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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re
John A. Ritter,
☒ Affects this Debtor.

BK-16-10933-btb
CHAPTER 11

**JOINTLY ADMINISTERED UNDER
CASE NO.: BK-16-10933-btb**

In re
Agave Properties, LLC,
☐ Affects this Debtor.

BK-16-13338-btb
CHAPTER 11

In re
Cliff Rose Investments , LLC,
☐ Affects this Debtor.

BK-16-13340-btb
CHAPTER 11

In re
Focus South Group, LLC,
☐ Affects this Debtor.

BK-16-13341-btb
CHAPTER 11

In re
FSG-S, LLC,
☐ Affects this Debtor.

BK-16-13342-btb
CHAPTER 11

| | | |
|----|----------------------------------------------------------|--------------------------------------------------------------|
| 1 | In re | BK-16-13343-btb |
| 2 | JV Properties, LLC, | CHAPTER 11 |
| | <input type="checkbox"/> Affects this Debtor. | |
| 3 | In re | BK-16-13344-btb |
| 4 | N.G.A. #2, LLC, | CHAPTER 11 |
| 5 | <input type="checkbox"/> Affects this Debtor. | |
| 6 | In re | BK-16-13345-btb |
| 7 | Northwest Investments, LLC, | CHAPTER 11 |
| | <input type="checkbox"/> Affects this Debtor. | |
| 8 | In re | BK-16-13346-btb |
| 9 | PV Land Investments, LLC, | CHAPTER 11 |
| | <input type="checkbox"/> Affects this Debtor. | |
| 10 | In re | BK-16-13347-btb |
| 11 | Saguaro Equities, LLC, | CHAPTER 11 |
| 12 | <input checked="" type="checkbox"/> Affects this Debtor. | |
| 13 | In re | BK-16-13348-btb |
| 14 | Southwest Desert Equities, LLC, | CHAPTER 11 |
| | <input checked="" type="checkbox"/> Affects this Debtor. | |
| 15 | In re | BK-16-13349-btb |
| 16 | Succotash, LLC, | CHAPTER 11 |
| | <input type="checkbox"/> Affects this Debtor. | |
| 17 | In re | BK-16-13350-btb |
| 18 | Victor Investments, LP, | CHAPTER 11 |
| 19 | <input type="checkbox"/> Affects this Debtor. | Hearing Date: September 23, 2016 Hearing Time: 10:00 a.m. |

**JOINT MOTION OF SAGUARO EQUITIES, LLC, SOUTHWEST DESERT
EQUITIES, LLC, AND JOHN A. RITTER FOR (A) AUTHORITY TO SELL
CERTAIN PROPERTIES PURSUANT TO SECTIONS 363(b) AND (f) OF
THE BANKRUPTCY CODE AND TO OBTAIN RELATED RELIEF;
AND (B) APPROVAL OF SETTLEMENT OF CLAIMS SECURED BY
PROPERTIES PURSUANT TO BANKRUPTCY RULE 9019**

Saguaro Equities, LLC (“**Saguaro**”), Southwest Desert Equities, LLC (“**SWDE**,” and, together with Saguaro, the “**Sale Movants**”), and John A. Ritter (“**Mr. Ritter**”), each a Debtor in one of the above-captioned jointly administered chapter 11 cases (collectively, the “**Chapter 11 Cases**”), hereby files this motion (the “**Motion**”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Sale Order**”), pursuant to sections 105(a) and 363 of title 11

1 of the United States Code (the “**Bankruptcy Code**”), Rules 6004 and 9019 of the Federal Rules
 2 of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 6004 of the Local Rules of
 3 Bankruptcy Practice for the United States Bankruptcy Court for the District of Nevada (the
 4 “**Local Rules**”) authorizing and approving (i) the sale of certain real property of Saguaro and
 5 certain real property of SWDE to D.R. Horton, Inc. (the “**Buyer**”) free and clear of any liens,
 6 claims, encumbrances and interests (collectively, “**Liens**”); and (ii) the settlement of claims
 7 secured by the property proposed to be sold. In support of the Motion, the Sale Movants and Mr.
 8 Ritter respectfully state as follows:

9 **INTRODUCTION**

10 The Sale Movants request the Court’s authorization to sell certain properties to the
 11 Buyer in accordance with the terms of sale agreements negotiated and signed by the Sale
 12 Movants prior to the Entity Petition Date. The proposed sale is what is commonly referred to
 13 as a “short sale.”

