

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:	§	
	§	
ALAMO TOWERS – COTTER, LLC,	§	CASE NO. 17-52599-CAG
	§	
DEBTOR	§	CHAPTER 11

**MOTION TO APPROVE SALE OF PROPERTY OF THE ESTATE
FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS**

TO THE HONORABLE CRAIG A. GARGOTTA, UNITED STATES BANKRUPTCY JUDGE:

Comes now, Alamo Towers – Cotter, LLC, the Debtor-in-possession (hereinafter “Debtor” or “Seller”), by and through its counsel of record, who files this Motion to Sell Property of the Estate Free and Clear of Liens, Claims, Encumbrances and Interests (the “Sale Motion”). In support hereof, the Debtor respectfully represents as follows:

1. This Motion is filed pursuant to 11 U.S.C. §§ 105(a) & 363 and Fed. R. Bankr. P. Rules 2002, 6004, 9007 & 9014 and Local Bankruptcy Rules 2002 and 6004.

Jurisdiction

2. On November 6, 2017 (the “Petition Date”), the Debtor filed a Voluntary Petition for Relief under Chapter 11 of Title 11, United States Code (the “Bankruptcy Code”). Debtor continues in possession of its property and it is operating and managing its business as a debtor in possession pursuant to the provisions of 11 U.S.C. §§ 1107(a) and 1108. No party has requested the appointment of a trustee or examiner in this chapter 11 case, and no committees have been appointed or designated.

3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

Property to be Conveyed

4. The property of the bankruptcy estate which is the subject of this Motion is all of the Debtor's right, title, and estate interest in and to all of the following:

A. The real property located at 901 and 909 N.E. Loop 410, San Antonio, Texas, which is commonly known as the "Alamo Towers" and described on the attached Exhibit "A", together with all structures, buildings, improvements and fixtures affixed or attached thereto and all easements and rights appurtenant thereto, including, without limitation: (i) all easements, privileges, tenements, hereditaments, appurtenances and rights belonging or in any way appurtenant to such real property; (ii) any strip or gore or any land lying in the bed of any street, road, alley or right-of-way, open or closed, adjacent to or abutting such real property; and (iii) any and all air rights, subsurface rights, development rights and water rights permitting to such real property (all of the foregoing being collectively referred to herein as the "Real Property");

B. All leases, including associated amendments, with all persons ("Tenants") leasing the Real Property or any portion thereof as of the Effective Date¹ or entered into in accordance with the Agreement² prior to Closing³ (collectively, the "Leases"), together with all security deposits held in connection with the Leases and all of Seller's right, title and interest in and to all guarantees and other similar credit enhancements providing additional security for such Leases;

C. Seller's interest, if any, in (i) any and all tangible personal property owned by Seller located on or used exclusively in connection with the Real Property, including, without limitation, sculptures, paintings and other artwork, equipment, furniture, tools and supplies located on the Real Property as of the Effective Date (collectively, the "Tangible Personal Property"); and (ii) any and all plans and specifications, architectural and engineering drawings and the common name of the Real Property (collectively, the "Intangible Personal Property," and collectively with the Tangible Personal Property, the "Personal Property");

D. All service contracts which Buyer expressly agrees to assume in writing prior to the expiration of Buyer's Inspection Period, entered into by Seller relating to the operation of the Property as of the Effective Date or entered into by Seller in accordance with this Agreement prior to Closing, excluding Seller's insurance and Seller's asset and property management agreements, which will be terminated at Closing and not assumed by Buyer (collectively, the "Contracts"); provided, however, that Seller shall, at Closing, provide notices of termination with regard to certain Contracts, as provided in the Agreement; and

E. To the extent transferable, any and all building permits, certificates of occupancy and other certificates, permits, consents, authorizations, variances or waivers, dedications,

¹ The "Effective Date" under the Agreement is October 10, 2018.

² The "Agreement" is the Agreement for Purchase and Sale attached hereto as Exhibit "B".

³ The "Closing" is defined under paragraph 7.2 of the Agreement as the date that is thirty (30) days after the expiration of the Inspection Period (as the same may be extended in accordance with the terms of the Agreement).

subdivision maps, licenses and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality relating to the Real Property (collectively, the “Permits”).

(collectively, all of the foregoing shall hereinafter be referred to as “the Property”).

Background

A. The Debtor’s Business

5. The Debtor is a Delaware single member limited liability corporation with its principal place of business and all of its assets located in San Antonio, Texas. The Debtor owns and operates two nine-story commercial real estate office buildings with surrounding parking facilities, located at 901 and 909 N.E. Loop 410, San Antonio, Texas, which are commonly known as “Alamo Towers” (hereinafter referred to as “the Property”).

6. This is a single asset real estate bankruptcy as defined by 11 U.S.C. §101(51B), in which the Debtor’s primary asset is the Property. The current occupancy rate for the Property is approximately 59.83%.

7. The secured lender MF-CFC 2007-7 NE Loop 410, LLC c/o LNR Partners, LLC (hereinafter “MF-CFC”) filed a fully secured proof of claim in the amount of \$11,485,886.70. The ad valorem property taxes assessed against the properties are current. In addition, the Debtor lists \$120,000.54 which would be potentially due to mechanic’s lien claimants and judgment holders, and \$177,920.81 to unsecured creditors (both priority and general unsecured). The Debtor filed this case seeking to reorganize its debts under Chapter 11 of the Bankruptcy Code through a liquidating plan. Debtor has an essential need to sell the Alamo Towers properties and payoff MF-CFC, the ad valorem property taxes, and other valid liens encumbering the property. Debtor’s representative also believes there is sufficient equity in the property to

payoff other creditors who may hold allowed claims in this bankruptcy case with funds remaining to be administered for the benefit of the equity holder of the Debtor, being the Estate of James F. Cotter, Deceased. It is anticipated that a sale will facilitate the complete administration of this bankruptcy estate.

B. Debtor's Marketing/Sales Efforts and the Sale Procedures Motion.

8. On February 16, 2018, the Debtor filed an Application to Employ Cushman & Wakefield ("Cushman") as Real Estate Broker for the Debtor-in-Possession (Doc. #38). An Order Approving the retention of Cushman as Broker for the Debtor was entered on April 5, 2018 (Doc. #49) under the terms of the Listing Agreement for Sale attached as Exhibit "A-1" (Doc. #38-1) to the Application (the "Listing Agreement").

9. Pursuant to the terms of the Listing Agreement, Cushman marketed the Property employing a thorough and time-tested sales process that commenced on January 15, 2018, and ended on or about May 1, 2018. Specifically, Cushman took the following steps to market the Property:

A. On or about February 28, 2018, Cushman released a sales flyer to 6349 potential buyers in a database maintained by Cushman which contained contact information for buyers and investors who are known to be interested in properties of this type. The flyer contained information on all of the Houston and San Antonio area properties in the Cotter Estate portfolio, inviting potential buyers to seek additional information on all or a single Cotter property.

B. On the same date, Cushman also released an offering memorandum which contained 182 pages of detailed information on the Cotter Estate properties, including information on each individual property, the markets in which such properties were situated, and

financial information concerning the properties. The offering memorandum was set up to be accessed online by buyers who desired further information.

C. Cushman also established a Virtual Data Room (the “VDR”) containing the following types of documents that a potential buyer would find important prior to making a decision about bidding on the Property: copies of leases, operating statements, service agreements and capital expenditure histories. Any potential buyer could access the detailed information concerning a particular property by requesting access to the VDR and completing a confidentiality agreement. The Property was also listed on various commercial real estate marketing websites such as LoopNet.com and Costa Real Estate (Costare.com).

D. Cushman received a total of 120 requests for confidentiality agreements. A total of 89 potential investors accessed information from the VDR concerning the Property.

E. Cushman completed a total of 20 tours of the Property with potential buyers who requested such a tour.

F. Cushman set a timeline for potential buyers to make bids on the Property. Buyers first presented initial offers which were due by the beginning of May, 2018. A total of 18 offers were made for multiple Cotter properties which included the Alamo Towers Property. A total of 9 offers were made exclusively on the Alamo Towers Property by potential buyers.

G. Subsequently, parties were invited to make “Best and Final Bids”. After receiving such updated bids, three potential buyers were selected to be interviewed by Cushman and a representative of the Debtor.

H. At the conclusion of the sales and marketing process, it was determined that the best and final bid was made by an heir of the Cotter Estate in the amount of \$15,200,000.00. On June 4, 2018, Cushman advised the proposed buyer's representative of the winning bid.

I. In August, 2018, Cushman received two additional bids from prospective buyers, as well as a revised offer from another bidder. Twoh of the additional bids were for a price sufficient to pay all likely allowed claims in this case.

J. On August 17, 2018, Debtor filed a Motion for an Order Approving Procedures Sale Procedures regarding the Property (Doc. #79) (the "Sale Procedures Motion"). A hearing was held on the Sale Procedures Motion on September 5, 2018. Thereafter, the Court entered an Interim Order (Doc. #90) (the "Interim Order") on September 10, 2018. In the Interim Order, the Court found that that "the marketing process employed to date was an efficient process that was well designed to maximize the return from the sale of the Property for the benefit of the Debtor's estate and its creditors, and that the Property has been adequately exposed to the market." The Court also determined that proposed purchase and sale agreement that was negotiated with the highest bidder was "not reasonable considering the status of the case, the rights of the creditors in this case, and the terms of similar real estate contracts which are routinely presented to the Court." Accordingly, the Court entered the Interim Order "to assist in the expeditious and efficient conclusion of a sale of the Property." The Court set minimum parameters for any potential purchase and sale agreement which the Court found to be reasonable and appropriate in this case, and ordered that such an agreement be executed on or before October 5, 2018. The Court further ordered Cushman to contact each of the "three interested buyers identified at the hearing to obtain responses to the Broker's standard

questionnaire which is used to assist in determining a buyer's qualifications to close a proposed transaction." The Court continued the matter for a final hearing so that Cushman could obtain the responses and present them to the Court for consideration.

K. On September 17, 2018, the Court conducted a hearing and considered the information obtained from the potential buyers for the Property. On September 26, 2018, the Court entered a final Order with respect to the Sale Procedures Motion (Doc. #100) (the "Final Order"). In the Final Order, the Court ordered Debtor's representative to enter into a purchase and sale agreement under the parameters identified therein with either of the alternate buyers identified at the hearing on the Sale Procedures Motion for the reasons noted in the Final Order. As such, the Debtor's representative selected a \$14,850,000 offer (the "Purchase Price") from Partner's Investors, LLC (hereinafter, the "Buyer"), which was the next highest bid for the Property. On October 5, 2018, a Motion to Modify the Final Order was filed herein (Doc. #108) but was later withdrawn (Doc. #114).

C. The Purchase and Sale Agreement

10. Counsel for the Buyer and the Estate of James F. Cotter negotiated and executed an Agreement for Purchase and Sale (the "Agreement") on October 5, 2018, in compliance with the Final Order, a true and correct copy of which is attached hereto as Exhibit "B". The parameters of the Agreement comply with the Court's ruling in both the Interim Order and Final Order on the Sale Procedures Motion.

11. Pursuant to the Final Order, Debtor is required to file this Sale Motion in a timely manner. Section 10.1.3 of the Agreement requires the Debtor to obtain Bankruptcy Court

approval of the transaction on or before the expiration of the Inspection Period.⁴

The Liens, Claims, Encumbrances and Interests

12. Debtor seeks to sell the Property free and clear of liens, claims, encumbrances and interests pursuant to 11 U.S.C. §363. The following liens, claims, encumbrances and interests are known to exist against the Property or have been identified by Heritage Title Company of Austin, Inc. (the “Title Company”) in a report issued in connection with its Commitment for Title Insurance:

A. Ad valorem property taxes owed to Bexar County and the entities for which it collects such taxes.

B. MF-CFC: (i). Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing dated February 28, 2007, recorded in Volume 12724, Page 1408, Real Property Records of Bexar County, Texas, executed by Alamo Towers-Cotter, LLC, a Delaware limited liability company, securing payment of one note of even date therewith in the principal sum of \$12,720,000.00, payable to the order of PNC Bank, National Association, as therein provided, (ii). Said note, together with all liens securing same, having been assigned in due course to LaSalle Bank National Association, as trustee for the registered holders of ML-CFC Commercial Mortgage Trust 2007-7, Commercial Mortgage Pass-Through Certificates, Series 2007-7, by instrument dated March 2, 2007, recorded in Volume 13542, Page 964, of the Real Property Records of Bexar County, Texas, (iii). Said lien being further secured by Assignment of Leases and Rents of even date therewith recorded in Volume 12724, Page 1453, of the Real Property Records of Bexar County, Texas, (iv). Said Assignment of Leases and Rents, together with all liens securing the same, having been assigned in due course to LaSalle Bank National Association, as trustee for the registered holders of ML-CFC Commercial Mortgage Trust 2007-7, Commercial Mortgage Pass-Trough Certificates, Series 2007-7 by instrument dated March 2, 2007, recorded in Volume 13542, Page 971, of the Real Property Records of Bexar County, Texas, (v). Said note and lien being further secured by Financing Statement recorded in Volume 12724, Page 1468, Real Property Records of Bexar County, Texas, (vi). Said Financing Statement, together with all liens securing same, having been assigned in due course to LaSalle Bank National Association, as trustee for the registered holders of ML-CFC Commercial Mortgage Trust 2007-7, Commercial Mortgage Pass-Through Certificates, Series 2007-7, by instrument recorded in Volume 13542, Page 960, and continued in Volume 18083, Page 1224, of the Real Property Records of Bexar County, Texas;

C. Mechanic’s Lien Affidavit executed by Texas Chiller Systems, LLC, as

⁴ Debtor’s counsel calculates this date to be on or before November 26, 2018.

Contractor, dated October 11, 2017, recorded in Volume 18791, Page 457, Real Property Records of Bexar County, Texas, claiming the sum of \$19,198.14;

D. Mechanic's Lien Affidavit executed by SPG Moquette, Inc., d/b/a Carpet Management, as Contractor, dated December 14, 2016, recorded in Volume 18257, Page 592, Real Property Records of Bexar County, Texas, claiming the sum of \$7,937.71;

E. Abstract of Judgment recorded on October 20, 2017, recorded under Volume 18805, Pages 1617-1618, Real Property Records of Bexar County, Texas, in favor of Mary K. Viegelahn, in her capacity as the Chapter 13 Trustee for the Western District of Texas-San Antonio Division, in the amount of \$43,695.94 plus \$413.67 in costs. On July 12, 2018, the Estate of James F. Cotter, Deceased, purchased the Judgment and rights incident thereto in connection with obtaining a release for another entity against whom the Judgment was abstracted. Therefore, the Judgment is now owned by the same entity that owns the Debtor.

13. Debtor's counsel has ensured that each of the foregoing creditors are listed on the certificate of service attached to this Motion and will receive notice of this Motion.

14. Debtor seeks an order pursuant to sections 105(a), 363(b), and 363(f) of the Bankruptcy Code, authorizing the Debtor to transfer the Property to the Buyer, and such transfer be deemed to (a) constitute a legal, valid, binding and effective transfer of the Property, (b) vest the Buyer with title to the Property and (c) upon the Debtor's receipt of the Purchase Price, be free and clear of all liens, claims, encumbrances and other interests of any kind or nature whatsoever, including but not limited to, successor or successor-in-interest liability and claims. Debtor further requests an order that such liens, including mechanics, materialmen and subcontractor liens and rights to receive payment of trust funds, claims and other interests will attach to the proceeds of the Sale in the order of their priority, with the same validity, force and effect which they now have as against the Property.

15. Notwithstanding the foregoing, Debtor also requests that the Sale Order provide that at Closing, the Title Company closing the Sale shall pay the full amount of taxes or

assessments due and owing to the following governmental entities, pro-rated to the date of closing:

(A). Bexar County.

16. Notwithstanding the foregoing, Debtor also requests that the Sale Order provide that at Closing, the Title Company closing the Sale shall pay the full amount due and owing to MF-CFC.

Good Faith of Purchaser

17. The Agreement was negotiated, proposed and entered into by the Debtor and the Buyer without collusion, in good faith and from arms'-length bargaining positions.

