion of Closing, possession of the REO Property shall be delivered to Purchaser free and clear of all liens and encumbrances, subject to the Permitted Exceptions.

6. Termination, Default, and Remedies

- (a) If Purchaser fails or refuses to consummate the purchase of the REO Property, or any portion thereof, pursuant to this Contract at the Closing, Seller's sole and exclusive remedy shall be to retain the Earnest Money, as full, fixed and liquidated damages, not as a penalty, the parties hereby acknowledging the difficulty of ascertaining Seller's damages in such a circumstance and agreeing that this remedy represents a reasonable and mutual attempt by Seller and Purchaser to anticipate the consequence to Seller of such breach by Purchaser, whereupon this Contract shall terminate. Thereafter, unless Purchaser breaches or is in default of this Contract for other than a breach for failure or refusing to consummate the purchase of the REO Property, or any portion thereof, Purchaser

and Seller shall be relieved of further liability hereunder, at law or in equity, it being the agreement of the parties that Purchaser shall have no other liability or obligation for default hereunder, except for such indemnification and other obligations as may, under the terms hereof, survive termination of this Contract. To the extent Purchaser is required to indemnify Seller pursuant to the terms of this Agreement, in the event of any material breach by Purchaser other than for Purchaser's failure or refusal to consummate the purchase of the REO Property, or any portion thereof, pursuant to this Contract at Closing which results in material actual out-of-pocket losses sustained by Seller, the Earnest Money shall be delivered to Seller and Seller shall have all other rights and remedies provided hereunder at law or in equity as a result of such breach or default by Purchaser under this Contract.

- (b) If Seller fails or refuses to consummate the sale of the REO Property pursuant to this Contract or fails to perform any of Seller's other obligations under this Contract either prior to or at the Closing for any reason other than (i) the termination of this Contract, or (ii) Purchaser's failure to perform Purchaser's obligations under this Contract, on or prior to the Closing Date, then Purchaser shall have the right to either (1) terminate this Contract by giving written notice of the termination to Seller prior to or at the Closing, whereupon the Earnest Money shall be delivered to Purchaser, free of any claims by Seller (subject to the terms and conditions of Sections 4(f) and 4(g) herein) and Seller shall reimburse Purchaser for its reasonable third party out of pocket expenses incurred in connection with this Contract (as evidenced by invoices and receipts) in an amount not to exceed [REDACTED]; (2) seek the remedy of specific performance to enforce the terms and conditions of this Contract; or (3) in the event that specific performance is unavailable, pursue any other remedies at law or in equity that may be available to Purchaser. Except as set forth in this paragraph, Purchaser and Seller shall be relieved of further liability hereunder (except to the extent indemnification and other obligations of Purchaser and Seller survive termination), at law or in equity.
- (c) Subject to Section 4(b) above, if either Seller or Purchaser becomes entitled to the Earnest Money upon termination of this Contract in accordance with its terms, and if at such time Escrow Agent is holding the Earnest Money, Purchaser and Seller covenant and agree to deliver a letter of instruction to the Escrow Agent directing disbursement of the Earnest Money to the party entitled thereto. If either party fails or refuses to sign or deliver such instruction letter when the other party is entitled to disbursement of the Earnest Money such party shall pay, upon the final order of a court with appropriate jurisdiction, all reasonable attorneys' fees and expenses (including, without limitation, court costs and fees and expenses of expert witnesses and other professionals) incurred by the party so entitled to the Earnest Money in connection with the recovery of the Earnest Money. This obligation shall survive termination of this Contract.

7. **Seller's Covenants, Agreements, Representations, and Warranties**

(a) Seller represents and warrants to Purchaser that:

(i) Seller has the right, power, legal capacity, and authority to execute and deliver this Contract and to consummate the transactions contemplated by this Contract; and

(ii) The individual or individuals executing this Contract and any and all documents contemplated hereby on behalf of Seller has or have the legal power, right, and actual authority to bind Seller to the terms and conditions contained in this Contract and in such documents.

(iii) Neither the execution nor the delivery of this Contract (or of any instrument or document to be executed or delivered pursuant to the terms hereof) will result in the violation of any contractual obligation of the Seller to any third party.

(iv) To Seller's actual knowledge, there are no pending legal actions, condemnation proceedings, suits or other legal or administrative proceedings, including with respect to any law, code (including any changes to the real property taxes or assessments levied against the REO Property), ordinance, rule, regulation or requirement (collectively "*Laws*") or changes in any Laws, in each case affecting the REO Property (collectively, "*Pending Actions*") and Seller has not received notice of either any Pending Actions involving or affecting the REO Property or possible future improvements by any public authority, any part of the cost of which would or might be assessed against the REO Property.

(v) To Seller's actual knowledge, there are no (1) parties in possession of any portion of the REO Property, whether as lessees, tenants at sufferance, trespassers, or otherwise, and there are no commitments or proposals for leases or (2) any contracts (whether written or oral) affecting the REO Property that have been entered into by any party other than Buyer that will be in effect following the Closing.

(vi) Seller is not a "nonresident alien," "foreign corporation," "foreign partnership," "foreign trust" or "foreign estate" within the meaning of the Internal Revenue Code and the Income Tax Regulations.

(b) Seller covenants with Purchaser as follows:

(i) Prior to Closing, Seller shall obtain all such written consents and approvals as may be necessary or required to permit Seller to perform its obligations under this Contract;

(ii) Except as may be required by law or consented to by Purchaser (such consent not to be unreasonably withheld or delayed), Seller agrees that from and after the expiration of the Review Period until Closing or earlier termination of

this Contract, Seller shall not consent to or enter into any easements or other encumbrances upon the REO Property;

(iii) Seller shall notify Purchaser promptly upon receipt by Seller's Representative prior to Closing of written notice of the institution or pendency of any action, suit, or proceeding against or affecting the REO Property, or relating to or arising out of the ownership of such REO Property and shall not commence any action, suit or proceeding against or affecting the REO Property without the consent of Purchaser, in Purchaser's sole and absolute discretion; and

(iv) From the expiration of the Review Period until Closing or earlier termination of this Contract, Seller shall not enter into any lease, license or other permission to occupy the REO Property without Purchaser's written consent, in Purchaser's sole and absolute discretion.

(v) Prior to the Closing, Seller, at its sole cost and expense, shall terminate all leases and contracts which affect the REO Property.

(c) Each of the representations, warranties and covenants made by Seller in this Section 7 hereof shall not merge into the Deed or other closing documents but shall survive Closing for a period of one hundred fifty (150) days thereafter. On the date that is exactly one hundred fifty (150) days after Closing, all such representations, warranties and covenants of Seller, including without limitation those in this Contract, shall terminate and expire and shall thereafter be of no further force or effect. If Purchaser fails to provide written notice to Seller of a breach or default with respect to any of such representations, warranties and covenants of Seller within one hundred fifty (150) days after Closing, any and all remedies of Purchaser with respect to any such breach or default on the part of Seller under any such representations, warranties or covenants, shall expire, and thereafter Purchaser shall have no other remedy or recourse against Seller whatsoever.

(d) For purposes of this Contract and any document delivered at Closing, all references to Seller's knowledge, including, without limitation, whenever the phrase "to Seller's actual knowledge," or the "knowledge" of Seller or words of similar import are used, they shall be deemed to refer to facts within the actual, personal knowledge of Seller's Representative only, and no others, only at the times indicated, without investigation or inquiry, or obligation to make investigation or inquiry, and in no event shall the same include any knowledge imputed to Seller by any other person or entity.