14 The terms of the sale were negotiated at arms’ length with the Buyer and reflect, in the
 15 Sale Movants’ belief, the highest and best price available for the property subject of the sale.
 16 That property—approximately 2.15 acres in the aggregate of raw land—is part of a much
 17 larger undeveloped tract, the other parts of which are owned by unaffiliated third parties and/or
 18 groups of unaffiliated third parties. The Buyer has managed to obtain the agreement of all
 19 requisite owners of all parcels within the larger tract to sell their respective parcels to Buyer.
 20 The Sale of all parcels on or before September 28, 2016, is a condition to closing. The Sale
 21 Movants are informed and believe that the Buyer has offered the same price on a per-acre basis
 22 to the other owners in the tract, further validating the Sale Movants’ conclusion that the
 23 proposed sale reflects the best price for their properties.

24 Although the sale will maximize the proceeds of the Sale Movants’ properties, such
 25 proceeds will be insufficient to satisfy in full the claims secured by the properties. However,
 26 the Sale Movants’ secured lenders, who are also beneficiaries of guarantees by Debtor John A.
 27 Ritter, have agreed to accept those proceeds in full satisfaction of all claims against the Sale
 28

1 Movants and Mr. Ritter. This will benefit the Sale Movants' and Mr. Ritter's respective estates
 2 by reducing the demands on their limited assets by, in the aggregate, nearly \$600,000.
 3 Therefore, by the Motion, the Sale Movants and Mr. Ritter further request that the Court
 4 approve the terms of the agreement by which the secured lenders propose to waive their
 5 unsecured claims.

6 For the foregoing reasons, and as more fully set forth herein, the Sale Movants and Mr.
 7 Ritter request that the Court grant the Motion.

8 **BACKGROUND**

9 **A. General Background**

10 On February 29, 2016 (the "**Petition Date**"), an involuntary petition (the "**Original**
 11 **Petition**") for relief under chapter 7 of title 11 of the United States Code (the "**Bankruptcy**
 12 **Code**") was filed by Multibank 2009-1 RES-ADC Venture, LLC ("**Multibank**"), Pacific
 13 Western Bank ("**PWB**"), and SV Litigation SPE, LLC ("**SV Litigation**," and, together with
 14 Multibank and PWB, the "**Initial Petitioning Creditors**") against Mr. Ritter, thereby
 15 commencing Case No. 16-10933 (the "**Initial Bankruptcy Case**"). On April 8, 2016, the
 16 Initial Petitioning Creditors filed an amended petition (the "**Amended Petition**," and together
 17 with the Original Petition, the "**Petitions**"), which was joined by certain additional persons
 18 identified in the *Joinder to Involuntary Petition Under Section 303(c)* [D.I. 74].

19 On June 10, 2016, the Court entered an order [D.I. 108] converting the Initial
 20 Bankruptcy Case to a case under chapter 11 of the Bankruptcy Code.

21 On June 17, 2016 (the "**Entity Petition Date**"), the Debtors other than Mr. Ritter (the
 22 "**Focus Entities**") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code,
 23 thereby commencing their above-captioned chapter 11 cases (together with the Initial
 24 Bankruptcy Case, the "**Chapter 11 Cases**"). An Order for Relief was entered against Mr.
 25 Ritter on June 22, 2016 [D.I. 134]. The Debtors continue to manage their properties as debtors
 26 in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

27 On June 28, 2016, the United States Trustee for Region 17 appointed the official
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1 committee of unsecured creditors (the “**Committee**”) [D.I. 142].