18. The Buyer is not an "insider" or "affiliate" or the Debtor as those terms are defined in the Bankruptcy Code. Neither the Debtor nor the Buyer have engaged in any conduct that would cause or permit the Agreement to be avoided under section 363(n) of the Bankruptcy Code. Specifically, the Buyer has not acted in a collusive manner with any person, and the aggregate price paid by the Buyer for the Property was not controlled by any agreement among competing bidders for the Property.

19. The Buyer is purchasing the Property in good faith and is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code. The Buyer proceeded in good faith in connection with all aspects of the Sale, including: (i) participating in good faith in the sales process; (ii) neither inducing nor causing the Debtor's Chapter 11 filing; and (iii) disclosing all payments to be made by the Buyer in connection with the Sale. Accordingly, the Buyer is entitled to all of the protections afforded under section 363(m) of the Bankruptcy Code and the Debtor requests such a finding in the Sale Order.

Highest or Otherwise Best Offer

20. As noted above, under the parameters ordered by the Court, the bid submitted by the Buyer is the highest or otherwise best offer for the Property. The Court has determined that the marketing process employed to date was an efficient process that was well designed to maximize the return from the sale of the Property for the benefit of the Debtor's estate and its creditors, and that the Property has been adequately exposed to the market. It has been publicly announced since November, 2017, that the Debtor desired to sell the Property, that the Debtor's Broker marketed the Property thoroughly and diligently as described in the Interim and Final Orders entered herein in connection with the Sale Procedure Motion. As of the date of this Motion, no other person or entity has submitted an offer to purchase the Property, that the Court has found to be a qualified offer, for an amount that would allow the Debtor's Estate to realize a greater economic value than the offer submitted by Buyer. Therefore, under the guidelines established by the Court, the Debtor's representative's determination that the Agreement constitute the highest or otherwise best offer for the Property is a good, valid and sound exercise of the Debtor's business judgment.

No Fraudulent Transfer

21. The consideration provided by the Buyer pursuant to the Agreement (i) is fair and reasonable, (ii) is the highest or otherwise best offer for the Property, (iii) will provide a greater recovery for the Debtor's estate than would be provided by any other available alternative and (iv) constitutes reasonable equivalent value (as those terms are defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and section 548 of the Bankruptcy Code) and fair consideration under the Bankruptcy Code and under the laws of the

United States, any state, territory, possession or the District of Columbia. The Debtor's determination that the Agreement constitutes the highest or otherwise best offer for the Property constitutes a valid and sound exercise of the Debtor's representative's business judgment. Approval of this Sale Motion, the Agreement, and the consummation of the transactions contemplated thereby, is in the best interests of the Debtor, its estate, creditors and other parties-in-interest including the equity owner(s) of the Debtor.

22. The Buyer is not a mere continuation of the Debtor or its estate and there is no continuity of enterprise between the Buyer and the Debtor. The Buyer is not holding itself out to the public as a continuation of the Debtor. The Buyer is not a successor of the Debtor or its estate and the Sale does not amount to a consolidation, merger, or de facto merger of Buyer and the Debtor.

Compelling Circumstances for an Immediate Sale

23. Good and sufficient reasons for approval of the Agreement and the Sale have been articulated. The relief requested in this Sale Motion is in the best interests of the Debtor, its estate, its creditors and other parties-in-interest, including the equity owners of the Debtor. The Debtor has demonstrated (i) good, sufficient and sound business purposes and justifications for approving the Agreement, and (ii) compelling circumstances for the Sale outside of (a) the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code and (b) a plan of reorganization, in that, among other things, the immediate consummation of the Sale to the Purchaser is necessary and appropriate to maximize the value of the Debtor's estate and the Sale will provide the means for the Debtor to maximize distributions to its creditors and equity owners.

24. Given all of the circumstances of this Chapter 11 case and the adequacy and fair value of the Purchase Price under the Agreement, the proposed Sale constitutes a reasonable and sound exercise of the Debtor's representative's business judgment and should be approved.

25. The Sale does not constitute a *sub rosa* chapter 11 plan for which approval has been sought without the protections that a disclosure statement would afford. The Sale neither impermissibly restructures the rights of the Debtor's creditors nor impermissibly dictates a liquidating plan of reorganization for the Debtor.

The Sale is Authorized Under Section 363(b)(1) of the Bankruptcy Code

26. Bankruptcy Code section 363(b)(1) provides that a debtor-in-possession "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate" 11 U.S.C. § 363(b)(1).

27. Courts generally approve sales outside the ordinary course of business under section 363(b)(1) of the Bankruptcy Code when a sale is in the best interests of the estate. *See, e.g., In re Telesphere Commc'ns, Inc.*, 179 B.R. 544, 553 (Bankr. N.D. Ill. 1994) (noting that two Seventh Circuit Court of Appeals cases have employed, for purposes of approving settlements, "the same 'best interest of the estate' test that emerges under Section 363(b) (*citing In re Energy Co-op., Inc.*, 886 F.2d 921, 927 (7th Cir. 1989); *In re Am. Reserve Corp.*, 841 F.2d 159, 161 (7th Cir. 1987)). It has also been said that "[a] sale is permissible and will be authorized as long as the [debtor-in-possession] has an "articulated business justification." *In re Continental Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986)); *In re UAL Corp.*, 443 F.3d 565, 571 (7th Cir. 2006). A debtor must demonstrate a sound business justification for a sale or use of assets

outside the ordinary course of business. *See Myers v. Martin (In re Martin)*, 91 F.2d 389, 395 (3d Cir. 1996).

28. A debtor-in-possession “has considerable discretion when it comes to the sale of estate assets, and that discretion is entitled to ‘great judicial deference’ as long as a sound business reason is given.” *In re Efoora, Inc.*, 472 B.R. 481, 488 (Bankr. N.D. Ill. 2012) (citations omitted). The approval of a sale is within a bankruptcy court’s discretion. *Id.* at 488–89 (citing *Corp. Assets, Inc. v. Paloian*, 368 F.3d 761, 767 (7th Cir. 2004); *In re Irvin*, 950 F.2d 1318, 1320 (7th Cir. 1991)). Nonordinary course sales are generally approved under section 363(b)(1) of the Bankruptcy Code “where two standards are met: (1) business justification; and (2) the sale occurred in good faith.” *In re Shary*, 152 B.R. 724, 725 (Bankr. N.D. Ohio 1993) (citing *In re Met-L-Wood Corp.*, 861 F.2d 1012 (7th Cir. 1988); *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983); *In re Continental Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986)).

The Sale Satisfies the Requirements of Section 363(f)

29. Section 363(f) of the Bankruptcy Code permits the Debtor to sell assets free and clear of all liens, claims, interests, charges and encumbrances (with any such liens, claims, interests, charges, and encumbrances attaching to the net proceeds of the sale with the same rights and priorities therein as in the sold assets). As section 363(f) of the Bankruptcy Code is stated in the disjunctive, a sale can be authorized if the Debtor can meet any one of the five conditions. *See In re Wolverine Radio Co.*, 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (stating that section 363(f) is written in the disjunctive; holding that the court may approve the sale ‘free and clear’ provided at least one of the subsections of section 363(f) is met); *see also In re Shary*, 152 B.R. at 725 (stating that a sale can be authorized if the trustee “can prove any of the five

conditions” enumerated under § 363(f)). The Debtor believes that it will be able to demonstrate at the Sale Hearing, if necessary, that it has satisfied one or more of these conditions. Conversely, the Sale can be approved pursuant to section 363(f)(2) of the Bankruptcy Code without an Objection. *In re Shary*, 152 B.R. at 725; *see also FutureSource LLC v. Reuters Ltd.*, 312 F.3d 281, 285-86 (7th Cir. 2002) (holding that “lack of objection (provided of course there is notice) counts as consent” and that “[i]t could not be otherwise; transaction costs would be prohibitive if everyone who might have an interest in the bankrupt’s assets had to execute a formal consent before they could be sold.” (citations omitted)); *In re Rapraeger*, 534 B.R. 778, 784 (Bankr. W.D. Wis. 2015) (holding that approval of the sale was proper under section 363(f)(2) where the bank elected not to object (*citing FutureSource LLC*, 312 F.3d at 285)).

30. Pursuant to 11 U.S.C. §363(f)(3), a debtor is permitted to sell property free and clear of all liens when the price at which such property is to be sold is greater than the aggregate value of all liens on the property. This is clearly the case with respect to the Sale proposed by this Sale Motion. Therefore, the Sale satisfies the requirement of Section 363(f).

Waiver of the Stay Under Bankruptcy Rule 6004(h) is Appropriate.

31. Debtor further requests that the Court order that the Sale Order shall take effect immediately and shall not be stayed pursuant to Bankruptcy Rules 6004(h), 6006(d), 7062, 9014, Federal Rule of Civil Procedure 62(a) or otherwise, and that the Debtor and the Buyer are authorized to close the Sale immediately upon entry of this Order. The Sale has been well-advertised, the Property has been diligently marketed, and the parties in interest to this case have had more than sufficient notice of the proposed Sale by virtue of the prior filing and service of the Sales Procedure Motion.

WHEREFORE, PREMISES CONSIDERED, Debtor respectfully requests that the Court enter the Sale Order substantially in the proposed form submitted herewith, approving the Sale of the Property to Partner's Investors, LLC, free and clear of all liens, claims, encumbrances and interests pursuant to 11 U.S.C. §363, and granting such other related relief as this Court deems appropriate.

Respectfully submitted,

LAW OFFICE OF H. ANTHONY HERVOL
4414 Centerview Drive, Suite 200
San Antonio, Texas 78228
(210) 522-9500
(210) 522-0205 (Fax)

By _____/s/ H. Anthony Hervol_____
H. Anthony Hervol
State Bar Number 00784264
Attorney for Debtor

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing Motion has been served upon the parties listed below by the methods indicated hereunder, and to the parties on the attached mailing list (unless such parties are also listed on this Certificate as having received notice through the Court's ECF Filing System), by United States Mail, First Class Delivery, postage prepaid, on this 25th day of October, 2018.

DEBTOR:

Alamo Towers – Cotter, LLC
c/o Marcus P. Rogers, P.C.
2135 E. Hildebrand
San Antonio, Texas 78209
Via Electronic Mail, with consent

**INTERESTED PARTIES &
REQUESTING NOTICE:**

Charles R. Gibbs
Eric C. Seitz
AKIN GUMP STRAUSS HAUER & FELD LLP
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201-4675
Counsel for ML-CFC 2007-7 NE Loop 410, LLC
Via the Court's ECF Filing System

Don Stecker
Linebarger Goggan Blair & Sampson, LLP
711 Navarro Street, Ste 300
SAN ANTONIO, TX 78205
Counsel for Bexar County
Via the Court's ECF Filing System

Mary K. Viegelahn
Standing Chapter 13 Trustee for the
Western District of Texas, San Antonio Division
10500 Heritage Blvd., Suite 201
San Antonio, Texas 78216
Via the Court's ECF Filing System

Ben Bingham
Bingham & Lea, P.C.
319 Maverick Street
San Antonio, Texas 78212
Counsel for Marcus P. Rogers,

*Independent Administrator of the Estate
of James F. Cotter, deceased
Via the Court's ECF Filing System*

John Philip Collier
Law Office of J. Philip Collier
8023 Vantage Drive, Suite 680
San Antonio, TX 78230
*Counsel for Texas Chiller Systems, LLC
Via the Court's ECF Filing System*

Nathan C. Cace
Law Office of Nathan C. Cace, P.C.
10300 Heritage Blvd., Suite 140
San Antonio, TX 78216
*Counsel for Vincere Real Estate, LLC
Via the Court's ECF Filing System*

Caroline Newman Small
Davis & Santos, P.C.
719 S. Flores Street
San Antonio, TX 78204
*Counsel for James Val Cotter
Via the Court's ECF Filing System*

Matthew A. Gold
Argo Partners
12 West 37th Street, 9th Floor
New York, NY 10018
*Counsel for Argo Partners
Via the Court's ECF Filing System*

David S. Gragg
Langley & Banack, Inc.
745 E Mulberry Ave, Ste 700
San Antonio, TX 78212
*Counsel for Partner's Investors, LLC
Via Electronic Mail, with consent*

UNITED STATES TRUSTEE:
Post Office Box 1539
San Antonio, Texas 78295-1539
Via the Court's ECF Filing System

/s/ H. Anthony Hervol
H. Anthony Hervol

Label Matrix for local noticing
0542-5
Case 17-52599-cag
Western District of Texas
San Antonio
Thu Oct 25 09:08:56 CDT 2018

Alamo Towers - Cotter, LLC
c/o Marcus P. Rogers, P.C.
2135 E. Hildebrand
San Antonio, TX 78209-6332

U.S. BANKRUPTCY COURT
615 E. HOUSTON STREET, ROOM 597
SAN ANTONIO, TX 78205-2055

AT&T
P.O. Box 5001
Carol Stream, IL 60197-5001

Accountable Health
901 N.E. Loop 410, Ste. 500
San Antonio, TX 78209-1306

AccuTech Consultants
909 N.E. Loop 410, Ste. 900
San Antonio, TX 78209-1311

Ace Sprinklers
8211 Ermington
San Antonio, TX 78254-2568

Aerostar Holdings, LLC.
909 N.E. Loop 410, Ste. 635
San Antonio, TX 78209-1309

Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201-4675

Alamo Imprints
909 NE Loop 410 Suite 107
San Antonio, TX 78209-1315

Aldrich Law Firm, PLLC
909 N.E. Loop 410, Ste. 602
San Antonio, TX 78209-1309

Amcon Controls
P.O. Box 792606
San Antonio, TX 78279-2606

Argo Partners
12 West 37th Street, 9th Floor
New York, NY 10018-7381

Audicles, Inc.
901 N.E. Loop 410, Ste. 410
San Antonio, TX 78209-1307

BJ Corporation
dba National Building Service
Richie & Gueringer PC
100 Congress Ave, Suite 1750
Austin, Tx 78701-2760

BJ Corporation d/b/a National Building Servi
National Building Service
6017 Rittiman Plaza
San Antonio, Texas 78218-5216

Beldon Roofing Company
5039 West Avenue
San Antonio, TX 78213-2789

Bethune Enright, PLLC
901 N.E. Loop 410, Ste. 650
San Antonio, TX 78209-1316

Bettye Ruth Cotter
7800 Indian Springs
Edmond, OK 73013-9602

Bexar County
c/o Don Stecker
711 Navarro, Suite 300
San Antonio, TX 78205-1749

Bexar County
c/o Linebarger, Goggan et al
711 Navarro, Suite 300
San Antonio, TX 78205-1749

Boysen & Miller, PLLC
909 N.E. Loop 410, Ste. 350
San Antonio, TX 78209-1314

Burnett Staffing Specialists
901 N.E. Loop 410, Ste. 320
San Antonio, TX 78209-1308

CT Corporation
P.O. Box 4349
Carol Stream, IL 60197-4349

Carolyn King and James B Jessup
909 N.E. Loop 410, Ste. 730
San Antonio, TX 78209-1303

Carrier Enterprise, LLC
12625 Wetmore Road, Suite 418
San Antonio, TX 78247-3611

Cascade Water Services
113 Bloomingdale Rd
Hicksville, NY 11801-6547

Catapult Staffing, LLC.
909 N.E. Loop 410, Ste. 810
San Antonio, TX 78209-1311

Century Fire Protection Systems, LLC
1285 N. Post Oak, Suite 102
Houston, TX 77055-7260

Champion Floors Inc.
25711 Creekside Cove
Boerne, TX 78006-8538

City of San Antonio
Fire Prevention Division
1901 S. Alamo
San Antonio, TX 78204-1605

City of San Antonio-SAPD
Alarms Investigation Office
315 S Santa Rosa
San Antonio, TX 78207-4557

Clay Elevator Inspections
191 Old Mill Road
Pipe Creek, TX 78063-5501

Climatec
P.O. Box 660919
Dallas, TX 75266-0919

Comptroller of Public Accounts
C/O Office of the Attorney General
Bankruptcy - Collections Division MC-008
PO Box 12548
Austin TX 78711-2548