(e) Each of the representations and warranties made by Seller herein, including, without limitation, in this Section 7 hereof, is made subject to, and shall be deemed to be modified by, any information to the contrary set forth or referenced in any of the Due Diligence Materials provided to Buyer prior to the execution of this Contract. Purchaser shall be deemed to have knowledge of all information and circumstances set forth, described in any of the Due Diligence Materials. In

no event shall Seller be deemed to be in breach of any representation, warranty or covenant made by Seller herein, including, without limitation, in this Section 7 hereof, on account of any information or circumstance where Seller can demonstrate that Purchaser has actual knowledge on or prior to the expiration of the Review Period.

8. **Purchaser's Covenants, Agreements, Representations, and Warranties**

(a) Purchaser hereby makes the following representations, warranties and agreements which shall have been deemed to have been made as of the Closing Date:

(i) Purchaser is acquiring the REO Property for its own account only and not for any other Person.

(ii) Purchaser has relied and shall continue to rely solely on its own investigation and other than Seller's express representations and warranties set forth in Section 7 of this Contract, Purchaser has not relied and shall not rely upon any oral or written statements or representations made by Seller or its personnel or agents and acknowledges that no employee or representative of Seller has been authorized to make any statements or representations.

(iii) Purchaser represents that it is a knowledgeable, experienced and sophisticated Purchaser of real estate, and that it is relying solely on its own expertise and that of Purchaser's consultants in purchasing the REO Property. Purchaser acknowledges that all information obtained by Purchaser has been and will be obtained from a variety of sources and Seller will not be deemed to have represented or warranted the completeness, truth or accuracy of any of the Due Diligence Materials or other such information heretofore or hereafter furnished to Purchaser, except as expressly set forth herein. Upon Closing, Purchaser will assume the risk that adverse matters, including, but not limited to, adverse physical and environmental conditions, may not have been revealed by Purchaser's inspections and investigations.

(iv) Consistent with Section 12 below, Purchaser has not dealt with any broker, investment banker, agent or other person, except the Broker (as defined herein), who may be entitled to any commission or compensation in connection with the sale of the REO Property or any portion thereof.

(v) Purchaser acknowledges and agrees that, except as expressly set forth in this Contract, the REO Property is being sold on an "as is" "where is" and "with all faults" basis on the terms and conditions herein set forth. The Purchase Price reflects the "as is, where is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the REO Property. PURCHASER, WITH PURCHASER'S COUNSEL, HAS FULLY REVIEWED THE DISCLAIMERS AND WAIVERS SET FORTH IN THIS CONTRACT, AND UNDERSTANDS THE SIGNIFICANCE AND EFFECT THEREOF. PURCHASER ACKNOWLEDGES AND AGREES THAT THE

DISCLAIMERS AND OTHER AGREEMENTS SET FORTH HEREIN ARE AN INTEGRAL PART OF THIS CONTRACT, AND THAT SELLER WOULD NOT HAVE AGREED TO SELL THE REO PROPERTY TO PURCHASER FOR THE PURCHASE PRICE WITHOUT THE DISCLAIMERS AND OTHER AGREEMENTS AND ACKNOWLEDGMENTS SET FORTH IN THIS CONTRACT.

(vi) Purchaser expressly agrees and acknowledges that (i) Purchaser's obligations hereunder are not in any way conditional upon, or qualified by, Purchaser's ability to obtain financing of any type or nature whatsoever (i.e., whether by way of debt, financing or equity investment or otherwise) to consummate the transactions contemplated hereby, and (ii) Purchaser shall not use all or any portion of the proceeds of any loan or other credit accommodation from Seller or Seller's parent, subsidiaries or affiliates (including, without limitation, Wells Fargo Bank, N.A.) made to Purchaser in order to pay any portion of the Purchase Price without Seller's prior written consent.

(vii) Purchaser represents that it has full power and authority and has taken all action necessary to authorize it to enter into and perform its obligations under this Contract and all other documents or instruments contemplated hereby. Purchaser represents and warrants that this Contract has been duly authorized, executed and delivered by Purchaser. This Contract constitutes the legal, valid and binding obligation of Purchaser, enforceable in accordance with its terms. Purchaser represents and warrants that the execution, delivery and performance of this Contract by Purchaser does not conflict with the organizational documents of Purchaser, or with any law, statute or regulation applicable to Purchaser, or any mortgage, indenture or other contract or agreement to which Purchaser is a party. Purchaser represents and warrants that no litigation exists against Purchaser that would have a material adverse effect on the transactions contemplated by this Contract.

(viii) Purchaser hereby agrees and acknowledges that Seller shall have no responsibility or liability to Purchaser arising out of or related to any third parties' failure to assist or cooperate with Purchaser. In addition, Purchaser is not relying upon the continued actions or efforts of Seller or any third party in connection with its decision to purchase the REO Property. The risks attendant to the potential failure or refusal of third parties to assist or cooperate with Purchaser and/or Seller in the effective transfer and assignment of the REO Property and/or assigned rights shall be borne by Purchaser.

(ix) Subject to Section 10, Purchaser shall not institute any enforcement or legal action or proceeding in the name of Seller. Purchaser shall not, except where circumstances reasonably require revealing the purchase of the REO Property from Seller, make reference to Seller or Wells Fargo Bank, N.A. in any correspondence to or discussion with any sale, rental or other disposition of the REO Property. Except as specified above, Purchaser shall not use Seller's or Wells Fargo Bank, N.A.'s name, or any name derived therefrom or confusingly

similar therewith in connection with Purchaser's management of the REO Property. Purchaser agrees and acknowledges that there may be no adequate remedy at law for a violation of the terms of this Section, and Seller shall have the right to seek the entry of an order by a court of competent jurisdiction enjoining any violation hereof.

(x) Purchaser hereby acknowledges that Purchaser has taken a recent tour and inspection of the REO Property.

(b) Each of the representations, warranties and covenants made by Purchaser in this Section 8 hereof shall not merge into the Deed or other closing documents but shall survive Closing for a period of one hundred fifty (150) days thereafter. On the date that is exactly one hundred fifty (150) days after Closing, all such representations, warranties and covenants of Purchaser, including without limitation those in this Contract, shall terminate and expire and shall thereafter be of no further force or effect. If Seller fails to provide written notice to Seller of a breach or default with respect to any of such representations, warranties and covenants of Purchaser within one hundred fifty (150) days after Closing, any and all remedies of Seller with respect to any such breach or default on the part of Purchaser under any such representations, warranties or covenants, shall expire, and thereafter Seller shall have no other remedy or recourse against Purchaser whatsoever.

9. **No Recording or Filing**

Neither this Contract nor a memorandum thereof shall be filed or recorded by Seller or Purchaser.

10. **Permits and Approvals.** Purchaser, at its sole expense, shall, with Seller's cooperation, endeavor to obtain all approvals and permits necessary (including, but not limited to site plan approval/modifications and permits but expressly excluding a rezoning of the REO Property) for the subdivision, development, construction, use and operation of the REO Property for Buyer's contemplated uses of the Premises, as determined by Purchaser in its sole and absolute discretion. In furtherance of the foregoing, (a) Purchaser shall have the right to contact any governmental authority or regulatory body having jurisdiction over the REO Property and may provide information in Purchaser's possession as reasonably requested by such governmental authorities and/or agencies without Seller's consent; provided that in all instances any information which is Confidential Information may not be provided to such governmental authorities without Seller's consent and (b) as and when requested by Purchaser, Seller shall, at no cost to Seller, (i) join in the execution of any application required in order to obtain any permit or approval (or file such application individually if the relevant governmental authority shall so require) as requested by Purchaser; and (ii) with respect to any public and private utilities, governmental or quasi-governmental authorities, provide information to or fill out any applications or documents required in connection therewith as and when reasonably requested by Purchaser.