2 Additional background facts concerning the Debtors, including an overview of the
3 Debtors’ businesses, information concerning the Debtors’ debt structure, and information on
4 the events leading up to the Chapter 11 Cases, is contained in the *Declaration of John A. Ritter*
5 *in Support of First Day Relief* [D.I. 115].

6 **B. Background Specific to the Motion**

7 The Sale Movants are real estate holding companies. Saguaro owns a parcel of
8 undeveloped land in Clark County, Nevada of approximately 1.08 acres and which is identified
9 by the Clark County Assessor as APN 125-35-701-008 (the “**Saguaro Parcel**”). Similarly,
10 SWDE owns a parcel of undeveloped land in Clark County, Nevada of approximately
11 1.07 acres and which is identified by the Clark County Assessor as APN 125-35-701-009 (the
12 “**SWDE Parcel**,” and, together with the Saguaro Parcel, the “**Parcels**”). The Parcels are
13 located adjacent to one another and together constitute a small portion of a larger tract of
14 undeveloped land in Las Vegas, Nevada (the “**Assemblage**”).¹ The Assemblage is bordered on
15 the North by West Washburn Road, on the East by North Bronco Street, on the South by La
16 Madre Way, and on the West by Maverick Street. The other parcels comprising the
17 Assemblage are owned by unaffiliated third parties or groups of unaffiliated third parties.

18 The Saguaro Parcel secures Saguaro’s obligations in respect of a Promissory Note
19 dated August 15, 2005 (the “**Saguaro Note**”) in favor of J.W. Mullins (the “**Saguaro Lender**”)
20 in the original principal amount of \$350,000. The Saguaro Lender’s interest in the Saguaro
21 Parcel is perfected by virtue of that certain Deed of Trust with Assignment of Rents and
22 Security Agreement dated August 15, 2005, and recorded August 15, 2005, as Instrument No.
23 0004025, in Book 20050815, in the Official Records of Clark County, Nevada (the “**Saguaro**
24 **Deed of Trust**”). Repayment of the Saguaro Note is guaranteed by John A. Ritter pursuant to
25 that certain Guaranty dated as of August 15, 2005 (the “**Saguaro Guaranty**”). Saguaro
26 estimates that the balance of its obligations in respect of the Saguaro Note, inclusive of

27
28 ¹ The parcels constituting the Assemblage are 125-35-701-001, 125-35-701-002, 125-35-701-003,
125-35-701-005, 125-35-701-006, 125-35-701-007, 125-35-701-008, 125-35-701-009 and 125-35-701-010.

1 principal and accrued interest, stood at \$848,648 as of the Entity Petition Date. As such,
2 Saguaro estimates that the claims in respect of the Saguaro Note are undersecured by more
3 than \$551,648.

4 The SWDE Parcel secures SWDE's obligations in respect of a Promissory Note dated
5 May 27, 2005 (the "**SWDE Note**," and, together with the Saguaro Note, the "**Notes**") in the
6 original principal amount of \$300,000 in favor of the following entities (collectively, the
7 "**SWDE Lenders**," and, together with the Saguaro Lender, the "**Lenders**"): (i) DS IRA
8 Holdings, LLC; (ii) Premier Trust Custodian for Kay R. Bandley, IRA; (iii) Premier Trust
9 Custodian for Hugh R. Campbell, IRA; and (iv) Premier Trust Custodian for Hugh Robert
10 Campbell Irrevocable Trust. The SWDE Lenders' interest in the SWDE Parcel is perfected by
11 virtue of that certain Deed of Trust with Assignment of Rents and Security Agreement dated
12 May 27, 2005, and recorded May 27, 2005, as Instrument No. 0004506, in Book 20050527, in
13 the Official Records of Clark County, Nevada (the "**SWDE Deed of Trust**," and, together with
14 the Saguaro Deed of Trust, the "**Deeds of Trust**"). Repayment of the SWDE Note is
15 guaranteed by Mr. Ritter pursuant to that certain Guaranty dated as of May 27, 2005 (the
16 "**SWDE Guaranty**," and, together with the Saguaro Guaranty, the "**Guaranties**"). SWDE
17 estimates that the balance of its obligations in respect of the SWDE Note stood at \$328,300.40
18 as of the Entity Petition Date. As such, SWDE estimates that the claims in respect of the
19 SWDE Note are undersecured by more than \$34,050.40.