Cooke & Vu, PLLC
901 N.E. Loop 410, Ste. 802
San Antonio, TX 78209-1310

Cypress Wealth Advisors
901 N.E. Loop 410, Ste. 822
San Antonio, TX 78209-1310

DCB Home Builders & Remodeling
112 Deloris Dr.
Harper, TX 78631-9311

DMC MECHANICAL CONTRACTING
901 NE LOOP 410
San Antonio, TX 78209-1305

Delaware Secretary of State
Division of Corporations
P.O. Box 5509
Binghamton, NY 13902-5509

Dependable Health Services, Inc.
909 N.E. Loop 410, Ste. 800
San Antonio, TX 78209-1311

Design Drywall, Inc.
1083-A FM 812
Plano, TX 75093

Diane Powell
909 N.E. Loop 410, Ste. 717
San Antonio, TX 78209-1303

Diaz Jakob, LLC.
901 N.E. Loop 410, Ste. 900
San Antonio, TX 78209-1310

Diligent Consulting, Inc.
901 N.E. Loop 410, Ste. 600
San Antonio, TX 78209-1306

Dixie Flag Manuf. Company
1930 N Pan Am Expressway
San Antonio, TX 78208-1925

EMSER
1111 Arion Parkway
San Antonio, TX 78216-3092

Educational Media Foundation
909 N.E. Loop 410, Ste. 634
San Antonio, TX 78209-1309

Esmeralda Cermeno Hernandez
820 W. Elsmere
San Antonio, TX 78212-2655

Estate of James F. Cotter, Acting by and
through its Independent Administrator,
Marcus P. Rogers
2135 E. Hildebrand
San Antonio, TX 78209-6332

Facility Solutions Group
P.O Box 896508
Charlotte, NC 28289-6508

Fair Harbor Capital, LLC
Ansonia Finance Station
PO Box 237037
New York, NY 10023-0028

FarmTek
1395 John Fitch Blvd.
South Windsor, CT 06074-1029

Ferguson Facilities Supply
P.O. Box 100286
Atlanta, GA 30384-0286

Firetrol Protection Systems, Inc.
105 Windy Meadows, Bldg #1
Schertz, TX 78154-1361

Firetrol Protection Systems, Inc.
400 Garden Oaks
Houston, TX 77018-5504

Flooring Direct
16266 N. US Highway
San Antonio, TX 78232

G&W CONTRACT CARPETING INC
10345 IH-35 NORTH
San Antonio, TX 78233-6621

GRAINGER
Dept 849895123
P.O. Box 419267
Kansas City, MO 64141-6267

Greg Bowen
909 N.E. Loop 410, Ste. 703
San Antonio, TX 78209-1303

Hawkins Personnel
909 N.E. Loop 410, Ste. 104
San Antonio, TX 78209-1315

Heart Tail Ranch/Development
901 N.E. Loop 410, Ste. 909
San Antonio, TX 78209-1310

High Touch, Inc.
909 N.E. Loop 410, Ste. 901
San Antonio, TX 78209-1311

IT Network Professionals, LLC
909 N.E. Loop 410, Ste. 707
San Antonio, TX 78209-1303

Insurance Logistics, LLC
901 N.E. Loop 410, Ste. 807
San Antonio, TX 78209-1310

Internal Revenue Service - Insolvency
P.O. Box 7346
Philadelphia, PA 19101-7346

J. Philip Collier
8023 Vantage Drive
Ste. 680
San Antonio, TX 78230-4752

James Adam Cotter
23019 Steeple Bluff
San Antonio, TX 78256-1603

James Andrew Cotter
6 Lincoln Place
Rancho Mirage, CA 92270-1928

James Cramp
901 N.E. Loop 410, Ste. 800
San Antonio, TX 78209-1310

James Vale Lee Cotter
28 Morning Green
San Antonio, TX 78257-2602

Johnstone Supply
P.O. Box 171306
San Antonio, TX 78217-8306

Kings III of America, Inc.
751 Canyon Dr Ste 100
Coppell, TX 75019-3857

Leading Edge
901 N.E. Loop 410, Ste. 300
San Antonio, TX 78209-1307

Logix Communications, LP.
P.O. Box 3608
Houston, TX 77253-3608

MF-CFC 2007-7 NE Loop 410, LLC
c/o LNR Partners, LLC
1601 Washington Ave., Suite 700
Miami Beach, FL 33139-3165

MGR Personnel, LLC
901 N.E. Loop 410, Ste. 425
San Antonio, TX 78209-1307

ML-CFC 2007-7 NE Loop 410, LLC
c/o Eric C. Seitz
Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201-4675

MOCA Systems
One Riverwalk Place
San Antonio, TX 78205

Malaise Law Firm
909 N.E. Loop 410, Ste. 300
San Antonio, TX 78209-1315

Malaise Law Firm P.C.
909 NE Loop 410, Suite 300
San Antonio, TX 78209-1315

Marcus P. Rogers
Independent Administrator Of The Estate
Of James F. Cotter deceased
c/o Marcus P. Rogers
2135 E. Hildebrand
San Antonio, TX 78209-6332

Marcus P. Rogers
Independent Administrator of the Estate
of James F. Cotter, deceased
c/o Ben Bingham
319 Maverick Street
San Antonio, TX 78212-4637

Mark L. Medley
901 N.E. Loop 410, Ste. 903
San Antonio, TX 78209-1310

Mary K. Viegelahn
10500 Heritage, Suite 201
San Antonio, TX 78216-3631

Mary K. Viegelahn, Chapter 13 Trustee
10500 Heritage, Ste. 201
San Antonio, Texas 78216-3631

Matera Paper Company, Inc. #3490
P.O. Box 200184
San Antonio, TX 78220-0184

McCorkle Commercial Insurance Agency
909 N.E. Loop 410, Ste. 700
San Antonio, TX 78209-1364

Meridia Appraisal Group, LLC.
909 N.E. Loop 410, Ste. 636
San Antonio, TX 78209-1309

Midland Loan Services
a PNC Real Estate Business
Lockbox #771223
1223 Solutions Center
Chicago, IL 60677-1002

Moroch Partners, LP
901 N.E. Loop 410, Ste. 826
San Antonio, TX 78209-1310

Munguia Electric
6019 Hillman Dr
San Antonio, TX 78218-5039

Networth Realty of San Antonio
909 N.E. Loop 410, Ste. 100
San Antonio, TX 78209-1315

Nora Williams, Polly A. Fowler and Carol
406 Oak Glen Dr
San Antonio, TX 78209-2430

O'Connor & Associates
2200 North Loop West Suite 200
Houston, TX 77018-1754

OMV Medical, Inc.
909 N.E. Loop 410, Ste. 808
San Antonio, TX 78209-1311

Oracle Elevator
Dept 730008
PO Box 660919
Dallas, TX 75266-0919

Ortiz Law Offices, P.C.
909 N.E. Loop 410, Ste. 715
San Antonio, TX 78209-1303

PF Properties & Swindell
901 N.E. Loop 410, Ste. 830
San Antonio, TX 78209-1310

Paramount Electric Motor Service
2114 S. Flores
San Antonio, TX 78204-2260

Portage Environmental Inc.
901 N.E. Loop 410, Ste. 706
San Antonio, TX 78209-1306

Public Alliance
909 N.E. Loop 410, Ste. 340
San Antonio, TX 78209-1315

Pulman Cappuccio, et al.
Attn: Randall A. Pulman
2161 NW Military Hwy, Suite 400
San Antonio, TX 78213-1844

Pulman Cappuccio, et al.
c/o Randall A. Pulman
2161 NW Military Hwy, Suite 400
San Antonio, TX 78213-1844

Pure Air Filter Co., Inc.
4743 Whirlwind
San Antonio, TX 78217-3720

RYNO Cleaning & Restoration
134 Doris
Universal City, TX 78148-3405

Radian Architecture
134 Eldridge Rd Suite A
Sugar Land, TX 77478-4082

Real Estate Connection
3782 Hideaway Green
San Antonio, TX 78261-2803

Republican Party of Bexar County
909 N.E. Loop 410, Ste. 514
San Antonio, TX 78209-1398

S.A. CPA Continuing Ed. Foundation
901 N.E. Loop 410, Ste. 420
San Antonio, TX 78209-1307

SPG Moquette, Inc.
d/b/a Carpet Management
312 Austin St.
San Antonio, TX 78215-1531

San Antonio Belting & Pulley Co.
P.O. Box 830005
San Antonio, TX 78283-0005

San Antonio Federal Credit Union
901 N.E. Loop 410, Ste. 102
San Antonio, TX 78209-1307

Schuhmacher Publishing
909 N.E. Loop 410, Ste. 720
San Antonio, TX 78209-1303

Service Title
909 N.E. Loop 410, Ste. 101
San Antonio, TX 78209-1315

Sherwin-Williams Co.
1235 Austin Hwy Ste 101
San Antonio, TX 78209-4549

Sign It Right, LLC
909 N.E. Loop 410, Ste. 107
San Antonio, TX 78209-1315

Sunn Carpets Flooring America
403 W. Rhapsody Drive
San Antonio, TX 78216-3111

Susan C Mengden
901 N.E. Loop 410, Ste. 508
San Antonio, TX 78209-1306

Texas Chiller Systems, LLC
P.O. Box 792248
San Antonio, TX 78279-2248

Texas Chiller Systems, LLC
c/o J. Philip Collier
Law Office of J. Philip Collier
8023 Vantage Drive, Ste. 680
San Antonio, Texas 78230-4752

Texas Tax Group
901 N.E. Loop 410, Ste. 418
San Antonio, TX 78209-1305

The WaterMark Group
4271 Gate Crest
San Antonio, TX 78217-4807

ThyssenKrupp Elevator
P.O. Box 933004
Atlanta, GA 31193-3004

Tom Joseph, P.C.
909 N.E. Loop 410, Ste. 600
San Antonio, TX 78209-1309

Total Com Management, Inc
P.O. Box 460230
San Antonio, TX 78246-0230

Trane Company
P.O. Box 845053
Dallas, TX 75284-5053

Tyco/Simplex Grinnell
Dept. CH 10320
Palatine, IL 60055-0320

United Door Service
3716 S. Presa St
San Antonio, TX 78210-4832

United States Attorney General
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0009

United States Attorney/IRS
601 N.W. Loop 410, Suite 600
San Antonio, TX 78216-5597

United States Trustee
P.O. Box 1539
San Antonio, TX 78295-1539

United States Trustee - SA12
US Trustee's Office
615 E Houston, Suite 533
PO Box 1539
San Antonio, TX 78295-1539

University Lending Group LLC
909 N.E. Loop 410, Ste. 903
San Antonio, TX 78209-1311

Urban Space Construction LLC
6 Mallory Lane
San Antonio, TX 78257-1240

Valeri Marie Cotter Zaharie
5743 E. Shoreline
Post Falls, ID 83854-6855

Vanessa DeLeon Guerrero
10500 Heritage, Ste 201
San Antonio, TX 78216-3631

Vincere Real Estate, LLC
909 N.E. Loop 410, Ste. 902
San Antonio, TX 78209-1311

Vincere Real Estate, LLC
c/o The Law Office of Nathan C. Cace
555 W. Bitters Road, Suite 125
San Antonio, TX 78216-7973

Vivian Claudette Mueller
102 Kathy Drive
Kerrville, TX 78028-9744

W.W. Grainger, Inc.
401 S Wright Rd
Janesville, WI 53546-8729

Whitley's Lock & Safe Inc.
14542 Brook Hollow
San Antonio, TX 78232-3810

Wilfrido Cabuto
2303 Oakline Dr.
San Antonio, TX 78232-4683

Caroline Newman Small
Davis & Santos, P.C.
719 S. Flores Street
San Antonio, TX 78204-1350

H. Anthony Hervol
Law Office of H. Anthony Hervol
4414 Centerview Dr, Suite 200
San Antonio, TX 78228-1442

End of Label Matrix
Mailable recipients 144
Bypassed recipients 0
Total 144

Exhibit "A"

Legal Description

EXHIBIT "A"
LEGAL DESCRIPTION

An 8.154 acre, or 355,200 square foot, tract of land being all of Lot 31, Block 1, New City Block 12571, Alamo Savings Subdivision Unit 1-C, as recorded in Volume 9300, Page 203 of the Deed and Plat Records of Bexar County, Texas. Same being further described by metes and bounds as follows:

- BEGINNING:** At a found $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson" at the southerly end of the cut-back at the intersection of the north right-of-way line of the west bound access road for North East Loop 410, a 300-foot wide right-of-way, with the west line of North New Braunfels Avenue, a 60-foot wide right-of-way. Same being the most southerly southeast corner of said Lot 31 and the POINT OF BEGINNING of the herein described tract;
- THENCE:** N 85°36'20" W, along and with said north line of North East Loop 410, a distance of 691.32 feet to a found $\frac{1}{2}$ " iron rod in concrete for an angle point;
- THENCE:** N 83°31'14" W, continuing along and with said north line, a distance of 141.70 feet to a found $\frac{1}{2}$ " iron rod for the southeast corner of Lot 25, Block 1, New City Block 12571, as recorded in Volume 4960, Page 3 of the Deed and Plat Records of Bexar County, Texas, the most southerly southwest corner of said Lot 31 and this tract;
- THENCE:** N 06°26'19" E, departing said north line, along and with the east line of said Lot 25, a distance of 125.02 feet to a found $\frac{1}{2}$ " iron rod for the northeast corner of said Lot 25, an interior southwest corner of said Lot 31 and this tract;
- THENCE:** N 83°31'44" W, along and with the north line of said Lot 25, a southwesterly line of said Lot 31, a distance of 140.38 feet to a found "x" in concrete in the east line of Lot Tract 1 (or Parcel 106), New City Block 12100, for the northwest corner of said Lot 25, the most westerly, southwest corner of said Lot 31 and this tract;
- THENCE:** N 40°21'04" E, along and with said east line of Lot 1, a distance of 212.71 feet to a found 1" iron pipe for the northeast corner of said Lot Tract 1, an interior northwesterly corner of said Lot 31 and this tract;
- THENCE:** N 47°51'57" W, along and with the northeast line of said Lot Tract 1, a northwesterly line of said Lot 31, a distance of 97.33 feet to a found $\frac{1}{2}$ " iron rod for the southeast corner of Lot Tract 5 (or Parcel 107), Block 1, New City Block 12100, a northwest corner of said Lot 31 and this tract;
- THENCE:** N 41°27'51" E, along the east line of said Block 1, New City Block 12100, a distance of 220.05 feet to a found $\frac{1}{2}$ " iron rod in the southwest line of Cheever Alley, a 30-foot wide right-of-way, for the northeast corner of said Block 1, the northwest corner of said Lot 31 and this tract;

- THENCE:** S 48°39'51" E, along and with said south line, the northwest line of said Lot 31, a distance of 235.21 feet, to a found railroad spike for an angle point of said Lot 31 and this tract;
- THENCE:** S 85°08'05" E, continuing along and with said south line, the north line of said Lot 31, a distance of 426.59 feet to a found ½" iron rod with yellow cap marked "Page-Dawson" for the northwest corner of Lot 32 of said Alamo Saving Subdivision Unit 1-C, same being the most northern northeast corner of said Lot 31 and of this tract;
- THENCE:** S 05°21'10" W, departing said south line, along and with the west line of said Lot 32, a distance of 135.25 feet to a found ½" iron rod for the southwest corner of said Lot 32, an interior northeasterly corner of said Lot 31 and of this tract;
- THENCE:** S 89°15'41" E, along and with the south line of said Lot 32, a distance of 51.10 feet to a found ½" iron rod for an angle point of said Lots 32 and 31 and of this tract;
- THENCE:** S 83°44'12" E, continuing along and with said common line, a distance of 153.05 feet to a found ½" iron rod in the west line of the aforementioned North New Braunfels Avenue for the southeast corner of said Lot 32, the most easterly northeast corner of said Lot 31 and of this tract;
- THENCE:** S 04°52'30" W, along and with said west line, a distance of 241.54 feet to a found ½" iron rod for the northerly end of the aforementioned cut-back of North New Braunfels Avenue and North East Loop 410 west bound access road for the most easterly southeast corner of said Lot 31 and this tract;
- THENCE:** S 51° 15' 48" W, along said cut-back line, a distance of 35.82 feet to the POINT OF BEGINNING containing 8.154 acres of land in the City of San Antonio, Bexar County, Texas.