11. **Title**

- (a) **Title Objections.** Within two (2) Business Days following the Effective Date, Purchaser shall place an order with the Title Company to obtain the Commitment[[title insurance costs are addressed elsewhere]. Purchaser shall also have the right to order an ALTA Survey of the REO Property at Purchaser's sole cost and expense (the "*Survey*"). On or before the date that is forty-five (45) days following the Effective Date, Purchaser shall notify Seller in writing as to Purchaser's disapproval of any of the title exceptions set forth in such Commitment and the Survey. Seller shall have five (5) Business Days thereafter ("*Seller Response Period*") to elect whether or not to remove said exceptions at Seller's expense at or prior to the Closing. In the event Seller does not give written notice to Purchaser and Escrow Agent within the Seller Response Period that Seller will remove such disapproved exception(s) at or prior to the Closing, then Purchaser may, by delivery of written notice to Seller and Escrow Agent within two (2) Business Days following expiration of the Seller Response Period, elect to (i) terminate this Contract, in which case Purchaser shall be entitled to a return of the Earnest Money (subject to the terms and conditions of Sections 4(f) and 4(g) herein), or (ii) approve the previously disapproved title exceptions reflected in the Commitment (in which case such exceptions shall become Permitted Exceptions) without any reduction in the Purchase Price and waive Purchaser's right of cancellation. In the event Purchaser fails to give timely written notice of its election to terminate this Contract following expiration of the Seller Response Period, Purchaser shall be deemed to have expressly approved the Commitment and shall take title to the REO Property at Closing subject to all Permitted Exceptions.
- (b) **Title Insurance.** Purchaser shall be entitled to request that, at Closing, with respect to the REO Property, the Title Company (i) issue to Purchaser an ALTA (or other form standard for similar transactions in the State) owner's form title policy (the "*New Title Policy*"), in the amount of the Purchase Price, insuring that fee simple title to the REO Property is vested in Purchaser subject only to the Permitted Exceptions, and (ii) provide such endorsements (or amendments) to such New Title Policy as Purchaser may reasonably require; provided that, if, for any reason, the Title Company declines to so issue the New Title Policy at Closing, Purchaser shall be entitled to request that another title company, selected by Purchaser, issue to Purchaser, at Closing, a New Title Policy; provided further that (a) the New Title Policy and any endorsements thereto shall be at no cost to, and shall impose no additional liability on, Seller (other than such liability which may be imposed pursuant to any documents delivered by Seller at the Closing to the Title Company) and (b) , the Closing shall not be delayed as a result of Purchaser's aforementioned request.
- (c) **Transfer of Title.** At the Closing, Seller shall convey fee title to the REO Property by providing the Deed to Purchaser, subject only to the Permitted Exceptions applicable thereto.

- (d) **New Title Exceptions.** If applicable, Purchaser shall have the right to deliver to Seller a written notice ("*New Title Exception Notice*") at any time after the Review Period and prior to the Closing Date, but not more than ten (10) days after the date that Purchaser obtains actual knowledge of any New Title Exception, stating that a New Title Exception has arisen and that such New Title Exception is unacceptable to Purchaser. If Purchaser timely delivers a New Title Exception Notice to Seller, the following provisions shall apply:
- (i) Correction Efforts. If the New Title Exception is due to the acts or omissions of Seller and arose after the expiration of the Review Period, Seller shall use its commercially reasonable efforts to (i) remove or correct the New Title Exception to Purchaser's reasonable satisfaction on or prior to the Closing Date or (ii) cause Title Company to provide, at Closing, title insurance over or with respect to the New Title Exception, all at Seller's sole cost and expense.
 - (ii) Not Seller's Responsibility. If the New Title Exception is not due to the acts or omissions of Seller or arose prior to the expiration of the Review Period, then, upon Purchaser's delivery to Seller of the New Title Exception Notice, Seller may, but shall not be obligated to, (i) remove or correct the New Title Exception to Purchaser's reasonable satisfaction on or prior to the Closing Date, or (ii) cause Title Company to provide, at Closing, title insurance over or with respect to the New Title Exception, all at Seller's sole cost and expense.
 - (iii) Extension. Seller shall have the unilateral right, for the purpose of performing Seller's obligations or exercising Seller's rights under this Section 11(d), to extend the Closing Date for a period of up to sixty (60) days by delivery to Purchaser of written notice to such effect not more than five (5) Business Days after Seller's receipt of a New Title Exception Notice. The period of any such unilateral extension by Seller pursuant to this section shall run concurrently with any other extension periods provided for in this Contract. Notwithstanding any election by Seller to extend the Closing Date as set forth above, Purchaser may elect at any time to waive Purchaser's objection to such New Title Exception by giving written notice thereof to Seller, in which case Seller and Purchaser shall proceed to Closing on or before the Closing Date in accordance with the provisions of this Contract (and such New Title Exception will be a Permitted Exception for all purposes hereunder).
 - (iv) Failure to Correct. If Seller is (a) unable either to (i) remove or correct a New Title Exception described in Section 11(d)(i) to Purchaser's reasonable satisfaction or (ii) obtain Title Company's commitment to provide title insurance over or with respect to such New Title Exception on or before the Closing Date, or (b) unable or unwilling either to (i) remove or correct a New Title Exception described in Section 11(d)(ii) to Purchaser's reasonable satisfaction or (ii) obtain Title Company's

commitment to provide title insurance over or with respect to such New Title Exception on or before the Closing Date, then Purchaser shall have the right to terminate this Contract by delivering to Seller, on or before the Closing Date, a termination notice fully completed, executed and dated by Purchaser. If Purchaser timely delivers to Seller a termination notice in accordance with the foregoing provisions, then upon Seller's receipt of such termination notice, Purchaser shall be entitled to a return of the Earnest Money. Following Purchaser's termination of this Contract pursuant to this section, neither Purchaser nor Seller shall have any further rights or obligations under this Contract except under any provisions of this Contract which, by their terms, expressly survive the termination of this Contract. If Purchaser does not timely exercise Purchaser's right to terminate this Contract under this Section 11(d)(iv), Purchaser shall be deemed to have accepted the New Title Exception, which shall thereupon become a Permitted Exception, and Purchaser shall remain obligated to proceed with Purchaser's purchase of the REO Property in accordance with this Contract without any reduction in the Purchase Price by reason of such new Permitted Exception.

- (v) Closing After Correction. If Seller timely removes or corrects the New Title Exception to Purchaser's reasonable satisfaction or obtains an agreement from Title Company to provide title insurance at Closing over or with respect to the New Title Exception, the parties shall proceed to Closing on the Closing Date, or on such earlier Business Day as may be mutually agreed upon by Seller and Purchaser, without any reduction in the Purchase Price by reason of such New Title Exception and otherwise on the terms provided for in this Contract.

12. Brokerage Commissions

Seller and Purchaser acknowledge and represent that the Broker has acted as listing agent and Seller's broker concerning the REO Property and Charles Zevenhuizen of Barker Realty, Inc. has acted as Purchaser's broker (Co-Broker) and that Broker and Co-Broker are the only brokers that either Purchaser or Seller has dealt with concerning the REO Property and this Contract. Seller shall be responsible for payment to Broker of all compensation due Broker, if and when Closing occurs, pursuant to a separate agreement between Seller and Broker, and Purchaser shall be responsible for payment of any compensation due Co-Broker. Should any other claim for commission be asserted or established, the party in breach of its representation in this Section hereby expressly agrees to hold the other harmless with respect to all costs relating thereto (including reasonable attorneys' fees) to the extent that the breaching party is shown to have been responsible for the creation of such claim. Anything to the contrary in this Contract notwithstanding, such agreement of each party to hold the other harmless shall survive the Closing and any termination of this Contract.