20 Given their size and location, the Parcels have little value separate and apart from the
21 other parcels in the Assemblage. As undeveloped land, the market for the Parcels is generally
22 limited to a developer and developers typically seek out larger-scale projects than the
23 approximately 2.15 acres comprised by the Parcels.

24 Since at least 2011, the Sale Movants have solicited and received developer interest in a
25 transaction involving the Parcels, but potential purchasers consistently made clear that they
26 would only be interested in acquiring the Parcels if they were also able to acquire the rest of
27 the Assemblage. For example, in 2011, a broker representing the owner of another parcel in
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1 the Assemblage contacted the Sale Movants to determine whether the Sale Movants would be
2 willing to sell to a third party at a price of approximately \$140,000 to \$160,000 per acre,
3 conditioned upon acquiring the rest of the Assemblage. At least one of the Lenders in respect
4 of one of the Parcels was unwilling to consent to a sale at that price in satisfaction of the
5 applicable Deed of Trust.

6 The Sale Movants received a letter of intent from another developer in 2014 to acquire
7 the Parcels at a price of \$220,000 per acre, subject to its ability to acquire the remaining parcels
8 in the Assemblage. Again, a Lender was unwilling to accept the proposed terms in satisfaction
9 of the applicable Deed of Trust.

10 In December 2015, Ray Paglia, a broker representing the owners of the largest parcel
11 and the Buyer, contacted Bill Boschetto of Focus Commercial Group, Inc., as broker for the
12 Sale Movants, concerning the proposed Sale to the Buyer. Mr. Paglia informed Mr. Boschetto
13 that the Buyer had proposed to purchase the parcel, subject to the Buyer's ability to acquire the
14 rest of the parcels in the Assemblage, and that the proposal had been approved, directly or
15 indirectly, by the approximately forty investors in the parcel. Mr. Boschetto, on the Sale
16 Movants' behalf, then communicated with the Buyer concerning the terms of the proposed
17 Sale. Following Mr. Boschetto's negotiations with the Buyer, the Sale Movants entered into
18 agreements with the Buyer for the purchase and sale of the Parcels.

19 Specifically, prior to the Entity Petition Date, the Sale Movants agreed to sell their
20 respective Parcels to the Buyer (the "**Sale**") on the terms set forth in, as applicable, (i) that
21 certain Purchase and Sale Agreement by and among Saguaro and Buyer executed by Saguaro
22 on May 11, 2016 (as from time to time amended, the "**Saguaro PSA**"); and (ii) that certain
23 Purchase and Sale Agreement by and among SWDE and Buyer executed by SWDE on May
24 11, 2016 (as from time to time amended, the "**SWDE PSA**," and, together with the Saguaro,
25 PSA, the "**PSAs**"). The purchase price specified in the Saguaro PSA for the Saguaro Parcel is
26 \$297,000 and the purchase price specified in the SWDE PSA for the SWDE Parcel is
27 \$294,250, in each case reflecting a price of \$275,000 per acre.
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1 Under each of the PSAs, the Buyer's obligation to close is conditioned upon the
2 Buyer's ability to acquire each of the other parcels in the Assemblage. The Movants are
3 informed and believe that the Buyer is in contract with the owners of each of the other parcels.
4 Through the Sale Movants' communications with Mr. Paglia, an individual investor in another
5 parcel, and the Buyer, the Sale Movants have been informed and believe that the price of
6 \$275,000 per acre is the same price offered to and accepted by the owners of the other parcels.