Exhibit "B"

Agreement for Purchase and Sale

AGREEMENT FOR PURCHASE AND SALE

THIS AGREEMENT FOR PURCHASE AND SALE ("**Agreement**") between **Alamo Towers – Cotter LLC**, a Delaware limited liability company ("**Seller**"), and **Partners Investors, LLC** ("**Buyer**"), is made and entered into as of the Effective Date (as defined below).

Recitals

A. Seller owns certain real property and improvements located at 901 and 909 N.E. Loop 410, San Antonio, Texas 78217 and commonly known as Alamo Towers (the "**Land**") and more specifically described in the attached **Exhibit "A"**, and certain other assets, as hereinafter described.

B. Subject to the terms and conditions set forth below, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Property (as hereinafter defined).

C. For purposes of this Agreement, the "**Effective Date**" shall be the date upon which the Title Company acknowledges receipt of a fully executed original of this Agreement executed by both Seller and Buyer.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Purchase and Sale.** The above "Recitals" are incorporated into this Agreement as if fully set forth herein. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property on the terms and conditions set forth herein. The purchase and sale includes all of Seller's right and title, estate interest in and to all of the following (hereinafter sometimes collectively referred to as the "**Property**"):

1.1. The real property described on the attached **Exhibit "A"**, together with all structures, buildings, improvements and fixtures affixed or attached thereto and all easements and rights appurtenant thereto, including, without limitation: (i) all easements, privileges, tenements, hereditaments, appurtenances and rights belonging or in any way appurtenant to such real property; (ii) any strip or gore or any land lying in the bed of any street, road, alley or right-of-way, open or closed, adjacent to or abutting such real property; and (iii) any and all air rights, subsurface rights, development rights and water rights permitting to such real property (all of the foregoing being collectively referred to herein as the "**Real Property**");

1.2. All leases, including associated amendments, with all persons ("**Tenants**") leasing the Real Property or any portion thereof as of the Effective Date or entered into in accordance with this Agreement prior to Closing (as hereinafter defined) (collectively, the "**Leases**"), together with all security deposits held in connection with the Leases and all of Seller's right, title and interest in and to all guarantees and other similar credit enhancements providing additional security for such Leases;

1.3. Seller's interest, if any, in (i) any and all tangible personal property owned by Seller located on or used exclusively in connection with the Real Property, including, without limitation, sculptures, paintings and other artwork, equipment, furniture, tools and supplies located on the Real Property as of the Effective Date (collectively, the "**Tangible Personal Property**"); and (ii) any and all plans and

specifications, architectural and engineering drawings and the common name of the Real Property (collectively, the "**Intangible Personal Property**," and collectively with the Tangible Personal Property, the "**Personal Property**");

1.4. All service contracts which Buyer expressly agrees to assume in writing prior to the expiration of Buyer's Inspection Period, entered into by Seller relating to the operation of the Property as of the Effective Date or entered into by Seller in accordance with this Agreement prior to Closing, excluding Seller's insurance and Seller's asset and property management agreements, which will be terminated at Closing and not assumed by Buyer (collectively, the "**Contracts**"); provided, however, that Seller shall, at Closing, provide notices of termination with regard to certain Contracts, as provided hereafter; and

1.5. To the extent transferable, any and all building permits, certificates of occupancy and other certificates, permits, consents, authorizations, variances or waivers, dedications, subdivision maps, licenses and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality relating to the Real Property (collectively, the "**Permits**").

2. **Purchase Price.** Subject to the charges, prorations and other adjustments set forth in this Agreement, the purchase price for the Property shall be Fourteen Million Eight Hundred Fifty Thousand and no/100 Dollars (\$14,850,000.00) ("**Purchase Price**"), payable as follows:

2.1. **Title Company/Escrow Holder.** *Heritage Title Company of Austin, Inc.*, Attn: Emily Mansfield, 401 Congress Avenue, Suite 1500, Austin, Texas 78701 ("**Heritage Title**") and *Presidio Title*, Attn: David A. McAllister, 7373 Broadway, Suite 105, San Antonio, Texas 78209 ("**Presidio Title**") shall jointly act as the Title Company/Escrow Holder under this Agreement.

- Escrow Functions— All escrow functions shall be handled by Heritage Title
- Title Functions—Presidio Title shall conduct the title investigation, be responsible for underwriting decisions and issue the title policies
- Premium Split-- After payment of the underwriter's 15% share, all title premiums will be split equally between the two title companies

2.2. **Deposit.** Within three (3) Business Days after the Effective Date, Buyer shall deposit into Escrow (as hereinafter defined) the amount of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) (the "**Deposit**"), in the form of a wire transfer payable to *Heritage Title*. Escrow Holder shall place the Deposit into an interest bearing money market account at a bank or other financial institution reasonably satisfactory to Buyer.

2.3. **Deposit of the Balance of the Purchase Price at Closing.** In accordance with Section 7.3.2 below, Buyer shall deposit into Escrow the balance of the Purchase Price (subject to adjustments and prorations as set forth herein) by wire transfer payable to Escrow Holder.

2.4. **Independent Contract Consideration.** One Hundred Dollars (\$100.00) of the Deposit will be non-refundable to Buyer and shall be distributed by Escrow Holder to Seller as independent consideration for Seller entering into this Agreement. Such independent consideration is fully earned by Seller, is non-refundable under any circumstances, but will be applied to the Purchase Price at Closing.

3. **Title to Property.** Within ten (10) days of the Effective Date, Seller shall provide to Buyer: (i) a current title commitment (the "**Title Commitment**") for the issuance of an extended coverage owner's policy of title insurance, with standard provisions and exceptions, together with such endorsements as may be commercially available and reasonably requested by Buyer (the "**Title Policy**"), to Buyer from Escrow Holder (sometimes referred to herein as the "**Title Company**"), together with copies of all documents constituting exceptions to the title as reflected in the Title Commitment (collectively, the "**Title**

Documents"); (ii) an existing survey of the Real Property (the "**Existing Survey**") to the extent there is one in Seller's possession, at Seller's expense; and (iii) a Uniform Commercial Code search (the "**UCC Search**") prepared by a reporting service. Notwithstanding the foregoing, if there is no Existing Survey or the Existing Survey is not sufficient to permit the Title Company to issue the "shortages in area" endorsement, Buyer, at Seller's expense, may cause a new ALTA 'as-built' survey of the Real Property to be performed that is sufficient to permit the Title Company to issue the "shortages in area" endorsement (such revised or new survey being referred to herein as the "**Survey**"). If the Title Documents, Survey, or UCC Search reflect or disclose any defect, exception or other matter affecting the Property that is unacceptable to Buyer, Buyer shall provide Seller with written notice to Seller within twenty (20) days after the receipt of the Title Documents, Survey and UCC Search (whether one or more, "**Buyer's Objections**"). In its sole discretion, upon written notice to Buyer, Seller may elect to cure or remove Buyer's Objections, and, if Seller elects to cure or remove Buyer's Objections, it shall be a condition precedent to Buyer's obligation to acquire the Property that Seller cures Buyer's Objections prior to Closing. Unless Seller provides written notice to Buyer within five (5) business days of receiving Buyer's Objections that Seller intends to cure or remove Buyer's Objections, Seller shall be deemed to have elected not to cure or remove Buyer's Objections, and Buyer shall be entitled, as Buyer's sole and exclusive remedy, either to: (i) terminate this Agreement and obtain a refund of the Deposit by providing written notice of termination to Seller prior to the expiration of the Inspection Period and returning the Due Diligence Items (as hereinafter defined); or (ii) waive Buyer's Objections and close this transaction as otherwise contemplated herein. If Buyer fails to terminate this Agreement during the Inspection Period, all matters described in the Title Commitment and the Title Documents and shown on the Survey, except for monetary liens for indebtedness of Seller (including judgments, liens, mechanic liens or other monetary encumbrances incurred prior to the date of the Closing), and any matters Seller has agreed to cure in writing ("**Mandatory Title Cure Items**"), shall be deemed "**Permitted Exceptions**." Notwithstanding anything to the contrary in this Agreement, Seller shall have no obligation to cure any of Buyer's Objections other than the Mandatory Cure Items. In the event additional exceptions to coverage are added to the Title Commitment or the Survey after the same has been approved or deemed approved by Buyer, in each such case and notwithstanding Buyer's prior approval, Buyer shall be afforded an additional ten (10) days from the date upon which it receives a revised Title Commitment or Survey to review and approve (or disapprove) the updated Title Commitment or Survey. If no written disapproval of the updated Title Commitment or Survey is received by Seller from Buyer within the said ten (10) day period, the updated Title Commitment or Survey shall be deemed approved by Buyer.

4. Due Diligence Items.

4.1. Within ten (10) days after the Effective Date, Seller shall deliver to Buyer, to the extent the same exist and are in Seller's possession or control, the following (collectively, the "**Due Diligence Items**").

4.1.1. Any rental agreements (including any amendments, addenda or letter agreements, etc.), the Leases for the Property and any recorded Memorandum of Lease or Assignment of Memorandum of Lease pertaining to the Leases;

4.1.2. Year to date income and expense statements for 2018 for the Property, along with similar reports for fiscal years 2016 and 2017, to the extent they are available;

4.1.3. 2018 Budget;

4.1.4. Plans and specifications;

4.1.5. Guarantees and warranties (e.g. roof, HVAC);

- 4.1.6. Environmental, geotechnical, engineering and seismic reports;
- 4.1.7. A current rent roll for the Property;
- 4.1.8. Copies of the Contracts;
- 4.1.9. "As-built" drawings of the Property, including, but not limited to, HVAC, mechanical, and electrical drawings for all systems on the Property;
- 4.1.10. Information related to any outstanding legal claims, insurance claims, or pending or threatened lawsuits;
- 4.1.11. Schedule of outstanding tenant improvement costs and leasing commissions;
- 4.1.12. Existing survey for the Property (if available);
- 4.1.13. Outstanding Capital Expenditures and Deferred Maintenance Schedules;
- 4.1.14. Updated leasing activity reports; and
- 4.1.15. Year to date CAM reconciliation statements for 2018 for the Property, along with similar statements for fiscal years 2016 and 2017, to the extent they are available.

4.2. Seller shall use commercially reasonable efforts to secure and deliver to Buyer by the date that is thirty (30) days after the Effective Date (the "***Estoppel Delivery Deadline***") estoppel certificates for the Leases consistent with the information in the Rent Rolls and substantially in the form attached as **Exhibit "B"** or such form as may be required under the applicable Leases ("***Estoppel Certificates***"), and showing no material defaults or any terms that are adverse and materially inconsistent with the Leases, executed by Tenants under Leases covering at least seventy-five percent (75 %) of the leased rental floor area of the Real Property. If Seller fails to deliver the Estoppel Certificates to Buyer by the Estoppel Delivery Deadline, Buyer may terminate this Agreement upon written notice to Seller prior to the expiration of the Inspection Period (defined below).

4.3 Buyer will be obtaining a loan from an institutional lender to finance a portion of the Purchase Price. Seller will deliver to each Tenant, if required by the lender, a Subordination, Non-Disturbance and Attornment Agreement (the "SNDA Agreement") for their Tenant Lease, and request that the Tenant execute and deliver to Buyer and the lender the SNDA Agreement. The SNDA Agreement shall be in the form required by the lender. If, on or before the end of the Inspection Period each lender required SNDA Agreement has not been executed and delivered to Buyer and the lender, with only such changes as may be requested by a Tenant and approved by Buyer and the lender, or the lender has not waived the requirement for an SNDA Agreement from such Tenant, then Buyer shall have the right to terminate this Agreement, by providing Seller written notice of such election delivered on or before the end of the Inspection Period, in which case, provided Buyer is not otherwise in default of its obligations under this Agreement, the Deposit, will be refunded to Buyer and neither party shall have any other rights, liabilities or obligations hereunder except as otherwise expressly set forth herein.



5. Inspections.

5.1. Buyer shall have a temporary non-exclusive license to enter and conduct noninvasive feasibility, environmental and physical studies collectively of the Property that Buyer may deem necessary or advisable (collectively, the “**Inspections**”) during the Inspection Period, on the terms set forth in this Section 5. Notwithstanding the foregoing, Buyer shall not conduct invasive testing of any kind (including, without limitation, “Phase II” environmental testing) without Seller’s prior written consent, which may be withheld in Seller’s sole and absolute discretion. Buyer must arrange all Inspections requiring physical entry onto the Property with Seller at least two (2) business days in advance of any Inspections, and Buyer’s right to conduct the Inspections shall be subject to rights of Tenants and to such conditions as may be reasonably imposed by Seller in order to avoid disruption of the day to day operations at the Property. Buyer shall be permitted to interview Tenants; provided, however, that Seller shall have the opportunity to have its representative present and Buyer shall coordinate any such communications with Seller at least two (2) business days in advance of same.

5.2. Buyer and its agents shall maintain equipment and other materials in an orderly manner while they are located on the Property and in locations specified by Seller. Buyer agrees to remove all debris and trash resulting from the Inspections on a daily basis and to remove all equipment and other materials used by Buyer or its agents as soon as the activity for which such equipment and other materials are used is completed. Buyer and its agents shall take all appropriate measures for the safety of persons and property on the Property related to the Inspections and shall comply with all applicable legal requirements. Buyer shall restore any damage to the Property resulting from the Inspections, including, but not limited to, repair of surface openings resulting from tests. Upon Seller’s written request, Buyer shall promptly provide to Seller a copy of Buyer’s Reports (as hereinafter defined). Buyer agrees to promptly discharge any liens that may be imposed against the Property as a result of the Inspections.

5.3. Buyer shall indemnify, save and hold the Estate of James F. Cotter (the “Estate”), Seller and Seller’s officers, agents, employees, directors, trustees, invitees, successors and assigns (collectively “**Indemnitees**”) harmless against all losses, costs, expenses, liabilities, claims, litigation, demands, proceedings and damages (including but not limited to attorney’s fees) suffered or incurred by Seller or any such Indemnitees arising out of and limited to the Inspections, provided that Buyer shall not incur any liability due to its discovery, without exacerbation, of the condition of any “hazardous substances” or other circumstances at the Property.

5.4. To the extent Buyer intends to physically access the Property, Buyer shall maintain, and shall require any of its subcontractors and agents that intend to physically access the Property to maintain, insurance in form and substance reasonably satisfactory to Seller, with insurance companies reasonably acceptable to Seller, as follows: Comprehensive General Liability or Commercial General Liability Insurance, with limits of not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence and not less than Two Million Dollars (\$2,000,000.00) on a general aggregate basis, for bodily injury, death and property damage. Each policy of insurance required hereunder shall name Seller as an additional insured. Further, each such policy of insurance shall state that such policy is primary and noncontributing with any insurance carried by Seller. A certificate, together with any endorsements to the policy required to evidence the coverage which is to be obtained hereunder, shall be delivered to Seller prior to entry on the Property. Any policies required by the provisions of this Section 5.4 may be made a part of a blanket policy of insurance with a “per project, per location endorsement” so long as such blanket policy contains all of the provisions required herein and does not reduce the coverage, impair the rights of the other party to this Agreement or negate the requirements of this Agreement.



5.5. During the course of its performance of the Inspections, Buyer will acquire knowledge concerning the Property and Seller, and knowledge of other matters of a sensitive business nature and Seller will acquire knowledge concerning Buyer, including the existence of this possible purchase/sale transaction, the terms of sale and other matters of a sensitive and confidential nature (collectively, "**Privileged Information**"). Except as described below, neither Buyer, nor Seller, nor Brokers, nor their agents shall disclose to any third party, publicize or suffer or permit any of their respective employees to so disclose or publicize any such Privileged Information, other than to Estate beneficiaries, consultants, attorneys, agents and prospective investors as necessary for Buyer's inspection and analysis of the Property. In the event that any party believes in good faith that it is required by any legal requirement to disclose any such Privileged Information, then such party shall promptly notify the other parties of such belief and the reasons for such belief. If within ten (10) days after receipt of such notice, such party advises the party that sent the notice that it shall itself disclose the information, then such party shall not make such disclosure (unless either such party reasonably believes that it must disclose such information by law). If such party reasonably believes that such disclosure is required to be made in less than the ten (10) day period, then the notice to the other party shall so state and the party's time to respond will be reduced accordingly. In no event shall Privileged Information include: (a) information which is or becomes generally available to the public other than as a result of a disclosure by a party; or (b) was known by a party on a non-confidential basis prior to its disclosure to a party.