13. **Disclaimers**

PURCHASER ACKNOWLEDGES TO AND AGREES WITH SELLER THAT PURCHASER IS PURCHASING THE REO PROPERTY IN AN "AS IS" CONDITION "WITH ALL FAULTS" AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED, OF ANY KIND, NATURE OR TYPE WHATSOEVER FROM OR ON BEHALF OF SELLER OTHER THAN THOSE EXPRESSLY STATED IN THIS CONTRACT.

PURCHASER ACKNOWLEDGES THAT PURCHASER HAS NOT RELIED, AND IS NOT RELYING, UPON ANY INFORMATION, DOCUMENT, SALES BROCHURES OR OTHER LITERATURE, MAPS, SKETCHES, DRAWINGS, PLANS, PROJECTION, PROFORMA, STATEMENT, REPRESENTATION, GUARANTEE OR WARRANTY (WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, MATERIAL OR IMMATERIAL) THAT MAY HAVE BEEN GIVEN BY OR MADE BY OR ON BEHALF OF SELLER.

PURCHASER HEREBY ACKNOWLEDGES THAT IT SHALL NOT BE ENTITLED TO, AND SHALL NOT, RELY ON SELLER, ITS AGENTS, EMPLOYEES OR REPRESENTATIVES, AND SELLER HEREBY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, EITHER UNDER COMMON LAW, BY STATUTE, OR OTHERWISE, AS TO (I) THE QUALITY, NATURE, ADEQUACY OR PHYSICAL CONDITION OF THE REO PROPERTY INCLUDING, BUT NOT LIMITED TO, ANY STRUCTURAL ELEMENTS, FOUNDATION, ACCESS, LANDSCAPING, SEWAGE OR UTILITY SYSTEMS AT THE REO PROPERTY, IF ANY; (II) THE QUALITY, NATURE, ADEQUACY OR PHYSICAL CONDITION OF SOILS AND GROUND WATER OR THE EXISTENCE OF GROUND WATER AT THE REO PROPERTY; (III) THE EXISTENCE, QUALITY, NATURE, ADEQUACY OR PHYSICAL CONDITION OF ANY UTILITIES SERVING THE REO PROPERTY; (IV) THE DEVELOPMENT POTENTIAL OF THE REO PROPERTY, ITS VALUE, ITS PROFITABILITY, ITS HABITABILITY, MERCHANTABILITY OR FITNESS, SUITABILITY OR ADEQUACY OF THE REO PROPERTY FOR ANY PARTICULAR PURPOSE; (V) THE ZONING OR OTHER LEGAL STATUS OF THE REO PROPERTY; (VI) THE COMPLIANCE OF THE REO PROPERTY OR ITS OPERATIONS WITH ANY APPLICABLE CODE, STATUTE, LAW, ORDINANCE, RULE, REGULATION, COVENANT, PERMIT, AUTHORIZATION, STANDARD, CONDITION OR RESTRICTION OF ANY GOVERNMENTAL OR REGULATORY AUTHORITY; (VII) THE QUALITY OF ANY LABOR OR MATERIALS RELATING IN ANY WAY TO THE REO PROPERTY; (VIII) THE SQUARE FOOTAGE OR ACREAGE OF THE REO PROPERTY; OR (IX) THE OPERATION OF THE REO PROPERTY FROM THE DATE OF THIS CONTRACT UNTIL THE CLOSING.

PURCHASER ACKNOWLEDGES THAT BY THE END OF THE REVIEW PERIOD, PURCHASER WILL HAVE HAD AN ADEQUATE OPPORTUNITY TO MAKE SUCH LEGAL, FACTUAL AND OTHER INQUIRIES AND INVESTIGATIONS AS

PURCHASER DEEMS NECESSARY, DESIRABLE OR APPROPRIATE WITH RESPECT TO THE REO PROPERTY. SUCH INQUIRIES AND INVESTIGATIONS OF PURCHASER SHALL BE DEEMED TO INCLUDE AN ENVIRONMENTAL AUDIT OF THE REO PROPERTY, AN INSPECTION OF THE PHYSICAL COMPONENTS AND GENERAL CONDITION OF ALL PORTIONS OF THE REO PROPERTY, SUCH STATE OF FACTS AS AN ACCURATE SURVEY AND INSPECTION WOULD SHOW, THE PRESENT AND FUTURE ZONING AND LAND USE ORDINANCES, RESOLUTIONS AND REGULATIONS OF THE CITY, COUNTY AND STATE WHERE THE REO PROPERTY IS LOCATED AND THE VALUE AND MARKETABILITY OF THE REO PROPERTY.

PURCHASER ACKNOWLEDGES THAT THERE HAVE BEEN NO REPRESENTATIONS OR AGREEMENTS REGARDING SELLER'S OBLIGATION TO PROVIDE OR COMPLETE ROADS, SEWER, WATER, ELECTRIC OR OTHER UTILITY SERVICES, ANY DEVELOPMENT OR CONSTRUCTION ACTIVITY, OR ANY OTHER IMPROVEMENTS TO THE REO PROPERTY MADE BY SELLER OR RELIED UPON BY PURCHASER WHATSOEVER.

PURCHASER ACKNOWLEDGES THAT SELLER HOLDS TITLE TO THE REO PROPERTY, THROUGH FORECLOSURE OR OTHERWISE, PRIMARILY TO PROTECT ITS SECURITY INTEREST WITHIN THE MEANING OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("*CERCLA*"), 42 U.S.C. § 9601 ET SEQ. AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER.

WITHOUT IN ANY WAY LIMITING THE GENERALITY OF THE PRECEDING, PURCHASER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT IT HEREBY WAIVES, RELEASES AND DISCHARGES ANY CLAIM IT HAS, MIGHT HAVE HAD OR MAY HAVE IN THE FUTURE AGAINST THE SELLER WITH RESPECT TO COSTS, DAMAGES, OBLIGATIONS, PENALTIES, CAUSES OF ACTION AND OTHER LIABILITIES (WHETHER ACCRUED, CONTINGENT, ARISING BEFORE OR AFTER THIS CONTRACT, OR OTHERWISE) ARISING AS A RESULT OF (I) THE CONDITION OF THE REO PROPERTY, EITHER PATENT OR LATENT, (II) ITS ABILITY OR INABILITY TO OBTAIN OR MAINTAIN BUILDING PERMITS, EITHER TEMPORARY OR FINAL CERTIFICATES OF OCCUPANCY OR OTHER LICENSES FOR THE USE OR OPERATION OF THE REO PROPERTY, AND/OR CERTIFICATES OF COMPLIANCE FOR THE REO PROPERTY, (III) THE ACTUAL OR POTENTIAL INCOME OR PROFITS TO BE DERIVED FROM THE REO PROPERTY, (IV) THE REAL ESTATE TAXES OR ASSESSMENTS NOW OR HEREAFTER PAYABLE THEREON, (V) THE PAST, PRESENT OR FUTURE CONDITION OR COMPLIANCE OF THE REO PROPERTY, OR COMPLIANCE OF PAST OWNERS AND OPERATORS OF THE REO PROPERTY, IN REGARD TO ANY PAST, PRESENT AND FUTURE FEDERAL, STATE AND LOCAL ENVIRONMENTAL PROTECTION, POLLUTION CONTROL, POLLUTION CLEANUP, AND CORRECTIVE ACTION LAWS, RULES, REGULATIONS, ORDERS, AND REQUIREMENTS (INCLUDING WITHOUT

If to Seller: c/o Wells Fargo Bank, N.A.
MAC D1053-150
301 South College Street
Charlotte, North Carolina 28202
Attention: Jami Bartolucci
Email: jami.bartolucci@wellsfargo.com

and, with a copy to: K&L Gates LLP
214 N. Tryon Street, 47th Floor
Charlotte, NC 28202
Attention: Peter McLean III
Email: peter.mclean@klgates.com

15. **Modifications**

This Contract cannot be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.