7 The Sale Movants believe that the proposed Sale price is the best available price for the
8 Parcels under current market conditions. As noted, acre-for-acre, the value of the Assemblage
9 is greater than the value of each of the parcels individually. Because the Buyer has
10 successfully entered into a purchase and sale agreement with the owners of each of the other
11 parcels, the Buyer is in a position to derive maximum value from developing the Assemblage,
12 and is therefore able to offer the highest and best price for the parcels in the Assemblage,
13 including the Parcels. The Sale Movants further believe that, if the Sale does not occur, there
14 is no guarantee that all owners of the various other parcels will again agree to simultaneously
15 sell their parcels to a single buyer.

16 Further, the Lenders have agreed to the Sale subject to the terms and conditions set
17 forth in the Acknowledgment and Releases (as defined below). Although the Sale Movants'
18 outstanding obligations in respect of the Notes exceed the proceeds anticipated to be generated
19 by the Sale by more than \$585,698.40, the Lenders have agreed to accept such proceeds, net of
20 costs, in full satisfaction of the Sale Movants' and Mr. Ritter's obligations in respect of the
21 Notes. Such agreement is reflected, with respect to the Saguaro Note, in that certain Short Sale
22 Acknowledgment and Release Agreement by and among Saguaro and the Saguaro Lender
23 dated as of August 9, 2016 (the "**Saguaro Acknowledgment and Release**"), a true and correct
24 copy of which (exclusive of exhibits) is attached hereto as **Exhibit B**. Such agreement is
25 reflected, with respect to the SWDE Note, in that certain Short Sale Acknowledgment and
26 Release Agreement by and among SWDE and the SWDE Lenders dated as of July 21, 2016
27 (the "**SWDE Acknowledgement and Release**," and, together with the Saguaro
28

Acknowledgement and Release, the “**Acknowledgment and Releases**”), a true and correct copy of which (exclusive of exhibits) is attached hereto as **Exhibit C**.

For all of the foregoing reasons, and as more fully set forth below, the Sale Movants and Mr. Ritter believe that the Sale, together with the Acknowledgment and Releases, are in the best interests of their respective estates and should be approved.

C. Compliance with Local Rule 6004

Local Rule 6004(b)(1). A true and correct copy of the Saguaro PSA is attached hereto as **Exhibit D**. A true and correct copy of the SWDE PSA is attached hereto as **Exhibit E**.

Local Rule 6004(b)(2). The following person is the sole beneficiary of the lien in the Saguaro Property pursuant to the Saguaro Deed of Trust: J.W. Mullis. The following persons, in the aggregate, hold 100% of the beneficial interests in a lien in the SWDE Property pursuant to the SWDE Deed of Trust: Premier trust Custodian for Kay R. Bandley, IRA; Premier Trust Custodian for Hugh R. Campbell, IRA; Premier Trust Custodian for Hugh Robert Campbell Irrevocable Trust; and DS IRA Holdings, LLC.

Local Rule 6004(b)(3). A proposed form of sale order in respect of the Sale is attached hereto as Exhibit A.

Local Rule 6004(b)(4). Section 332 of the Bankruptcy Code is inapplicable to the Sale.