5.6. The obligations described in Sections 5.3 and 5.5 shall survive the Closing or any earlier termination of this Agreement for a term of one (1) year.

6. Approval.

6.1. Buyer shall have forty-five (45) days after the Effective Date ("**Inspection Period**") to review and approve or disapprove the Due Diligence Items, the Inspections and the condition of the Property. If the Due Diligence Items or the Inspections show any fact, matter or condition to exist with respect to the Property that is unacceptable to Buyer, in Buyer's sole discretion, then Buyer shall be entitled, as its sole and exclusive remedy, either: (i) to terminate this Agreement by providing written notice to Seller and Escrow Holder on or prior to the expiration of the Inspection Period (a "**Termination Notice**"); or (ii) to waive such facts, matters or conditions and proceed with the transaction contemplated by this Agreement. In the event that Buyer sends a timely Termination Notice, this Agreement shall become null and void, the Deposit shall be refunded to Buyer, and all rights, liabilities and obligations of the parties under this Agreement shall expire, except as otherwise expressly set forth herein. If Buyer fails to send a timely Termination Notice, the Due Diligence Items, Inspections and condition of the Property shall be deemed approved by Buyer; Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 6.1; and the parties shall be obligated to close the transaction contemplated hereby, except as may otherwise be provided herein, and the Deposit shall be nonrefundable to Buyer and paid to and retained by Seller upon Closing or termination of this Agreement without further instructions by Buyer to Escrow, except only as expressly provided herein.

6.2. Notwithstanding anything to the contrary contained in this Agreement, Buyer hereby agrees that, in the event this Agreement is terminated for any reason, Buyer shall at its sole expense no later than ten (10) days after the date that this Agreement is terminated, (a) destroy all digital copies and return to Seller all Due Diligence Items which have been delivered to Buyer (b) deliver to Seller copies of all surveys, inspection, environmental or engineering analyses, assessments or reports (excluding economic feasibility studies) and (c) deliver to Seller copies of any new survey, together with a confirmation of the assignment of all of Buyer's right, title and interest in and to the survey and all those inspections and assessments ("**Buyer's Reports**"), subject to restrictions on Buyer's ability to make any such materials available to Seller that are imposed in any agreement with a third party consultant preparing any such

reports or materials; provided, however, that delivery of Buyer's Reports by Buyer shall be without warranty or representation whatsoever, express or implied, including, without limitation, any warranty or representation as to ownership, accuracy, adequacy or completeness thereof or otherwise. Buyer shall cooperate with Seller at no expense to Buyer in order to obtain a waiver of any such restrictions.

6.3. On or prior to the expiration of the Inspection Period, Buyer will designate in a written notice to Seller which Contracts, if any, Buyer will assume. At Seller's expense, Seller shall terminate as of the Closing and be responsible for the balance of the Contracts pertaining to the Property. Taking into account any credits or prorations to be made pursuant to this Agreement for payments coming due after Closing but accruing prior to Closing, Buyer will assume the obligations arising from and after the Closing Date under those Contracts, if any, which Buyer has designated will be assumed.

7. Escrow.

7.1. Instructions. The purchase and sale of the Property shall be consummated through an escrow ("**Escrow**") to be opened with Escrow Holder. This Agreement shall be considered as the escrow instructions between the parties, with such further instructions as Escrow Holder may reasonably require in order to clarify its duties and responsibilities. If Escrow Holder shall reasonably require further escrow instructions, Escrow Holder may prepare such instructions on its usual form. Such reasonable further instructions shall be promptly signed by Buyer and Seller and returned to Escrow Holder within three (3) business days of receipt thereof. In the event of any conflict between the terms and conditions of this Agreement and such further instructions, the terms and conditions of this Agreement shall control.

7.2. Closing. Escrow shall close (the "**Closing**") on the date that is thirty (30) days after the expiration of the Inspection Period (as the same may be extended in accordance with the terms of this Agreement, the "**Closing Date**").

7.3. Buyer Required to Deliver. Buyer shall deliver to Escrow, on or before the Closing Date except as specified in Section 7.3.1 the following:

7.3.1. Within three (3) Business Days after the Effective Date, the Deposit.

7.3.2. On or before 1:00 p.m. Central Standard or Daylight Savings Time, as applicable, on the Closing Date, the Purchase Price (less the Deposit), subject to the closing adjustments, credits and prorations contemplated hereby; provided, however, that, notwithstanding anything to the contrary in this Agreement, if Buyer fails to make such delivery by 1:00 p.m. Central Standard or Daylight Savings Time, as applicable, but nevertheless makes such delivery on the Closing Date, prorations shall be recalculated in accordance with Section 7.7 below and for purposes of prorations, the Closing Date shall be deemed the next Business Day.

7.3.3. On or before the Closing Date, such other documents as Title Company may reasonably require from Buyer in order to issue the Title Policy.

7.3.4. Two (2) original counterparts executed by Buyer of an assignment and assumption of leases in substantially the form attached as Exhibit "C", whereby Seller assigns and conveys to Buyer all of Seller's right, title and interest in, and Buyer assumes all of Seller's obligations under, the Leases (the "**Assignment of Leases**").



7.3.5. Two (2) original counterparts executed by Buyer of a bill of sale, assignment and assumption agreement in substantially the form attached as **Exhibit "D"**, whereby Seller assigns and conveys to Buyer the Personal Property, if any, without warranty, and Seller assigns and conveys all of Seller's right, title and interest in, and Buyer assumes all of Seller's obligations under the Contracts being assumed, and the Permits (the "**Assignment and Assumption Agreement**").

7.3.6. Two (2) original counterparts executed by Buyer of the Closing Statement (as defined in Section 7.7.2 below); provided, however that such executed Closing Statement may be transmitted by facsimile and/or e-mail so long as two (2) original counterparts are deposited with Federal Express or other nationally recognized overnight delivery service on the Closing Date for delivery to Escrow Holder the next Business Day, *if* required by Escrow Holder.

7.3.7. In the event there is a Memorandum of Lease recorded against the Property, on or before the Closing, Buyer shall deliver to Escrow Holder a Memorandum of Assignment of Lease ("**Memorandum**") for the Property in the form agreed to between the parties, executed and acknowledged by Buyer.

7.3.8. All documents required by Buyer's Lender, if any (as hereinafter defined), its counsel or the Escrow Holder.

7.4. Seller Required to Deliver. On or before the Closing Date, Seller shall deliver to Escrow (unless otherwise noted) the following:

7.4.1. A duly executed and acknowledged special warranty deed, in substantially the form attached as **Exhibit "E"**, conveying fee title to the Property in favor of Buyer or Buyer's nominee, which deed shall include an "AS IS" provision, as outlined in Section 8.2.3. (the "**Deed**").

7.4.2. The original executed Estoppel Certificates.

7.4.3. An executed certificate of non-foreign status.

7.4.4. Two (2) original counterparts executed by Seller of the Assignment of Leases.

7.4.5. Two (2) original counterparts executed by Seller of the Assignment and Assumption Agreement;

7.4.6. Two (2) original counterparts executed by Seller of the Closing Statement; provided, however, that such executed Closing Statement may be transmitted by facsimile and/or e-mail so long as two (2) original counterparts are deposited with Federal Express or other nationally recognized overnight delivery service on the Closing Date for delivery to Escrow Holder the next Business Day, *if* required by Escrow Holder;

7.4.7. Such other documents as Title Company may reasonably require from Seller in order to issue the Title Policy;

7.4.8. In the event there is a Memorandum of Lease recorded against the Property, on or before the Closing, Seller shall deliver to Escrow Holder a Memorandum for the Property in the form agreed to between the parties, executed and acknowledged by Seller;

7.4.9. A letter from Seller addressed to each Tenant informing such Tenant of the change in ownership and transfer of any security deposits and directing that future rent payments be made to Buyer in substantially the form attached as Exhibit "F".

7.4.10. Seller shall make available at the Property, all keys to all buildings and other improvements located on the Property, all keying charts related to the Property, combinations to any safes thereon, and security devices therein in Seller's possession; and

7.4.11. Seller shall make available at the Property all records and files in Seller's possession or control relating to the management or operation of the Property, including, without limitation, all insurance policies, security contracts, tenant files (including correspondence), property tax bills and calculations used to prepare statements of rental increases under the Leases and statements of common area charges, insurance, property taxes and other charges which are paid by Tenants of the Real Property.

7.5. Buyer's Costs. Buyer shall pay the following:

7.5.1. Any closing costs in connection with the financing of the purchase of the Property;

7.5.2. The costs of Buyer's investigations, including Buyer's Reports;

7.5.3. One-half of Escrow Holder's fees, costs and expenses (including any recording fees related to a new loan);

7.5.4. Title Company's premium for any Title Policy endorsements; and

7.5.5. Buyer's attorneys' fees.

7.6. Seller's Costs. Seller shall pay the following:

7.6.1. One-half of Escrow Holder's fees, costs and expenses (including any recording fees relating to the deed);

7.6.2. Title Company's premium for the owner Title Policy;

7.6.3. The cost of a new Survey, if the Title Company does not accept the Existing Survey;

7.6.4. All documentary or other transfer taxes applicable to the sale;

7.6.5. The commission payable to Broker; and

7.6.6. Costs of Seller's counsel.

7.7. Prorations.

7.7.1. Items to be Prorated. The following shall be prorated between Seller and Buyer as of the Closing Date with Buyer being deemed the owner of the Property as of the Closing Date:



7.7.1.1. Taxes and Assessments. In the event Taxes are paid directly by Tenants to the taxing authority pursuant to the Leases, Taxes shall not be prorated between Buyer and Seller. Otherwise Taxes shall be prorated as follows: All non-delinquent real property taxes, assessments and other governmental impositions of any kind or nature, including, without limitation, any special assessments or similar charges (collectively, "Taxes"), which relate to the tax year within which the Closing occurs based upon the actual number of days in the tax year. The proration for Taxes shall be based upon the most recently issued tax bill for the Property, and shall be calculated based upon the maximum early payment discount available provided this is consistent with how Tenants reimburse Landlord for Taxes under the Leases. Upon the Closing, Buyer shall be responsible for Taxes payable from and after the Closing. Upon the Closing, Seller shall be responsible for Taxes payable with respect to the period prior to the Closing. In no event shall Seller be charged with or be responsible for any increase in Taxes resulting from the sale of the Property to Buyer in this transaction or from any improvements made or leases entered into after the Closing. With respect to all periods for which Seller has paid Taxes, and subject to the terms and conditions of the Leases, Seller hereby reserves the right to institute or continue any proceeding or proceedings for the reduction of the assessed valuation of the Property, and, in its sole discretion, subject to the terms and conditions of the Leases, to settle the same. Subject to the terms and provisions of the Leases, Seller shall have the sole authority to control the progress of, and to make all decisions with respect to, such proceedings but shall provide Buyer with copies of all communications with the taxing authorities. All net tax refunds and credits which are attributable to any period prior to the Closing which Seller has paid or for which Seller has given a credit to Buyer shall belong to and be the property of Seller. All net tax refunds and credits attributable to any period on the date of and subsequent to the Closing shall belong to and be the property of Buyer. Buyer agrees to cooperate with Seller in connection with the prosecution of any such proceedings and to take all steps, whether before or after the Closing, as may be necessary to carry out the intention of this Subsection 7.7.1.1, including the delivery to Seller, upon demand, of any relevant books and records, including receipted tax bills and cancelled checks used in payment of such Taxes, the execution of any and all consent or other documents, and the undertaking of any acts necessary for the collection of such refund by Seller.

7.7.1.2. Rents. Buyer will receive a credit at the Closing for all rents payable by Tenants under the Leases as of the Closing and allocable to the period on and after the Closing based upon the actual number of days in the month. No credit shall be given Seller for accrued and unpaid rent or any other non-current sums due from Tenants until these sums are paid, and Seller shall retain the right to collect any such rent provided Seller does not sue to evict any Tenants or terminate any Leases. Buyer shall cooperate with Seller after the Closing to collect any rent under the Leases which has accrued prior to the Closing; provided, however, Buyer shall not be obligated to sue any Tenants or exercise any legal remedies under the Leases or to incur any expense over and above its own regular collection expenses. All payments collected from Tenants after the Closing shall first be applied to the month in which the Closing occurs, then to any rent due to Buyer for the period after Closing and finally to any rent due to Seller for the period prior to Closing; payments collected by either party after Closing shall be paid over to the party entitled thereto under this Section 7.7.1.2 within five (5) business days after receipt.

7.7.1.3. Operating Expenses. All operating expenses, including all charges under the Contracts which are assumed by Buyer, shall be prorated, and as to each service provider, operating expenses payable or paid to such service provider in respect to the billing period of such service provider in which the Closing occurs (the "**Current Billing Period**"), shall be prorated on a per diem basis based upon the number of days in the Current Billing Period prior to the Closing and the number of days in the Current Billing Period on and after the Closing, and assuming that all charges are incurred uniformly during the Current Billing Period.



7.7.1.4. Security Deposits; Prepaid Rents. Prepaid rentals and other tenant charges and security deposits (including any portion thereof which may be designated as prepaid rent) under Leases, which have not been otherwise applied by Seller to any obligations of any Tenants under the Leases, shall be credited on the Closing Statement against the Purchase Price, and upon the Closing, Buyer shall assume full responsibility for all security deposits to be refunded to the Tenants under the Leases.

7.7.1.5. CAM Expenses. To the extent that Tenants are reimbursing the landlord under the Leases for common area maintenance and other operating expenses (collectively, "**CAM Charges**"), CAM Charges shall be prorated at Closing as of the Closing Date on a Lease-by-Lease basis with each party being entitled to receive a portion of the CAM Charges payable under each Lease for the CAM Lease Year (as defined below) in which Closing occurs, which portion shall be equal to the actual CAM Charges incurred during the party's respective periods of ownership of the Property during the CAM Lease Year. As used herein, the term "**CAM Lease Year**" means the twelve (12) month period as to which annual CAM Charges are owed under each Lease. Seller shall be responsible for the CAM Charges reconciliation on a Lease-by-Lease basis for their ownership period within the CAM Lease Year up to, but not including, the Closing Date. Buyer shall be responsible for the CAM Charges reconciliation on a Lease-by-Lease basis for its ownership period within the CAM Lease Year including the Closing Date. To the extent that any CAM Charges are paid by the Tenants to the Seller under the Leases based on an estimated payment basis for which a future reconciliation of actual CAM Charges to estimated payments is required to be performed at the end of a reconciliation period, Buyer and Seller shall make an adjustment at the Closing for the applicable reconciliation period based on a comparison of the actual CAM Charges to the estimated payments at the Closing. If, as of the Closing, Seller has received CAM Charges in excess of the amount that the Tenants will be required to pay, based on the actual CAM Charges as of the Closing, Buyer shall receive a credit against the Purchase Price on the Closing Statement in the amount of such excess. If, as of the Closing, Seller has received CAM Charges that are less than the amount that the Tenants would be required to pay based on the actual CAM Charges as of the Closing, Seller shall be entitled to receive such deficiency when and if such additional payments are made. CAM Charges that are not payable by the Tenants either directly or reimbursable under the Leases shall be prorated between Seller and Buyer and shall be reasonably estimated by the parties if final bills are not available. If final prorations cannot be made at the Closing for any item being prorated, then for any such proration ("**Post Closing Proration**"), Buyer 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 and payment to be made as soon as reasonably possible after the Closing (but in no event later than ninety (90) days after the Closing, except that adjustments arising from any tax protest shall not be subject to such ninety (90) days limitation, but shall be made as soon as reasonably possible), to the effect that income and expenses are received and paid by the parties on an accrual basis with respect to their period of ownership.

7.7.2. Closing Statement. Prior to the Closing Date, Seller and Escrow Holder shall jointly prepare a closing statement (the "**Closing Statement**") which shall set forth the costs payable herein and the prorations and credits provided herein and elsewhere in this Agreement. The prorations and credits set forth in the Closing Statement which is signed by each party and delivered at Closing shall be final.