16. **Assigns**

This Contract shall inure to the benefit of and be binding on the parties and their respective representatives, successors, and assigns. Purchaser may not assign its rights or obligations under this Contract to any party without the prior written consent of Seller, which consent may be withheld in Seller's sole discretion. Notwithstanding the foregoing, and provided that Purchaser provides Seller with such information as is reasonably necessary for Seller to perform its OFAC check on the proposed assignee to confirm that such entity will meet the requirements set forth in Section 36 below (and the proposed assignee in fact meets such requirements), Purchaser shall have the right, without Seller's consent, to assign its rights in this Contract to any entity that is an affiliate of Purchaser and/or Edwards Community Development Company. No consent given by Seller to any assignment by Purchaser shall be (i) effective unless and until the assignee under such assignment shall have, pursuant to a written assumption agreement acceptable to Seller in its sole discretion, assumed all of Purchaser's obligations under this Contract, or (ii) deemed to relieve Purchaser of any of its obligations hereunder. If Purchaser consists of more than one person or entity, each will be jointly and severally liable to perform the obligations of Purchaser hereunder and all representations, warranties, covenants and agreements made by Purchaser hereunder shall be joint and several.

17. **Time of the Essence**

Time is of the essence in the execution and performance of this Contract and of each of its provisions.

18. **Entire Agreement**

This Contract, including the Exhibits, any confidentiality agreement executed by Purchaser and Seller as contemplated by Section 28 of this Contract, if any, and any intercreditor agreements, escrow agreements, security agreements or other similar agreements entered into by Seller and Purchaser in connection with and as contemplated by this Contract, if any, contain the entire agreement between the parties pertaining to the subject matter hereof and fully supersedes all prior agreements and understandings between the parties pertaining to such subject matter.

19. **Counterparts**

This Contract may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. Executed copies of this Contract may be delivered between the parties via e-mail.

20. **Severability**

If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall nonetheless remain in full force and effect.

21. **Applicable Law/Venue; Waiver of Jury Trial**

THIS CONTRACT SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE SUBSTANTIVE FEDERAL LAWS OF THE UNITED STATES AND THE LAWS OF THE STATE. PURCHASER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN THE STATE IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS CONTRACT AND HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN A STATE OR FEDERAL COURT SITTING IN THE STATE. NOTHING CONTAINED IN THIS SECTION SHALL AFFECT THE RIGHT OF SELLER TO BRING ANY ACTION OR PROCEEDING AGAINST PURCHASER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION. PURCHASER AND SELLER AGREE THAT THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS CONTRACT. NOTHING CONTAINED IN THIS SECTION SHALL BE INTERPRETED TO PROVIDE ANY GREATER RIGHTS OR ADDITIONAL CLAIMS TO PURCHASER THAN AS OTHERWISE PROVIDED IN THIS CONTRACT.

To the extent allowed by applicable law, each party to this Contract hereby expressly waives any right to trial by jury of any claim, demand, action or cause of action (each, an "*Action*") (a) arising out of this Contract, including any present or future amendment thereof or (b) in any way connected with or related or incidental to the dealings of the parties or any of them with respect to this Contract (as hereafter amended) or any other instrument, document or agreement executed or delivered in connection herewith, or the

transactions related hereto or thereto, in each case whether such Action is now existing or hereafter arising, and whether sounding in contract or tort or otherwise and regardless of which party asserts such Action; and each party hereby agrees and consents that any such Action shall be decided by court trial without a jury, and that any party to this Contract may file an original counterpart or a copy of this section with any court as written evidence of the consent of the parties to the waiver of any right they might otherwise have to trial by jury.

22. **Limited Liability of Seller**

If Seller breaches this Contract, and the breach is discovered prior to Closing, Purchaser's sole remedies are those described in Section 6(b) of this Contract. Except as to a breach by Seller of any warranty, representation or covenant contained in Section 7 of this Contract, if Seller breaches this Contract, and such breach is discovered after Closing, Purchaser shall have no remedy or recourse against Seller. Purchaser has factored this risk into its decision to purchase. If and only if it is determined within one hundred fifty (150) days after Closing that Seller breached any warranty, representation or covenant contained in Section 7 of this Contract, and if Purchaser notifies Seller in writing of any such breach within one hundred fifty (150) days of the Closing, If Purchaser notifies Seller in writing of any such breach within one hundred fifty (150) days of the Closing, Purchaser's sole remedy shall be one of the following: (i) cure of the breach by or on account of Seller; or (ii) payment of appropriate monetary compensation by Seller to Purchaser for such breach. Purchaser hereby acknowledges and agrees that in no event will the liability of Seller under this Contract (including, without limitation, any liability of Seller for breach or default under any representation, warranty or covenant made by Seller in Section 7 hereof) exceed, in the aggregate, three percent (3%) of the Purchase Price. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS CONTRACT OR OTHERWISE, IN NO EVENT SHALL SELLER BE LIABLE UNDER THIS CONTRACT OR ANY RELATED DOCUMENT FOR ANY PUNITIVE, SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES.

23. **No Third Party Beneficiary**

The provisions of this Contract and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, including, but not limited to any broker described in Section 12, and accordingly, no third party shall have the right to enforce the provisions of this Contract or of the documents to be executed and delivered at Closing.

24. **Exhibits and Schedules**

The following schedules or exhibits attached hereto shall be deemed to be an integral part of this Contract:

- (a) Exhibit A - Certain Definitions
- (b) Exhibit B - Legal Description of REO Property

- (c) Exhibit C - Form of Deed
- (d) Exhibit D Form of Assignment of Licenses
- € Exhibit E Due Diligence Materials

25. **Captions**

The section headings appearing in this Contract are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

26. **Construction**

The parties acknowledge that the parties and their counsel have reviewed and revised this Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract or any exhibits or amendments hereto. Accordingly, this Contract shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. Whenever required by the context of this Contract, the singular shall include the plural and vice versa. When the context so requires, the neuter gender includes the feminine or masculine.

27. **Termination of Contract**

It is understood and agreed that if either Purchaser or Seller terminates this Contract pursuant to a right of termination granted hereunder, such termination shall operate to relieve Seller and Purchaser from all obligations under this Contract, except for such obligations as are specifically stated herein to survive the termination of this Contract including, without limitation, indemnification obligations and other obligations related to the appropriate distribution of the Earnest Money pursuant to this Contract.

28. **Information and Confidentiality**

If Purchaser and Seller have previously executed one or more confidentiality agreements related to the REO Property, Purchaser's evaluation of the REO Property or the transfer thereof under this Contract, then each such agreement shall remain in full force and effect under the terms therein, survive the Effective Date and, to the extent of inconsistency with the terms and conditions set forth herein, supersede the language in this Section 28. To the extent no such agreement has been executed as of the Effective Date by Purchaser and Seller with respect to the REO Property, or, to the extent any such agreement has been executed but does not cover the agreements set forth in this Section 28 or has since expired, then this Section 28 shall apply.

Except as permitted by this Contract, Purchaser agrees that neither Purchaser nor Purchaser's Representatives (as hereinafter defined) shall, at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, entity or association, other than any Purchaser's Representatives and/or Purchaser's Loan Parties

(as hereinafter defined), the Confidential Information (as hereinafter defined). Without Seller's prior written consent, Purchaser shall not disclose, and Purchaser shall direct Purchaser's Representatives and Purchaser's Loan Parties not to disclose, to any person, entity or association (other than among themselves) any of the terms, conditions or other facts with respect to this Contract, including, without limitation, the status hereof, that are not part of the public domain. Notwithstanding the foregoing, Purchaser may disclose such of the Confidential Information and its other reports, studies, documents and other matters generated by it and the terms of this Contract (i) as Purchaser deems necessary or desirable to Purchaser's Representatives and/or Purchaser's Loan Parties in connection with Purchaser's investigation of the REO Property and the transactions contemplated hereby, provided that those to whom such Confidential Information is disclosed are informed of the confidential nature thereof and agree to keep the same confidential in accordance with the terms and conditions hereof, (ii) if compelled to do so by any Governmental Authority, pursuant to law, or otherwise by legal proceedings, or (iii) in connection with any litigation involving this Contract or the transactions contemplated hereby.