Local Rule 6004(b)(5), (b)(6). The material terms of the PSAs are highlighted by means of their recitation below:

Saguaro PSA

| | |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Seller | Saguaro Equities, LLC (preamble) |
| Buyer | D.R. Horton, Inc. (preamble) |
| Subject Property | Clark County Assessor as APN 125-35-701-008 (§ 1.1) |
| Price | \$297,000 (§ 1.2) |
| Good Faith Deposit | \$9,000 paid to escrow (§ 1.3); refundable to Buyer only upon failure of conditions specified in section 3.6(a)-(d) of the PSA (§ 3.6) |
| Closing Date | On or prior to September 28, 2016 (amendment) |

| | |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Key Contingency | Sale conditioned upon sale of other parcels in Assemblage (§ 3.6(d)) |
| Commission | 3% payable to Juliet Realty Group, LLC c/o Ray Paglia as Buyer's agent; 3% payable to Focus Commercial Group, Inc. c/o Bill Boschetto as Saguaro's agent (Art. V) ² |
| Seller Indemnity | Customary indemnity provisions concerning environmental compliance and liability (§ 7.13) and breaches of representations and warranties (§ 7.15) |

SWDE PSA

| | |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Seller | Southwest Desert Equities, LLC (preamble) |
| Buyer | D.R. Horton, Inc. (preamble) |
| Subject Property | Clark County Assessor as APN 125-35-701-009 (§ 1.1) |
| Price | \$294,250 (§ 1.2) |
| Good Faith Deposit | \$9,000 paid to escrow (§ 1.3); refundable to Buyer only upon failure of conditions specified in section 3.6(a)-(d) of the PSA (§ 3.6) |
| Closing Date | On or prior to September 28, 2016 (amendment) |
| Key Contingency | Sale conditioned upon sale of other parcels in Assemblage (§ 3.6(d)) |
| Commission | 3% payable to Juliet Realty Group, LLC c/o Ray Paglia as Buyer's agent; 3% payable to Focus Commercial Group, Inc. c/o Bill Boschetto as SWDE's agent (Art. V) |
| Seller Indemnity | Customary indemnity provisions concerning environmental compliance and liability (§ 7.13) and breaches of representations and warranties (§ 7.15) |

With respect to those presumptively material terms set forth in Local Rule 6004(b)(6) and not identified above:

- (A) The Buyer is not an insider of either of the Sale Movants as such term is defined in section 101 of the Bankruptcy Code.

² By separate motion filed concurrently herewith, the Sale Movants request authority to pay commissions to Focus Commercial Group, Inc. ("FCG") as an "ordinary course professional" solely for the purposes of the Sale. FCG is a non-Debtor affiliate of the Debtors. Debtor John Ritter indirectly owns 45% of FCG. The total commission due FCG under the terms of the PSAs is \$17,737.50. Mr. Boschetto is an independent contractor agent of FCG and served as the Sale Movants' individual agent in respect of the Sale. Pursuant to their separate agreement, FCG is entitled to retain 20% of the commission and is obligated to pay the other 80% to Mr. Boschetto. As with all other fees and costs of the Sale, payment, if approved, will be made from the proceeds of the Sale which are entirely subject to the Lenders' Liens.

- 1 (B) The Buyer has not discussed or entered into any agreements with management or key
2 employees of the Sale Movants regarding compensation or future employment.
- 3 (C) The Acknowledgment and Releases relating to the PSAs provide for releases in favor of
4 the Sale Movants and Mr. Ritter as further set forth herein.
- 5 (D) No auction is contemplated and no auction would likely have resulted in a higher
6 bidder for the Parcels because only the Buyer has an absolute right to purchase each of
7 the other parcels in the Assemblage.
- 8 (G) There is no interim agreement between the Buyer or either of the Sale Movants
9 concerning management of the Parcels or otherwise.
- 10 (H) Although not contained in the PSA, the Acknowledgment and Releases provide for the
11 payment of all net proceeds to or for the benefit of the applicable Lenders, who hold
12 valid and perfected security interests in the Parcels and as to whom the Sale Movants'
13 obligations in respect of the applicable Notes exceed the value of the anticipated net
14 proceeds of the Sale.
- 15 (I) The PSAs, which were negotiated and signed by the Sale Movants prior to the Entity
16 Petition Date, contain no provision purporting to affect tax liability.
- 17 (J) No books or records will be surrendered by the Sale Movants in connection with the
18 Sale.
- 19 (K) The PSA does not affect any causes of action arising under chapter 5 of the Bankruptcy
20 Code. The Acknowledgment and Releases do contain general releases in favor of the
21 Lenders. However, the last payment made to the Saguaro Lender was made on
22 February 1, 2008 and the last payment to SWDE Lenders was made on December 1,
23 2014 and was on account of an antecedent debt, i.e., the SWDE Note. On the basis of
24 the foregoing, the Sale Movants and Mr. Ritter are unaware of any chapter 5 cause of
25 action that any may have against the Lenders. *See Official Comm. of Unsecured*
26 *Creditors v. Hancock Park Capital II, L.P. (In re Fitness Holdings Int'l, Inc.)*, 714 F.3d
27 1141, 1147 (9th Cir. 2013) (payments on account of antecedent debt made for
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1 reasonably equivalent value as a matter of law).