7.7.3. Items Not Prorated. Seller and Buyer agree that (i) on the Closing, the Property will not be subject to any financing arranged by Seller; (ii) none of the insurance policies relating to the Property will be assigned to Buyer, and Buyer shall be responsible for arranging for its own insurance effective immediately after the Closing Date; and (iii) to the extent not already in the Tenants' name, utilities, including telephone, electricity, water and gas, shall be read on the Closing Date, and Buyer shall be responsible for all the necessary actions needed to arrange for utilities to be transferred to the name of Buyer immediately after the Closing Date, including the posting of any required deposits, and Seller shall be entitled to recover and retain from the providers of such utilities any refunds or overpayments to the extent applicable to the period prior to the Closing Date, and any utility deposits which it or its predecessors



may have posted. Accordingly, there will be no prorations for debt service, insurance or utilities. In the event a meter reading is unavailable for any particular utility, such utility shall be prorated in the manner provided in Section 7.7.1.3 above.

7.7.4. Indemnification. Buyer and Seller shall each indemnify, protect, defend and hold the other harmless from and against any claim in any way arising from the matters for which the other receives a credit or otherwise assumes responsibility pursuant to this Section 7.7.

7.7.5. Survival. This Section 7.7 shall survive the Closing for a period of one (1) year.

8. Representations, Warranties, and Covenants.

8.1. Representations of Seller. Seller hereby represents and warrants as of the date hereof to Buyer as follows:

8.1.1. Seller is a limited liability company duly formed and validly existing under the laws of the State of Delaware. Subject to receipt of the bankruptcy court approval described in Section 10.1.4, Seller has full power and authority to enter into this Agreement, to perform this Agreement and to consummate the transactions contemplated hereby. This Agreement is a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting the rights of creditors generally.

8.1.2. Seller is not a "foreign person" within the meaning of Section 1445(f) of the Internal Revenue Code of 1986, as amended (the "Code").

8.1.3. To Seller's actual knowledge, the execution, delivery and performance by Seller of this Agreement, and all other agreements, instruments and documents referred to or contemplated herein or therein do not require the consent, waiver, approval, license or authorization of any person or public authority which has not been obtained and do not and will not contravene or violate (with or without the giving of notice or the passage of time or both), the organizational documents of Seller or any judgment, injunction, order, law, rule or regulation applicable to Seller.

8.1.4. Except as included in the Due Diligence Items, there are, to Seller's actual knowledge, no leases or occupying agreements (or any amendments or supplements) to which Seller is a party or has consented in writing encumbering, or in force with respect to, the Property;

8.1.5. To Seller's actual knowledge, Seller has not received any actual written notice of any pending or threatened condemnation of all or any portion of the Property;

8.1.6. To Seller's actual knowledge, Seller has not received actual written notice of any litigation that is currently pending or threatened with respect to the Property, except as may be the responsibility of Tenant under the Leases;

8.1.7. Except as set forth in the Due Diligence Items, to Seller's actual knowledge, Seller has not received any actual written notice from any governmental authority that all or any portion of the Property is presently in material violation of any applicable building codes or any applicable environmental law (relating to clean-up or abatement), zoning law or land use law, or any other applicable local, state or federal law or regulation relating to the Property;



8.1.8. Seller is not knowingly acting, directly or indirectly for or on behalf of any person, group, entity or nation named by any Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or other banned or blocked person, entity, or nation pursuant to any law that is enforced or administered by the Office of Foreign Assets Control, or engaging in, instigating or facilitating this transaction for or on behalf of any such person, group, entity or nation; and to Seller's knowledge, Seller is not engaging in this transaction, directly or indirectly in violation of any laws relating to drug trafficking, money laundering or predicate crimes to laundering money.

8.1.9. To Seller's actual knowledge, Seller has, in effect, casualty insurance covering the Property, in amounts sufficient to repair and restore the Property to the condition existing on the Effective Date.

8.1.10. In making the foregoing representations and warranties, Seller has not made or undertaken to make any investigation as to factual matters or as to the accuracy or completeness of any representation, warranty, data or any other information related thereto and hereby disclaims liability for any unintentional misstatement. Whenever the term "to Seller's knowledge or actual knowledge" or similar language is used herein with respect to the existence or absence of facts, it signifies that Seller has not undertaken any independent investigation of facts, but instead has based Seller's representation solely upon the current actual knowledge of Marcus P. Rogers, the Independent Administrator of the Estate (who assumes no personal liability of any kind by virtue of this Agreement), and Seller disclaims any obligation to conduct any independent investigation with respect to such matters. **Buyer acknowledges that it is unlikely that Marcus P. Rogers has any extensive knowledge with respect to any specific asset of the Estate and that Buyer is relying on its own investigation, the Bankruptcy Court Sale Order and its Title Policy.**

8.2. Approval of Property; Limitations on Seller Representations and Warranties.

8.2.1. Except as is specifically provided in this Agreement, Seller makes no representations or warranties as to the truth, accuracy, completeness, methodology of preparation or otherwise concerning any engineering or environmental reports, audits, the materials prepared by Seller or any other materials, data or other information whatsoever supplied to Buyer in connection with Buyer's inspection of the Property; provided that Seller has no actual knowledge of the inaccuracy of such materials or information. It is the parties' express understanding and agreement that such materials are provided only for Buyer's convenience in making its own examination and determination prior to the expiration of the Inspection Period as to whether it wishes to purchase the Property, and, in doing so, Buyer shall rely exclusively on its own independent investigation and evaluation of every aspect of the Property and not on any materials supplied by Seller. Except as may be specifically provided elsewhere in this Agreement, Buyer expressly disclaims any intent to rely on any such materials provided to it by Seller in connection with its inspection and agrees that it shall rely solely on its own independently developed or verified information. Except with respect to all obligations in this Agreement (including, without limitation, Seller's express representations and warranties) that are expressly stated to survive Closing (collectively, the "**Surviving Obligations**"), Buyer hereby releases Seller and its agents, representatives and employees from any and all claims, demands and causes of action, past, present and future that Buyer may have relating to (i) the condition of the Property at any time, before or after the Closing, including, without limitation, the presence of any hazardous materials; or (ii) any other matter pertaining to the Property. This release shall survive the Closing or the termination of this Agreement.



8.2.2. Approval of Property. The consummation of the purchase and sale of the Property pursuant to this Agreement shall be deemed Buyer's acknowledgement that it has had an adequate opportunity to make such legal, factual and other inspections, inquiries and investigations as it deems necessary, desirable or appropriate with respect to the Property. Such inspections, inquiries and investigations of Buyer shall be deemed to include, but shall not be limited to, any leases and contracts pertaining to the Property, the physical components of all portions of the Property, the physical condition of the Property, such state of facts as an accurate survey, environmental report and inspection would show and the present and future zoning ordinance, ordinances and resolutions. Except as expressly provided in this Agreement or the Closing documents, Buyer shall not be entitled to and shall not rely upon, Seller or Seller's agents with regard to, and Seller will not make any representation or warranty with respect to: (i) the quality, nature, adequacy or physical condition of the Property including, but not limited to, the structural elements, foundation, roof, appurtenances, access, landscaping, parking facilities or the electrical, mechanical, HVAC, plumbing, sewage or utility systems, facilities or appliances at the Property, if any; (ii) the quality, nature, adequacy or physical condition of soils or the existence of ground water at the Property; (iii) the existence, quality, nature, adequacy or physical condition of any utilities serving the Property; (iv) the development potential of the Property, its habitability or merchantability or the fitness, suitability or adequacy of the Property for any particular purpose; (v) the zoning or other legal status of the Property; (vi) the Property or its operations' compliance with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions or restrictions of any governmental or quasi-governmental entity or of any other person or entity; (vii) the quality of any labor or materials relating in any way to the Property; or (viii) the condition of title to the Property or the nature, status and extent of any right-of-way, lease, right of redemption, possession, lien, encumbrance, license, reservation, covenant, condition, restriction or any other matter affecting the Property except as expressly set forth in this Agreement. **EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT OR THE CLOSING DOCUMENTS, SELLER HAS NOT, DOES NOT AND WILL NOT MAKE ANY WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE PROPERTY AND SELLER SPECIFICALLY DISCLAIMS ANY OTHER IMPLIED WARRANTIES OR WARRANTIES ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. FURTHERMORE, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT OR THE CLOSING DOCUMENTS, SELLER HAS NOT, DOES NOT AND WILL NOT MAKE ANY REPRESENTATION OR WARRANTY WITH REGARD TO COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THOSE PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING OR DISPOSING OF ANY HAZARDOUS WASTE OR SUBSTANCE INCLUDING, WITHOUT LIMITATION, ASBESTOS, PCB AND RADON. SUBJECT ONLY TO THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT OR CLOSING DOCUMENTS, BUYER WILL BE ACQUIRING THE PROPERTY "AS IS AND WHERE IS, WITH ALL FAULTS," IN ITS PRESENT STATE AND CONDITION, SUBJECT ONLY TO NORMAL WEAR AND TEAR AND BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS AND CONDITIONS MAY NOT HAVE BEEN REVEALED BY BUYER'S INSPECTIONS AND INVESTIGATIONS. BUYER SHALL ALSO ACKNOWLEDGE AND AGREE THAT THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS COLLATERAL TO OR AFFECTING THE PROPERTY BY SELLER, ANY AGENT OF SELLER OR ANY THIRD PARTY. THE TERMS AND CONDITIONS OF THIS SECTION SHALL SURVIVE THE CLOSING, AND NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENTS. SELLER SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, UNLESS THE SAME ARE SPECIFICALLY SET FORTH OR REFERRED**



TO IN THIS AGREEMENT OR THE CLOSING DOCUMENTS. EXCEPT WITH REGARD TO THE OBLIGATIONS EXPRESSLY SET FORTH IN THIS AGREEMENT OR IN THE CLOSING DOCUMENTS, BUYER HEREBY RELEASES SELLER AND ITS AGENTS, REPRESENTATIVES AND EMPLOYEES FROM ANY AND ALL LIABILITY RELATING TO THE CONDITION OF THE PROPERTY BEFORE OR AFTER THE CLOSING AND ANY OTHER MATTER RELATING TO THE PROPERTY, WHETHER KNOWN OR UNKNOWN AT THE TIME OF THE CLOSING. THIS SECTION SHALL SURVIVE CLOSING.

8.2.3. Release, Limitation of Recourse. Except as expressly set forth in this Agreement to the contrary and except for any claims arising under the express representations, warranties or covenants of Seller under this Agreement or under the indemnity provisions of any document delivered in connection with the Closing, Buyer for itself and its agents, affiliates, successors and assigns, hereby releases and forever discharges Seller, the Estate, and any party related to or affiliated with Seller or the Estate and their respective successors and assigns, including any direct or indirect member of Seller (collectively, the "**Seller Related Parties**") from and against any and all claims at law or equity which Buyer or any party related to or affiliated with Buyer and their respective successors and assigns (each a "**Buyer Related Party**"), whether known or unknown at the time of this Agreement, which Buyer or a Buyer Related Party has or may have in the future, arising from or related to any matter or thing relating to or in connection with the Property, including but not limited to, the documents and information referred to in this Agreement, the Leases and the Tenants, any construction defects, errors or omissions in the design or construction and arising out of the physical, environmental, economic or legal condition of the Property, including, without limitation, any claim for indemnification or contribution arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601, et. seq.) or any similar federal, state or local statute, rule or ordinance relating to liability of property owners or operators for environmental matters. Notwithstanding anything to the contrary in this Agreement, Buyer understands and agrees that the entities comprising Seller have no restriction on the making of distributions to their respective members at the time of Closing and Buyer agrees that notwithstanding any distribution of sales proceeds to any Seller Related Parties, Buyer shall not look to any of the Seller Related Parties and no property or assets of any Seller Related Parties shall be subject to levy, execution, or other enforcement procedures nor shall any deficiency judgment or other monetary judgment be sought, obtained or enforced against any of the Seller Related Parties for the satisfaction of any such rights or remedies, for the payment or performance of any such obligations, agreements or covenant shall not be considered a "liability" for purposes of Sections 10-608(b) and 18-804(c) of the Delaware Limited liability Company Act or the other. Any claims by Buyer against the Seller shall be limited solely to the Property (or, following the Closing, the net proceeds of sale received by Seller) and shall have no recourse to the personal or individual property or assets of Seller or of any other person or entity, or any trustee, officer, director, shareholder, partner, member, employee, manager, estate, representative, agent, successor or assign of Seller, including specifically but without limitation the manager of Seller, and none of the forgoing persons or entities shall have any personal liability with respect hereto. To the extent that the manager executes this Agreement, the Closing documents or any other document in connection therewith, manager is doing so solely in its capacity as a representative of the entity on behalf of which it is signing and manager shall have no personal or individual liability whatsoever under this Agreement. This Section 8.2.3 shall survive Closing indefinitely.

8.3. Covenants of Seller. Seller hereby covenants as follows:

8.3.1. At all times from the Effective Date through the Closing Date, Seller shall cause to be in force fire and extended coverage insurance upon the Property and public liability insurance with respect to damage or injury to persons or property occurring on the Property in at least such amounts as are maintained by Seller on the Effective Date.



8.3.2. From the Effective Date through the Closing Date, Seller shall not sell, assign or convey any right, title or interest whatsoever in or to the Property, or create or permit to attach any lien, security interest, easement, encumbrance, charge or condition affecting the Property (other than the Permitted Exceptions) without promptly discharging the same prior to Closing.

8.3.3. Except as may be necessary for health and safety, Seller shall not, without Buyer's written approval, (a) amend or waive any right under any Contract to be assumed by Buyer; or (b) enter into any agreement of any type affecting the Property that is not terminated as of the Closing.

8.3.4. From and after the Effective Date, Seller shall operate the Property in the manner in which Seller has previously operated the Property; provided, however, that Seller shall have no obligation to make any capital improvements subject to the terms of the Leases.

9. Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

9.1. Buyer is a limited liability company duly organized and validly existing under the laws of the State of Texas. Buyer has full power and authority to enter into this Agreement, to perform this Agreement and to consummate the transactions contemplated hereby. This Agreement is a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting the rights of creditors generally.

9.2. The execution, delivery and performance by Buyer of this Agreement, and all other agreements, instruments and documents referred to or contemplated herein or therein do not require the consent, waiver, approval, license or authorization of any person or public authority which has not been obtained and do not and will not contravene or violate (with or without the giving of notice or the passage of time or both), the organizational documents of Buyer or any judgment, injunction, order, law, rule or regulation applicable to Buyer.

10. Conditions Precedent to Closing.

10.1. The obligations of Buyer pursuant to this Agreement shall, at the option of Buyer, be subject to the following conditions precedent:

10.1.1. All of the representations, warranties and agreements of Seller set forth in this Agreement shall be true and correct in all material respects as of the Effective Date and as of the Closing Date, and Seller shall not have on or prior to Closing, failed to meet, comply with or perform in any material respect any conditions or agreements on Seller's part as required by the terms of this Agreement.

10.1.2. There shall not exist any material, adverse encumbrance or title defect affecting the Property except for the Permitted Exceptions or matters to be satisfied at Closing.

10.1.3. Seller shall have obtained the approval of the sale of the Property, as contemplated by this Agreement, from the Bankruptcy Court governing Seller (the "**Bankruptcy Approval**"). Seller agrees to use commercially reasonable efforts to obtain the Bankruptcy Approval on or before the expiration of the Inspection Period. If the Bankruptcy Approval is not timely obtained, Seller or Buyer may terminate this Agreement by delivering written notice of termination (which notice may be sent by email) at any time prior to the expiration of the Inspection Period. In the event of such termination, the Due Diligence Items shall be returned to Seller, the Deposit shall be paid to Buyer, plus reimbursement to Buyer for its actual costs incurred in connection with its investigation of the Property, including costs incurred for Buyer's

Reports, such amount not to exceed Fifteen Thousand Dollars (\$15,000.00) (the "**Investigation Reimbursement**"), and thereafter, neither Seller nor Buyer shall have any continuing obligations hereunder except as otherwise expressly set forth herein.