29. **Release**

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS CONTRACT AND ANY DOCUMENTS DELIVERED AT THE CLOSING, PURCHASER SHALL RELEASE THE SELLER PARTIES FROM ALL CLAIMS, ABSOLUTE OR CONTINGENT, KNOWN OR UNKNOWN, WHICH PURCHASER OR ANY AGENT, REPRESENTATIVE, AFFILIATE, EMPLOYEE, DIRECTOR, OFFICER, PARTNER, MEMBER, SERVANT, SHAREHOLDER, TRUSTEE OR OTHER PERSON OR ENTITY ACTING ON PURCHASER'S BEHALF OR OTHERWISE RELATED TO OR AFFILIATED WITH PURCHASER HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO OR IN CONNECTION WITH THE REO PROPERTY, AND ANY PHYSICAL OR ENVIRONMENTAL CONDITIONS, AND PURCHASER SHALL NOT LOOK TO THE SELLER PARTIES IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF. THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT ACCORDING TO EACH OF ITS EXPRESSED TERMS AND PROVISIONS, INCLUDING THOSE RELATING TO UNKNOWN AND UNSUSPECTED CLAIMS, DAMAGES AND CAUSES OF ACTION. THE TERMS AND PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING AND ANY TERMINATION OF THIS CONTRACT.

30. **Indemnification of Seller Parties by Purchaser**

Subject to the terms of this Contract, Purchaser shall defend, indemnify and hold harmless Seller Parties from and against all actual out-of-pocket losses, causes of action, liabilities, claims, demands, obligations, damages, costs and expenses, including without limitation reasonable attorneys' fees and costs for outside counsel on account of any breach by Purchaser of its material obligations, warranties or covenants under this Contract; provided that in no event shall Purchaser be required to indemnify Seller for any (a) of the foregoing which are the result of the negligence, willful misconduct, fraud or breach of this Contract by Seller (b) for any special consequential or punitive damages

unless the same are required to be paid to a third party; or (c) any damages incurred which are the result of any latent defects or Hazardous Substances on the REO Property, or the violations of any Laws in each case that are not the result of any action or inaction by Purchaser or by any of Purchaser's Representatives. The obligations in this Section 30 shall survive any termination of this Contract.

31. **Risk Of Loss**

Prior to Closing, the risk of loss shall remain with Seller. If, prior to Closing, the REO Property or any part thereof shall be condemned, destroyed or damaged by fire or other casualty, Seller shall promptly notify Purchaser. If the REO Property or any part thereof shall be condemned such that damages are in excess of an amount equal to ten percent (10%) of the Purchase Price or access to the REO Property is impaired in any material respect or if the REO Property or any part thereof shall be destroyed or damaged by fire or other casualty the repair of which would cost in excess of ten percent (10%) of the Purchase Price or access to the REO Property is impaired in any material respect, then, at the option of Purchaser, which option shall be exercisable, if at all, by written notice thereof to Seller within twenty (20) Business Days after Purchaser receives written notice of such fire, earthquake or other casualty or condemnation, this Contract may be terminated. If Purchaser elects to terminate this Contract, the Earnest Money shall be returned to Purchaser, in which event this Contract shall, without further action of the parties, become null and void, and neither party shall have any rights or obligations under this Contract, except those which expressly survive termination. In the event that Purchaser does not exercise the option to terminate the Contract set forth above, or if the condemnation or casualty is below the threshold described above, then (i) Purchaser's obligations hereunder to purchase the REO Property for the full Purchase Price shall apply without regard to the occurrence or effect of any damage to the REO Property or destruction of any improvements on the REO Property or condemnation of any portion of the REO Property, (ii) Seller shall at Closing assign any condemnation proceeds to Purchaser or any insurance awards owed to Seller with respect to such casualty or condemnation, without any set off or abatement (iii) Purchaser shall have no right to terminate this Contract or reduce the Purchase Price in the event of any damage to the REO Property or destruction of any improvements on the REO Property or condemnation of any portion of the REO Property, (iv) Purchaser hereby waives any right Purchaser may have at law or in equity to terminate this Contract or seek reduction of the Purchase Price on account of any damage to the REO Property or destruction of any improvements on the REO Property or condemnation of any portion of the REO Property, and (v) the Closing shall take place on the Closing Date, provided, however that Seller hereby agrees that upon the Closing, there shall be a credit against the Purchase Price due hereunder equal to the amount of any insurance proceeds or condemnation awards collected by Seller, if any, as a result of any such damage or destruction or condemnation, less any sums expended by Seller toward the restoration or repair of the REO Property or in collecting such insurance proceeds or condemnation awards. If the proceeds or awards have not been collected as of the Closing, then such proceeds or awards shall be assigned to Purchaser, except to the extent needed to reimburse Seller for sums expended prior to the Closing to repair or restore the REO Property or to collect any such proceeds or awards.

32. **Prorations**

(a) **General Prorations.** All amounts set forth in the following numbered paragraphs shall, except as otherwise provided in this Section 32, be prorated to 11:59 p.m. local time on the day before the Closing Date with Purchaser receiving the benefits and burdens of ownership on and after the Closing Date.

(i) General real estate taxes and assessments against the REO Property based on a three hundred sixty-five (365) day year. If the Closing shall occur before the tax rate or the assessed valuation of the REO Property is fixed for the then-current year, the apportionment of taxes shall be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation. Subsequent to the Closing, when the tax rate and the assessed valuation of the REO Property is fixed for the year in which the Closing occurs, the parties agree to adjust the proration of taxes and, if necessary, to refund or repay such sums as shall be necessary to effect such adjustment, provided, however, the same shall be determined no later than sixty (60) days after receipt of the tax bill/assessed valuation/tax rate for the current year.

(ii) Seller shall be entitled to a credit for all security deposits held by any of the utility companies providing service to the REO Property for the benefit of Purchaser where such deposits are transferred by the utility to Purchaser's account. Seller shall endeavor to obtain meter readings on the day before the Closing Date, and if such readings are obtained, there shall be no proration of such items and Seller shall pay at Closing the bills therefor for the period to the day preceding the Closing, and Purchaser shall pay the bills therefor for the period subsequent thereto. If any utility company will not issue separate bills, Purchaser will receive a credit against the Purchase Price for Seller's portion and will pay the entire bill prior to delinquency after Closing. Purchaser shall be responsible for making any security deposits required by utility companies providing service to the REO Property.

(iii) Payments with respect to any service contracts for the REO Property, if any, shall be prorated as of the Closing Date, based on the actual number of days in the billing period for such respective service contracts.

(iv) Any other operating expenses of the REO Property shall be prorated as of the Closing Date, based on a three hundred sixty-five (365) day year. If the Closing shall occur before the actual amount of all other operating expenses with respect to the REO Property for the month in which the Closing occurs are determined, the apportionment of such other operating expenses shall be upon the basis of the prior month's actual amount of such other operating expenses. Subsequent to the Closing, when the actual amount of such other operating expenses for the month in which the Closing occurs are determined, the parties agree to adjust the proration of such other operating expenses and, if necessary, to refund or repay such sums as shall be necessary to effect such adjustment.