10.1.4. Bankruptcy Court Approval. This Agreement and the rights of the parties hereunder are in all things subject to approval of the United States Bankruptcy Court for the Western District of Texas, San Antonio Division. The Seller will undertake to submit this Agreement to such Court in the Bankruptcy Case for approval. The Buyer acknowledges that the Seller has an obligation to obtain the best available contract for the Property and in such regard may support other offers in a hearing to approve this Agreement if such other offers are made. In the event, for any reason whatsoever, that the Bankruptcy Court declines to issue the Bankruptcy Court Sale Order approving this Agreement, or such Bankruptcy Court Sale Order is stayed or rescinded or set aside, the Buyer shall have no claim of any nature against the Seller (or its agents, officers, partners, employees or consultants, or principals) other than the Investigation Reimbursement set forth in the prior paragraph and return of the Deposit, and the Seller shall not be considered to have breached this Agreement.

10.2. The obligations of Seller under this Agreement shall, at the option of Seller, be subject to the following conditions precedent:

10.2.1. All of the representations, warranties and agreements of Buyer set forth in this Agreement shall be true and correct in all material respects as of the Effective Date and as of the Closing Date, and Buyer shall not have on or prior to Closing, failed to meet, comply with or perform in any material respect any conditions or agreements on Buyer's part as required by the terms of this Agreement.

10.3. If any such condition is not fully satisfied by Closing, the party in whose favor the condition runs shall notify the other party and may terminate this Agreement by written notice (in all events such written notice shall be given on or prior to the Closing Date as it may be extended) whereupon this Agreement shall be canceled, the Due Diligence Items shall be returned to Seller, the Deposit and, if applicable, the Investigation Reimbursement, shall be paid to Buyer and, thereafter, neither Seller nor Buyer shall have any continuing obligations hereunder except as otherwise expressly set forth herein; provided, however, that if Buyer notifies Seller of a failure to satisfy the conditions precedent set forth in Subsections 10.1.1 and 10.1.2 Seller may, within five (5) days of receipt of Buyer's notice agree to satisfy the condition by written notice to Buyer, and Buyer shall thereupon be obligated to close the transaction contemplated hereby provided Seller so satisfies such condition and such Closing occurs within ten (10) days of the scheduled Closing Date.

11. Operations and Risk of Loss

11.1 Ongoing Operations. During the pendency of this Agreement, but subject to the limitations set forth below, Seller shall carry on its businesses and activities relating to the Real Property substantially in the same manner as it did before the date of this Agreement.

11.2 New Contracts. Prior to the expiration of the Inspection Period, Seller may without Buyer's consent enter into contracts relating to the Real Property, provided that Seller provides Buyer with written notice of the same at least one day prior to the end of the Inspection Period. Following the expiration of the Inspection Period, Seller will not enter into any contract that will be an obligation affecting the Real Property subsequent to the Close of Escrow (except contracts entered into in the ordinary course of business that are terminable without cause on 30-days' notice), without the prior consent of the Buyer, which shall not be unreasonably withheld or delayed.



11.3 Leasing Arrangements. After the Effective Date, Seller shall obtain Buyer's consent, which Buyer shall not unreasonably withhold or delay, before entering into any new lease of space in the Real Property and before entering into a Lease amendment, expansion, or renewal. Buyer shall be deemed to have consented to any new lease or any Lease amendment, expansion, or renewal if it has not notified Seller specifying with particularity the matters to which Buyer reasonably objects, within two (2) days after its receipt of Seller's written request for consent, together with a copy of the Lease amendment, expansion, or renewal or the new lease. At the Closing, Buyer shall reimburse Seller for commissions, legal fees, the cost of tenant improvements, and all other leasing costs and expenses paid by Seller with respect to all Lease amendments, expansions or renewals or new leases that were entered into *after the Effective Date* ("New Lease Transactions") and, at Closing, shall assume in writing (pursuant to the Assignment of Leases and Contracts and Bill of Sale) Seller's obligations (whether arising before or after the Effective Date or the Closing Date) under such new leases and Lease amendments, expansions or renewals. At the Closing, Buyer shall be entitled to a credit equal to all unpaid leasing costs and all free rent under those New Lease Transactions and Buyer shall assume in writing (pursuant to the Assignment of Leases and Contracts and Bill of Sale) Seller's obligations (whether arising before or after the Closing Date) under such New Lease Transactions.

11.4. Damage or Destruction Prior to Closing. In the event that the Property should be damaged by any casualty prior to the Closing, Seller shall give prompt notice to Buyer. If the Property is "materially damaged" (as hereinafter defined) by a fire or other casualty event (a "Casualty") prior to Closing, Buyer may terminate this Agreement by written notice given to Seller within ten (10) Business Days after Buyer receives notice of the occurrence of such Casualty from Seller. If Buyer so terminates this Agreement, then the Deposit and Investigation Reimbursement shall be returned to Buyer and neither party shall have any further rights or obligations hereunder except as set forth herein. If Buyer does not so terminate this Agreement, or if the Property is not deemed "materially damaged," Buyer will remain bound to purchase the Property for the full Purchase Price pursuant to the terms of this Agreement, without regard to the occurrence or effect of the Casualty; provided that at Closing Seller will assign to Buyer Seller's interest in any property and lost income insurance proceeds payable to Seller under Tenant's insurance, but net of any costs and expenses reasonably incurred by Seller prior to Closing in connection with the Casualty and net of any pre-Closing rental loss resulting from the Casualty permitted by Tenants under the Leases, and Buyer shall receive a credit against the Purchase Price in the amount by which the cost of repair or restoration of the Property, as estimated by an engineer or contractor reasonably and timely selected by Seller and Buyer, exceeds the amount of any insurance proceeds. For purposes of this Section, the Property shall be deemed "**materially damaged**" if: (a) the estimated repair cost is greater than Five Hundred Thousand Dollars (\$500,000.00); or (b) Tenant is not responsible under the Lease for the repair or restoration of the Property; or (c) a Tenant has the right to terminate the Lease as a result of such Casualty and such right is not waived by the Tenant; or (d) the damage or destruction is not covered by Seller's insurance or if such insurance is not for full replacement cost, and the estimated repair cost is greater than Two Hundred Thousand Dollars (\$200,000.00); or the damage or destruction causes the Property to be unacceptable to lender.

12. Eminent Domain. If, before the Closing, proceedings are commenced, or notice of any condemnation or intent to condemn is given by exercise of the power of eminent domain with respect to all or any portion of the Property ("Condemnation") Seller shall give prompt written notice to Buyer. If the Condemnation, as reasonably determined by Buyer, would render the Property unacceptable to Buyer or unsuitable for Buyer's intended use, Buyer shall have the right, by giving notice to Seller within thirty (30) days after Seller gives notice of the Condemnation to Buyer, to terminate this Agreement, in which event this Agreement shall terminate, the Deposit and Investigation Reimbursement shall be returned to Buyer, the Due Diligence Items shall be returned to Seller and neither party shall have any further obligation to the other except as expressly provided herein. If Buyer has the right to terminate this Agreement pursuant to the preceding sentence but Buyer does not exercise such right, then this Agreement shall remain in full

force and effect and, at the Closing, the condemnation award (or, if not therefore received, the right to receive such portion of the award) payable on account of the taking shall be transferred in the same manner as title to the Property is conveyed. Seller shall give notice to Buyer within three (3) business days after Seller's providing written notice to Buyer of the commencement of any proceedings for the taking by exercise of the power of eminent domain of all or any part of the Property.

13. Notices. All notices, demands and other communications of any type given by any party hereunder, whether required by this Agreement or in any way related to the transaction contracted for herein, shall be void and of no effect unless given in accordance with the provisions of this Section 13. All notices shall be in writing and shall be delivered (i) by courier; (ii) by Federal Express or other nationally recognized overnight delivery service; or (iii) by email. Notices delivered by e-mail must be followed by confirmation via Federal Express or other nationally recognized overnight delivery service. Notices shall be deemed received (i) if by courier, upon delivery or refusal of same; (ii) if by Federal Express or other nationally recognized overnight delivery service, the business day following deposit; and (iii) immediately following e-mail transmission. Any notice received on a non-business day or after 5:00 p.m. Central Standard Time, as applicable, on a Business Day shall be deemed received on the next Business Day. Notices shall be given to the following addresses:

Seller:

ALAMO TOWERS-COTTER, LLC
c/o Marcus P. Rogers
Independent Administrator of the Estate
of James F. Cotter, Deceased
Law Offices of Marcus P. Rogers, P.C.
2135 E. Hildebrand Ave.
San Antonio, Texas 78209
Telephone No.: (210) 736-2222
E-mail: mrogers@marcusrogerslaw.com

With Required Copies to:

Ben McCaleb
Law Offices of C. Benjamin McCaleb, PLLC
2135 E. Hildebrand Ave.
San Antonio, TX 78209-6332
Telephone No.: (210) 736-2222
E-mail: cbm@cbmccaleb-law.com

Buyer:

PARTNERS INVESTORS, LLC
8500 Village, Suite 300
San Antonio, TX 78217
Telephone: (210) 444-1400
E-mail: cbrown@primerapartners.com
E-mail: bwilson@primerapartners.com

With a copy to:

John Mosley
3834 Spicewood Springs Road, Suite 202
Austin, TX 78759
Telephone: (512) 327-7777
E-mail: JOHN@RJMOSLEY.COM



14. Remedies.

14.1. Defaults by Seller. If there is any material default by Seller under this Agreement, following notice to Seller and seven (7) days, during which period Seller may cure the default, Buyer may, as its sole option, elect to either (i) declare this Agreement terminated in which case the Deposit and Investigation Reimbursement shall be returned to Buyer; or (ii) treat this Agreement as being in full force and effect and bring an action against Seller for specific performance. Upon Buyer's election of either remedy, Seller shall pay to Buyer within five (5) Business Days the Investigation Reimbursement for Buyer's Reports.

14.2. Defaults by Buyer. If there is any material default by Buyer under this Agreement, following notice to Buyer and seven (7) days, during which period Buyer may cure the default, then Seller may, as its sole remedy, declare this Agreement terminated, in which case the Deposit shall be paid to Seller as liquidated damages and each party shall thereupon be relieved of all further obligations and liabilities, except any which survive termination. Notwithstanding the foregoing, Buyer's right to cure shall not be applicable to a failure to close and the Closing shall in no event be extended pursuant to this Section. In the event this Agreement is terminated due to the default of Buyer hereunder, Buyer shall deliver to Seller, at no cost to Seller, the Due Diligence Items and any or all of Buyer's Reports.

15. Assignment. Buyer may assign its rights under this Agreement to any individual and/or entity; provided, however, that Buyer shall have no such right unless a written assignment is delivered to Seller no later than seven (7) business days before the Closing Date; and further provided that no such assignment shall relieve Buyer of its obligations hereunder. In lieu of a formal assignment of this Agreement Buyer shall have the right to take title to the Property at the Closing in a name other than Buyer's name provided such nominee is wholly-owned by Buyer.

16. Interpretation and Applicable Law. This Agreement shall be construed and interpreted in accordance with the laws of the state in which the Real Property is located. Where required for proper interpretation, words in the singular shall include the plural; the masculine gender shall include the neuter and the feminine, and vice versa. The terms "successors and assigns" shall include the heirs, administrators, executors, successors, and assigns, as applicable, of any party hereto.

17. Amendment. This Agreement may not be modified or amended, except by an agreement in writing signed by the parties. The parties may waive any of the conditions contained herein or any of the obligations of the other party hereunder, but any such waiver shall be effective only if in writing and signed by the party waiving such conditions and obligations.

18. Attorney's Fees. In the event it becomes necessary for either party to file a suit to enforce this Agreement or any provisions contained in this Agreement, the prevailing party shall be entitled to recover, in addition to all other remedies or damages, reasonable attorneys' fees, expert fees and costs of court incurred in such suit, including those related to any appeal or review. This Section 18 shall survive Closing.

19. Entire Agreement: Survival. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements and understandings of the parties. No representation, warranty, covenant, agreement or condition not expressed in this Agreement or in any Closing document, if any, shall be binding upon the parties nor shall they affect or be effective to interpret, change or restrict the provisions of this Agreement. All of the obligations of the parties hereunder and all other provisions of this Agreement shall be deemed to have merged into the Deed and shall be extinguished at Closing or the earlier termination of this Agreement, except as expressly provided herein.



20. Multiple Originals; Counterparts; Signatures. The parties may execute numerous originals of this Agreement. Each such executed Agreement and copies of the same shall have the full force and effect of an original executed instrument. This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute the entire Agreement. Signatures transmitted by E-mail shall be treated as originals in all respects for purposes of executing this Agreement, any amendments hereto and any notices delivered under this Agreement.
21. Time of the Essence; Business Day Convention. Time is of the essence of this Agreement *[it being understood that other potential buyers have made bids to purchase the property in the event that Buyer does to close hereunder]*. Except as provided in Section 7.3.2, time periods hereunder shall be deemed to expire at 5:00 p.m. Central Standard or Daylight Savings Time, as applicable, on the scheduled business day ("**Business Day**"). If the final date of any period or date of performance falls upon a Saturday, Sunday or legal holiday under Federal law or the laws of the State in which the Real Property is located, then in such event the expiration date of such period or time of performance shall be extended to the next Business Day.
22. Real Estate Commission. Buyer and Seller each represent to the other that no broker's or real estate commissions or other finder's fees, other than a commission payable by Seller to **Cushman & Wakefield U.S., Inc.** (the "**Broker**"), are or shall be due in respect to this transaction by reason of any agreement made or which may be alleged to have been made by Buyer or Seller. Upon the Closing pursuant to this Agreement and the payment of the Sale Price, and conditioned fully upon such Closing and payment, Seller shall pay all commissions and fees owed to the Broker pursuant to Seller's separate agreement with the Broker. Each party agrees to indemnify and hold harmless the other from and against any and all claims, demands or the cost or expense thereof, including reasonable attorney's fees, arising out of any broker's commission, fee or other compensation due or alleged to be due in connection with the transactions contemplated by this Agreement based upon an agreement alleged to have been made or other action alleged to have been taken by the indemnifying party. This Section 22 shall survive Closing.
23. Exchange. Seller and Buyer reserve the right to structure the transfer of the Property as a like kind exchange pursuant to Section 1031 of the Code. In such event, Seller and/or Buyer shall have the right to assign its interest in this Agreement to a qualified exchange intermediary of its choosing to affect such exchange. Buyer or Seller as the case may be shall sign a customary assignment and/or notice of assignment; however, such assignment shall be at no cost or expense to the other party and shall not otherwise affect the term of this Agreement.
24. Parties Not Bound. Delivery of drafts of this Agreement, and all discussions and written communications regarding drafts of this Agreement, are preliminary discussions only and shall not serve as the basis for any claim of any kind between the parties including any claim of reliance, estoppel, breach of good faith or breach of contract. Neither party is bound unless and until a fully executed Agreement is delivered by both parties.
25. Waiver of Jury Trial. **To the fullest extent permitted by law, each party waives any and all rights the party may have to a jury trial with respect to any dispute arising under this Contract or in connection with it or the transactions provided for herein.**
26. Statutory Disclosures.
- 26.1. District. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49 of the Texas Water Code requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this Agreement.



26.2. Title Examination or Policy. The Buyer should have the Property examined by an attorney of the Buyer's choosing or the Buyer should be furnished with or obtain a title policy.

26.3. Certificated Service Area of a Utility Service Provider. If the Property is situated in a certificated service area of a utility service provider, Section 13.257 of the Texas Water Code requires Seller to deliver and the Buyer to sign the required statutory notice.

26.4. Pipelines. If a transportation pipeline, including a pipeline for the transportation of natural gas, natural gas liquids, synthetic gas, liquefied petroleum gas, petroleum or a petroleum product or hazardous substance, is located on or within the Property, Seller shall give Buyer statutory notice regarding such pipeline(s) as required by Section 5.013 of the Texas Property Code.

26.5. Public Improvement District. If the Property is in a public improvement district, Section 5.014 of the Texas Property Code requires Seller to deliver and the Buyer to sign the required statutory notice.

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
SIGNATURES TO FOLLOW ON THE NEXT PAGE(S).]



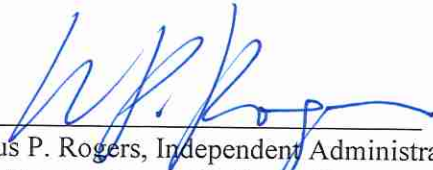
**SIGNATURE PAGE(S) FOR
AGREEMENT FOR PURCHASE AND SALE**

IN WITNESS WHEREOF, the undersigned Seller and Buyer have executed this Agreement as of the Effective Date.

SELLER:

Alamo Towers – Cotter LLC

By: _____


Marcus P. Rogers, Independent Administrator
of the Estate of James F. Cotter, Deceased,
Manager

Alamo Towers

**SIGNATURE PAGE(S) FOR
AGREEMENT FOR PURCHASE AND SALE**

BUYER:

Partners Investors, LLC

By: 

Typed Name: Charles Brown

Title: Manager

Alamo Towers

CONSENT OF ESCROW HOLDER AND RECEIPT

Escrow Holder hereby agrees to perform its obligations under this Agreement and acknowledges receipt of (a) the Deposit from Buyer in the amount of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00)* and (b) a fully executed counterpart of this Agreement on October 5, 2018.

*on October 10, 2018,

HERITAGE TITLE

By: Calli Hall
for: Emily Mansfield



EXHIBIT "A"

LEGAL DESCRIPTION

An 8.154 acre, or 355,200 square foot, tract of land being all of Lot 31, Block 1, New City Block 12571, Alamo Savings Subdivision Unit 1-C, as recorded in Volume 9300, Page 203 of the Deed and Plat Records of Bexar County, Texas. Same being further described by metes and bounds as follows:

BEGINNING: At a found $\frac{1}{2}$ " iron rod with yellow cap marked "Pape-Dawson" at the southerly end of the cut-back at the intersection of the north right-of-way line of the west bound access road for North East Loop 410, a 300-foot wide right-of-way, with the west line of North New Braunfels Avenue, a 60-foot wide right-of-way. Same being the most southerly southeast corner of said Lot 31 and the POINT OF BEGINNING of the herein described tract;

THENCE: N 85°36'20" W, along and with said north line of North East Loop 410, a distance of 691.32 feet to a found $\frac{1}{2}$ " iron rod in concrete for an angle point;

THENCE: N 83°31'14" W, continuing along and with said north line, a distance of 141.70 feet to a found $\frac{1}{2}$ " iron rod for the southeast corner of Lot 25, Block 1, New City Block 12571, as recorded in Volume 4960, Page 3 of the Deed and Plat Records of Bexar County, Texas, the most southerly southwest corner of said Lot 31 and this tract;

THENCE: N 06°26'19" E, departing said north line, along and with the east line of said Lot 25, a distance of 125.02 feet to a found $\frac{1}{2}$ " iron rod for the northeast corner of said Lot 25, an interior southwest corner of said Lot 31 and this tract;

THENCE: N 83°31'44" W, along and with the north line of said Lot 25, a southwesterly line of said Lot 31, a distance of 140.38 feet to a found "x" in concrete in the east line of Lot Tract 1 (or Parcel 106), New City Block 12100, for the northwest corner of said Lot 25, the most westerly, southwest corner of said Lot 31 and this tract;

THENCE: N 40°21'04" E, along and with said east line of Lot 1, a distance of 212.71 feet to a found 1" iron pipe for the northeast corner of said Lot Tract 1, an interior northwesterly corner of said Lot 31 and this tract;

THENCE: N 47°51'57" W, along and with the northeast line of said Lot Tract 1, a northwesterly line of said Lot 31, a distance of 97.33 feet to a found $\frac{1}{2}$ " iron rod for the southeast corner of Lot Tract 5 (or Parcel 107), Block 1, New City Block 12100, a northwest corner of said Lot 31 and this tract;

THENCE: N 41°27'51" E, along the east line of said Block 1, New City Block 12100, a distance of 220.05 feet to a found $\frac{1}{2}$ " iron rod in the southwest line of Cheever Alley, a 30-foot wide right-of-way, for the northeast corner of said Block 1, the northwest corner of said Lot 31 and this tract;

Alamo Towers

- THENCE: S 48°39'51" E, along and with said south line, the northwest line of said Lot 31, a distance of 235.21 feet, to a found railroad spike for an angle point of said Lot 31 and this tract;
- THENCE: S 85°08'05" E, continuing along and with said south line, the north line of said Lot 31, a distance of 426.59 feet to a found ½" iron rod with yellow cap marked "Pape-Dawson" for the northwest corner of Lot 32 of said Alamo Saving Subdivision Unit 1-C, same being the most northern northeast corner of said Lot 31 and of this tract;
- THENCE: S 05°21'10" W, departing said south line, along and with the west line of said Lot 32, a distance of 135.25 feet to a found ½" iron rod for the southwest corner of said Lot 32, an interior northeasterly corner of said Lot 31 and of this tract;
- THENCE: S 89°15'41" E, along and with the south line of said Lot 32, a distance of 51.10 feet to a found ½" iron rod for an angle point of said Lots 32 and 31 and of this tract;
- THENCE: S 85°44'12" E, continuing along and with said common line, a distance of 153.05 feet to a found ½" iron rod in the west line of the aforementioned North New Braunfels Avenue for the southeast corner of said Lot 32, the most easterly northeast corner of said Lot 31 and of this tract;
- THENCE: S 04°52'30" W, along and with said west line, a distance of 241.54 feet to a found ½" iron rod for the northerly end of the aforementioned cut-back of North New Braunfels Avenue and North East Loop 410 west bound access road for the most easterly southeast corner of said Lot 31 and this tract;
- THENCE: S 51° 15' 48" W, along said cut-back line, a distance of 35.82 feet to the POINT OF BEGINNING containing 8.154 acres of land in the City of San Antonio, Bexar County, Texas.

EXHIBIT "B" TO CONTRACT

TENANT ESTOPPEL CERTIFICATE FORM

TENANT ESTOPPEL CERTIFICATE

The undersigned ("**Tenant**") hereby certifies to _____ ("**Landlord**"), and _____, an _____, and its successors and assigns (collectively, "**Buyer**"), as of the date of this Certificate:

A. Tenant is the Lessee under that certain Lease dated _____ relating to the premises described in the Lease (the "**Premises**"), together with any amendments thereto (collectively, the "**Lease**"). A true, correct and complete copy of the Lease is attached hereto as Exhibit A.

B. The dates of all amendments to the Lease are as follows: _____.

C. There are no other agreements, oral or in writing, between Landlord and Tenant with respect to the Premises excepted as identified above.

D. The Lease is in full force and effect and binding on Tenant and Landlord..

E. To the actual knowledge of Tenant, neither Tenant nor Landlord is in default (or will be in default following the delivery of notice, the passage of time, or both) or claims a default by the other under the Lease or has any claims, defenses or rights of offset against payment of rent under the Lease, except as follows:

_____.

F. The term of the Lease commenced on _____, and expires on _____. There are no options to extend the term of the Lease beyond such expiration date other than _____.

G. Monthly base rent is equal to \$_____ and has been paid through _____, 20____.

H. No rent or other charges under the Lease have been paid more than 30 days in advance of their due date.

I. Tenant's security deposit held by Landlord is \$_____.
Tenant acknowledges that this Estoppel Certificate is being given in order to induce Buyer to purchase the property of which the Premises are a part, and to take on the obligations of Landlord. Buyer is entitled to rely upon this Estoppel Certificate.

Dated: _____, 2018

"TENANT"

By: _____

(Print Name)

(Title)

EXHIBIT "C" TO CONTRACT ASSIGNMENT OF LEASES FORM

ASSIGNMENT OF LEASES

THIS ASSIGNMENT OF LEASES (this "*Assignment*") is made and entered into as of _____, 20____, between _____, a _____ ("*Assignor*") and _____, a _____ ("*Assignee*").

A. Assignor has, as of the date hereof, conveyed to Assignee the real property described on Exhibit A attached hereto and made a part hereof (the "*Property*") in accordance with that certain Contract of Sale dated as of _____, between Assignor and Assignee (the "*Purchase Agreement*").

B. The Property is subject to the lease, tenancy, and occupancy agreements identified on Exhibit B attached hereto (such agreements, together with all rent, income, and proceeds arising therefrom and refundable deposits (including, without limitation, tenant security deposits), guaranties, or other security instruments relating thereto, being hereinafter referred to as the "*Leases*").

C. Assignor desires to transfer and assign to Assignee all of Assignor's rights, title, and interests under the Leases.

NOW, THEREFORE, in consideration of the receipt of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged and confessed by Assignor, Assignor does hereby ASSIGN, TRANSFER, SET OVER, and DELIVER to Assignee and Assignee's successors and assigns all of Assignor's right, title, and interest in and to the Leases.

Assignor and Assignee further agree as follows:

1. As of the date hereof, Assignee hereby assumes all liabilities and obligations of Assignor under the Leases that first accrue and relate to the periods from and after the date hereof and agrees (a) to perform all obligations of Assignor under the Leases that first accrue and are to be performed or that become due on or after the date hereof; and (b) to repay or account for all security deposits paid by the tenants under the Leases, provided such security deposits have been actually transferred or credited to Assignee pursuant to the provisions of the Purchase Agreement.

2. Assignee agrees to indemnify, defend, and hold harmless Assignor from any cost, liability, damage, or expense (including attorneys' fees) arising out of or relating to Assignee's failure to perform any of the obligations under the Leases, to the extent accruing on or after the date hereof. Assignor agrees to indemnify, defend, and hold harmless Assignee from any cost, liability, damage, or expense (including attorneys' fees) arising out of or relating to Assignor's failure to perform any of the obligations under the Leases, to the extent accruing before the date hereof.

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

[Signature Page Follows]

Alamo Towers

IN WITNESS WHEREOF, this Assignment of Leases is executed on the dates set forth below to be effective as of the date first above written.

ASSIGNOR:

a _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT ONLY. DO NOT EXECUTE.

ASSIGNEE:

a _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT ONLY. DO NOT EXECUTE.



EXHIBIT "D" TO CONTRACT FORM OF BILL OF SALE AND ASSIGNMENT

BILL OF SALE, ASSIGNMENT, AND ASSUMPTION AGREEMENT

This **BILL OF SALE, ASSIGNMENT, AND ASSUMPTION AGREEMENT** (this "*Bill of Sale*") is made and entered into as of the ____ day of _____, 20____, by and between _____, a _____ ("*Assignor*"), and _____, a _____ ("*Assignee*").

AGREEMENTS

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

1. Assignor hereby SELLS, TRANSFERS, ASSIGNS, and CONVEYS to Assignee all of Assignor's interest in the following (collectively, the "*Assigned Property*"):
 - (a) All fixtures, appliances, equipment, and other personal property of whatever kind or character owned by Assignor and attached to or installed on or in the real property located in _____ County, _____ (as more particularly described in the attached **Exhibit A**, the "*Land*") or the improvements located on the Land ("*Improvements*") (collectively, the "*Personal Property*").
 - (b) All of Assignor's right, title, and interest in and to all service and maintenance contracts, warranties, guaranties, and bonds used in connection with and/or related to the maintenance, repair, or operation of the Land or the Improvements (or any part thereof), as more particularly described on **Exhibit B**, but only to the extent that the foregoing are assignable by Assignor without any necessary third-party consent or to the extent that all necessary third-party consents to the assignments have been obtained.
2. TO HAVE AND TO HOLD all of Assignor's interest in the Assigned Property unto said Assignee, its successors and assigns forever, and Assignor hereby binds itself and its successors and assigns to FOREVER WARRANT and DEFEND title to the Personal Property unto Assignee and Assignee's successors and assigns against every person whomsoever lawfully claiming the same or any part thereof by, through, or under Assignor, but not otherwise.

ASSIGNEE EXPRESSLY ACKNOWLEDGES THAT ASSIGNEE HAS INSPECTED THE ASSIGNED PROPERTY AND THE ASSIGNED PROPERTY IS BEING PURCHASED "AS IS," WHERE IS, AND WITH ALL FAULTS, LATENT AND PATENT. ASSIGNOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES AS TO MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE

Alamo Towers

3. Assignee hereby accepts the assignment of the Assigned Property and agrees to assume and discharge, in accordance with the terms thereof, all of the obligations thereunder from and after the date hereof. Assignee agrees to indemnify and hold harmless Assignor from any cost, liability, damage, or expense (including attorneys' fees) arising out of or relating to Assignee's failure to perform any of the obligations relating to the Assigned Property, to the extent accruing on or after the date hereof. Assignor agrees to indemnify and hold harmless Assignee from any cost, liability, damage, or expense (including attorneys' fees) arising out of or relating to Assignor's failure to perform any of the obligations relating to the Assigned Property, to the extent accruing before the date hereof.
4. This Bill of Sale may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Bill of Sale is executed on the dates set forth below to be effective as of the date first above written.

ASSIGNOR:

a _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT ONLY. DO NOT EXECUTE.

ASSIGNEE:

a _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT ONLY. DO NOT EXECUTE.



EXHIBIT "E"
SPECIAL WARRANTY DEED

NOTICE OF CONFIDENTIALITY RIGHTS:

IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS -- YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

WITH VENDOR'S LIEN

Effective Date:

Grantor:

Grantor's Mailing Address: 2135 E. Hildebrand Ave.
San Antonio, TX 78209

Grantee:

Grantee's Mailing Address:
(including county)

Consideration: Ten and No/100ths Dollars (\$10.00) and the note of even date that is in the principal amount of _____ and is executed by Grantee, payable to the order of _____. It is secured by a vendor's lien retained in this deed in favor of _____ and by a deed of trust of even date from Grantee to _____, Trustee.

Property (including any improvements):



Exceptions to Conveyance and Warranty:

This conveyance is made and accepted subject to the "AS IS" provision set forth below and to all conditions, covenants, easements and restrictions set forth in the attached Exhibit "B".

GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE IS TAKING THE PROPERTY "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY GRANTOR THAT THE PROPERTY IS FIT FOR A PARTICULAR PURPOSE. GRANTEE ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY REPRESENTATION, STATEMENT, ASSERTION OR NONASSERTION BY GRANTOR OR GRANTOR'S AGENTS WITH RESPECT TO THE PROPERTY CONDITION, BUT IS RELYING SOLELY UPON ITS OWN EXAMINATION OF THE PROPERTY. GRANTEE TAKES THE PROPERTY UNDER THE EXPRESS UNDERSTANDING THERE ARE NO EXPRESS OR IMPLIED WARRANTIES (EXCEPT FOR LIMITED WARRANTIES OF TITLE SET FORTH IN THIS DEED).

Grantor, for the consideration and subject to the exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and to hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the exceptions to conveyance and warranty, by, through or under Grantor, but not otherwise.

The vendor's lien against and superior title to the Property are retained until each note described above is fully paid according to its terms, at which time this deed shall become absolute. _____, at Grantee's request, has paid in cash to Grantor a portion of the purchase price of the Property, evidenced by a portion of the note described. The vendor's lien and superior title to the Property are retained for the benefit of the _____ and are transferred to that party without recourse on Grantor.

When the context requires, singular nouns and pronouns include the plural.

Current ad valorem taxes on the Property having been prorated, the payment thereof is assumed by Grantee.



Alamo Towers

Executed on the acknowledgement date shown below, to be *effective as of* _____.

By: _____

EXHIBIT ONLY. DO NOT EXECUTE.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Alamo Towers

THE STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20____, by
_____, _____ of _____, a _____, on behalf of said
_____.

NOTARY PUBLIC in and for the

State of _____

[Seal]

AFTER RECORDING, PLEASE RETURN TO:

Exhibit A – Description of the Property

Exhibit B - Permitted Exceptions



**EXHIBIT "F" TO CONTRACT
TENANT NOTICE FORM**

_____, 20__

Re: Lease, dated _____ (the "Lease") between
_____, a _____, as Landlord, and _____, a
_____, as Tenant

Dear Tenant:

Please be advised that _____, a _____ ("Purchaser") has
purchased from _____, a _____ ("Seller"), the previous owner thereof,
the real property located in _____ County, _____, which is subject to the above referenced Lease. In
connection with such purchase, Seller has assigned its interest as landlord in the Lease to Purchaser and has
transferred your security deposit to Purchaser. All rental and other payments that become due subsequent
to the date hereof should be payable to _____ and should be addressed to _____
at _____. In addition, all notices from you to the landlord
concerning any matter relating to your tenancy should be sent to _____ at the address above.

Very truly yours,

PURCHASER:

_____,
a _____

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT ONLY. DO NOT EXECUTE.

SELLER:

_____,
a _____

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT ONLY. DO NOT EXECUTE.