- (b) **Final Prorations.** If final prorations cannot be made at the Closing for any item subject to proration under this Section 32, then, Purchaser and Seller agree to allocate such items on a fair and equitable basis as soon as invoices or bills are available and applicable reconciliation with tenants have been completed, with final adjustment to be made as soon as reasonably possible after the Closing, and in any event not later than the date that is one hundred eighty (180) days after Closing. If either party receives any funds which belong to the other party under this Section 32, such receiving party shall pay over and/or deliver such funds to the other party (without interest thereon) within fifteen (15) Business Days after receipt.
- (c) **Special Tax Considerations.** Notwithstanding anything to the contrary contained herein, Purchaser acknowledges and agrees that (i) the assessed valuation of the REO Property for real property tax purposes by one or more of the applicable taxing authorities for one or more tax years (covering the tax year in which the Closing Date is to occur and/or prior tax years) is currently being appealed by Seller, or may be appealed by Seller; and (ii) that Seller has procured, or may procure, the services of a tax consultant to prosecute such appeal; and that Seller shall have the right (but not the obligation) to continue to prosecute such appeal, or to initiate and prosecute such appeal, at any time before or after the Closing Date at Seller's sole cost and expense. Any refund of real property taxes for the tax year in which the Closing occurs, net of the portion of the tax consultant's fees which relate to such tax year, shall be prorated between Seller and Purchaser as of the Closing. If Purchaser shall receive any refund of real property taxes for such tax year in which the Closing occurs, Purchaser shall promptly pay such refund to Seller for distribution to the parties in accordance with the foregoing allocation. Additionally, any refund of real property taxes for any tax year prior to the tax year in which the Closing occurs shall be the property of Seller, and if Purchaser shall receive any refund of real property taxes for such prior tax years Purchaser shall immediately pay such refund to Seller.
- (d) **Closing Costs.** At Closing, Purchaser shall pay (a) the Escrow Agent's escrow fee, (b) the premium for the New Title Policy, the costs of any endorsements and any other title related expenses, and (c) any and all applicable recording fees. Seller shall pay any transfer taxes, documentary stamp tax or similar tax payable by reason of transfer of the REO Property or any portion thereof. Seller and Purchaser shall each pay their respective attorneys' fees.

33. **Attorney Fees**

If any action is brought by any party to this Contract to enforce or interpret its terms or provisions, the prevailing party will be entitled to reasonable attorney fees and costs incurred in connection with such action prior to and at trial and on any appeal therefrom.

34. **Related Parties**

Purchaser represents to Seller that neither Purchaser nor any officers of Purchaser are employed by, or is a family member purchasing the REO Property directly or indirectly for the benefit of anyone who is employed by, Wells Fargo & Company or any of its subsidiaries. For purposes of this representation "family member" is defined as a spouse, a domestic partner, parents, grandparents, children, grandchildren, brothers and sisters, including in all cases, step-family members.

35. **Intentionally Omitted.**

36. **OFAC Compliance**

Purchaser represents and warrants that: (i) it is not on an SDN List (defined below), nor is it directly or indirectly owned or controlled by an SDN (defined below); and (ii) to Purchaser's actual knowledge, the purchase and sale of the REO Property, and the consummation of any other transaction contemplated by this Contract, will not violate any country sanctions program administered and enforced by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury. For the purposes hereof, an "SDN List" is defined as one of the lists published by OFAC of individuals and companies owned or controlled by, or acting for or on behalf of, OFAC targeted countries, as well as individuals, groups, and entities, such as terrorists and narcotics traffickers, designated under OFAC programs that are not country-specific, and an "SDN" is one of the individuals or companies listed on an SDN List.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Contract is executed as of the Effective Date.

SELLER:

REDUS NC LAND, LLC, a Delaware limited liability company

By: REDUS Properties, Inc., its sole member

By: 

Name: J. Bartolucci

Title: Vice President

Date: 8/23/19

[Signatures continue on following page]

PURCHASER:

SILVER HILLS DEVELOPMENT, INC.,
an Ohio corporation

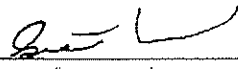
By: 
Name: Seth Munkelsohn
Title: Principal
Date: 8/26/2019

EXHIBIT A

DEFINITIONS

“*Action*” has the meaning set forth in Section 21 of this Contract.

“*Additional Earnest Money*” has the meaning set forth in Section 3(d) of this Contract.

“*Affected Tenant*” means any tenant of the REO Property whose use or occupancy of the REO Property may be affected by Purchaser’s entry onto and/or activities conducted upon the REO Property pursuant to this Contract.

“*Broker*” means Karah Jennings of Lee & Associates.

“*Business Day*” means any day on which Seller is open for business other than a Saturday, a Sunday or a federal holiday.

“*CERCLA*” has the meaning set forth in Section 13 of this Contract.

“*Closing*” means the closing of the transaction contemplated under this Contract.

“*Closing Date*” means the date that is on or before 120 days following the Effective Date.

“*Commitment*” means an abstract of title issued by the Title Company, setting forth the status of title to the REO Property and showing all encumbrances and other matters affecting the REO Property.

“*Confidential Information*” shall mean any of the following to the extent supplied by Seller or on behalf of Seller or otherwise made available by or at the direction of Seller to Purchaser or any of Purchaser’s Representatives to the extent it is not publicly available: (i) all written information and documents relating to the REO Property, any portion thereof or the sale thereof, furnished to, or otherwise available for review by, Purchaser or Purchaser’s Representatives, and (ii) all written analyses, compilations, data, studies, reports or other information or documents prepared or obtained by Purchaser or Purchaser’s Representatives, but only to the extent containing the information or documents described in the preceding clause (i), or otherwise reflecting their review or investigation of the REO Property.

“*Contract*” means the Purchase Contract to which this Exhibit A is attached and which is more fully described in the introductory paragraph of such Purchase Contract.

“*Deed*” means a special warranty deed sufficient to transfer and convey to Purchase fee title to the REO Property pursuant to the terms and provisions of this Contract, substantially in the form attached to this Contract as Exhibit C.

“*Delinquent Rents*” means Rents which are due and unpaid as of the Closing Date.

“Due Diligence” has the meaning set forth in Section 4(b) of this Contract.

“Due Diligence Materials” means those items listed in Exhibit E attached to this Contract.

“Earnest Money” has the meaning set forth in Section 3 of this Contract.

“Effective Date” means August 26, 2019.

“Escrow Agent” means Chicago Title Insurance Company.

“Existing Security” has the meaning set forth in Section 35 of this Contract.

“Furnishing Party” has the meaning set forth in Section 35 of this Contract.

“Governmental Authority” means the United States, any State of the United States or any subdivision, agency, department, commission, bureau or instrumentality of any of the foregoing having jurisdiction over the REO Property.

“Land” means that certain real property more particularly described on Exhibit B to this Contract.

“Licenses, Entitlements and Permits” means any permits, approvals, engineering and/or architectural plans, studies, consultants’ agreements, vested rights, entitlements or other agreements with respect to the Land and the remainder of the REO Property

“New Title Exception” means a title exception which (i) first arises of record following the expiration of the Review Period, (ii) was not created due to the acts of Purchaser, (iii) has not been consented to by Purchaser, and (iv) materially adversely affects the REO Property.

“New Title Exception Notice” has the meaning set forth in Section 11(d) of this Contract.

“New Title Policy” has the meaning set forth in Section 11(b) of this Contract.

“OFAC” has the meaning set forth in Section 36 of this Contract.

“Permitted Exceptions” mean and includes all of the following: (i) zoning and building ordinances and land use regulations applicable to the REO Property, (ii) such state of facts as are shown on any survey or as would be disclosed by an accurate survey of the REO Property, (iii) the lien of taxes and assessments not yet due and payable, (iv) any standard exclusions from coverage set forth in the jacket of the New Title Policy, (v) any exceptions caused by Purchaser, its agents, representatives or employees, and (vi) all Proforma Exceptions.

“Proforma Exceptions” means and includes all of the matters set forth as exceptions on Schedule B of the Commitment, excluding only those exceptions which Seller agrees in writing to remove, monetary liens caused by the actions or inactions of Seller, mechanics, materialman’s or other similar encumbrances caused by the actions or inactions of Seller, and the satisfaction of

all of the title requirements which are required to be satisfied by Seller under the terms of this Agreement that are set forth in the Commitment.

“*Purchase Price*” has the meaning set forth in Section 3(a) of this Contract.

“*Purchaser*” has the meaning set forth in the introductory paragraph of this Contract.

“*Purchaser’s Loan Parties*” means (A) any lender who contemplates providing or provides financing to Purchaser in connection with the transactions contemplated by this Contract, together with the officers, employees, agents, representatives, consultants and attorneys of such lender or prospective lender, and (B) any broker who is engaged by Purchaser to identify a lender or investor or prospective lender or investor for Purchaser in connection with the transactions contemplated by this Contract.

“*Purchaser’s Representatives*” means Purchaser’s directors, officers, employees, affiliates, current or prospective partners, current or prospective investors, current or prospective members, current or prospective shareholders, brokers, agents or other representatives of Purchaser or such parties, including without limitation, attorneys, accountants, contractors, consultants, engineers or financial advisors.

“*RCRA*” has the meaning set forth in Section 13 of this Contract.

“*Rents*” has the meaning set forth in Section 32(a)(i) of this Contract.

“*REO Property*” means all of Seller’s right title and interest in and to (i) the Land, (ii) any and all buildings, improvements, and fixtures located on the Land, (iii) the Licenses and Permits, (iv) any and all leases of premises upon the Land and/or within any such buildings or improvements, (v) any personal property that Seller has an interest in located on the Land, and (v) any tradenames, trademarks, and other intangible property Seller has an interest in directly related to the Land and/or any such buildings or improvements located thereon.

“*Review Period*” means the period beginning on the Effective Date and ending on the date that is sixty (60) days following the Effective Date.

“*SDN*” has the meaning set forth in Section 36 of this Contract.

“*SDN List*” has the meaning set forth in Section 36 of this Contract.

“*Security*” has the meaning set forth in Section 35 of this Contract.

“*Seller*” has the meaning set forth in the introductory paragraph of this Contract.

“*Seller Parties*” means any manager of the REO Property, each of their respective predecessors in interest and successors and assigns, together with the officers, directors, partners, employees, representatives, affiliates, members, investors, certificate holders and agents of each of the foregoing.

“Seller’s Representative” means and shall be limited to Jami Bartolucci, a Vice President in the Wholesale ORE Group at Wells Fargo Bank, N.A.

“Seller Response Period” has the meaning set forth in Section 11(a) of this Contract.

“State” means the State of North Carolina.

“Substitute” has the meaning set forth in Section 35 of this Contract.

“Substitute Security” has the meaning set forth in Section 35 of this Contract.

“Substitution” has the meaning set forth in Section 35 of this Contract.

“Title Company” means Chicago Title Insurance Company.

EXHIBIT B

LEGAL DESCRIPTION OF REO PROPERTY

Lying and being situate in Wake County, North Carolina, and being more particularly described as follows:

Being all of Lot 2 and Lot 3 as shown on plat entitled "Easement, Right of Way Dedication, and Tree Conservation Plat Crabtree Village", prepared by Withers & Ravenel, and recorded in Book of Maps 2013, Pages 0475-0478, in the Wake County, North Carolina Register of Deeds.

EXHIBIT C
FORM OF DEED

Excise Tax: \$ _____ Recording Time, Book and Page _____

Tax Lot No.: _____ Parcel Identifier No. _____

Verified by County on the _____ day of _____, 201__

by _____

Mail after recording to: Grantee

This instrument was prepared by: K&L Gates, LLP (PM), 214 North Tryon Street, 47th Floor,
Charlotte, North Carolina 28202

Brief description for the
Index:

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made as of this _____ day of _____, 201__, by and between

GRANTOR	GRANTEE
----------------	----------------

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee, as used herein, shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land (the "Property") situated in _____ County, North Carolina, and more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

The property herein conveyed does not include the primary residence of Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the Property is subject to the following exceptions:

1. The lien of the ad valorem real property taxes for the Property for the current year, which taxes are not yet due and payable and have been prorated between Grantor and Grantee.
2. Local, county, state or federal governmental laws, ordinances or regulations relative to zoning, subdivision, occupancy, use, construction or development of the Property.
3. Rights of way of public streets.
4. Such matters and conditions which would be revealed by a current, accurate physical survey of the Property.
5. Easements, covenants, conditions, restrictions and other encumbrances of record.

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of the day and year first above written.

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____.

Date: _____, 201__

Notary Public

Printed/Typed Name: _____

My Commission Expires: _____

[Notary Seal]

EXHIBIT A
(to Special Warranty Deed)
Property Description

EXHIBIT D

FORM OF ASSIGNMENT

Assignment and Assumption of Licenses, Entitlements and Permits

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, [_____] a [_____] ("*Assignor*") does hereby transfer, assign and convey to [_____] a [_____] ("*Assignee*"), all of Assignor's right, title and interest in and to those certain licenses, entitlements and permits related to the Property described on Exhibit A attached hereto (collectively, the "Licenses"), including without limitation Assignor's rights as "Declarant" under that certain Declaration of Covenants and Restrictions - Use and Impervious Coverage Allocations recorded in Book 15085 at Page 1319 in the Office of the Register of Deeds for Wake County, North Carolina.

Assignee hereby accepts the above assignment and assumes all obligations, liabilities, and claims arising out of or relating to the Licenses shall indemnify and hold Assignor harmless from and against any and all obligations, liabilities, and claims arising out of or relating to the Licenses subsequent to the date hereof.

"ASSIGNOR"

[_____]

By: _____
Name: _____
Title: _____

"ASSIGNEE"

[_____]

By: _____
Name: _____
Title: _____

EXHIBIT A
DESCRIPTION OF THE PROPERTY

EXHIBIT E

DUE DILIGENCE MATERIALS

1. Owner's Policy of Title Insurance issued by Fidelity National Title Insurance Company dated May 27, 2010.
2. North Carolina Special Warranty Deed in Lieu of Foreclosure dated May 27, 2010.
3. North Carolina Special Warranty Deed dated December 31, 2012.
4. Survey dated February 1, 2013 issued by Withers & Ravenel.
5. Phase I Environmental Site Assessment dated February 25, 2010, prepared by The EI Group, Inc.
6. Declaration for Crabtree Village dated May 10, 2013 recorded in Book 15266, Page 1508 of the Wake County Registry.
7. Declaration of Cross Access dated December 31, 2012 recorded in Book 15085, Page 1391 of the Wake County Registry.
8. Development Agreement dated December 31, 2012 recorded in Book 15085, Page 1367 of the Wake County Registry.
9. Easement Agreement Regarding Access, Parking, Utilities, Drainage and Temporary Construction dated December 31, 2012 recorded in Book 15085, Page 1376 of the Wake County Registry.
10. General Warranty Deed Easement for Public Sidewalk Purposes recorded in Book 15231, Page 65 of the Wake County Registry.
11. Declaration of City of Raleigh Required City Code Provisions for Developments with Common Elements and Commons Expenses recorded in Book 15231, Page 113 of the Wake County Registry.
12. Declaration of Maintenance Covenants and Grant of Protection Easements for Stormwater Control Facilities recorded in Book 15231, Page 152 of the Wake County Registry.
13. Declaration of Covenants, Conditions and Restrictions - Use and Impervious Coverage Allocations dated December 31, 2012 recorded in Book 15085, Page 1319 of the Wake County Registry.
14. Revised Master Plan dated July 3, 2012.