2 (L) There is no provision in the PSAs purporting to affect common law successor liability.

3 (M) The Parcels are not subject to a possessory leasehold interest, license or other similar
4 right. The Parcels are subject to the Lenders' Liens pursuant to the Deeds of Trust. As
5 provided in the Acknowledgment and Releases, such Liens will be released on a
6 consensual basis in connection with the Sale.

7 (N) The Buyer will pay cash for the Parcels and no credit bidding will occur.

8 (O) The Sale Movants request relief from the fourteen (14) day stay imposed by Fed. R.
9 Bankr. P. 6004(h) in light of the established outside closing date of the Sale falling
10 within such period and the fact that the Lenders have consented to the Sale.

11 **JURISDICTION**

12 The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and
13 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this
14 Bankruptcy Court pursuant to 28 U.S.C. §§ 1408 and 1409.

15 **RELIEF REQUESTED**

16 By the Motion, the Sale Movants request that the Court approve the Sale of the Parcels
17 to the Buyer, pursuant to section 363(b) of the Bankruptcy Code, find that such Sale is in good
18 faith, and waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h). The Sale
19 Movants and Mr. Ritter request that the Court approve the compromise of the Lenders' claims
20 against them as provided in the Acknowledgment and Release, pursuant to Bankruptcy
21 Rule 9019.

22 **BASIS FOR RELIEF**

23 The relief requested by this Motion is appropriate under the Bankruptcy Court's
24 equitable powers under section 105(a) of the Bankruptcy Code and authority to approve non-
25 ordinary course transactions under section 363(b) of the Bankruptcy Code. It is further
26 appropriate pursuant to Bankruptcy Rule 9019.

A. The Sale Is in the Best Interests of the Sale Movants' Estates and Should Be Approved

Section 105(a) provides that the “court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

Section 363(b)(1) of the Bankruptcy Code provides that “[t]he trustee, 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). “The requirements of section 363(b) protect the creditors’ interest in the assets of the estate.” *In re 240 N. Brand Partners, Ltd.*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996) (quoting *United States v. Goodstein*, 883 F.2d 1362, 1367 (7th Cir. 1989)). “As a result, debtors who wish to utilize § 363(b) to dispose of property of the estate must demonstrate that such disposition has a valid business justification.” *Id.* (citing *In re Lionel Corp.*, 722 F.3d 1063, 1070 (2d Cir. 1983)). Other courts considering the validity of a Debtors’ business justification consider the following factors: (i) whether fair and reasonable consideration is provided; (ii) whether the purchaser has acted in good faith; and (iii) whether adequate and reasonable notice of the sale was given to interested parties. *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991)

Moreover, a sale of estate property must be “proposed in good faith.” *240 N. Brand Partners, Ltd.*, 200 B.R. at 659 (citing *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991)). “Good faith encompasses fair value and further speaks to the integrity of the transaction.” *Id.* (internal quotations and citations omitted). Collusion between the seller and buyer or any attempt to take advantage of other potential purchasers is incompatible with good faith conduct. *See id.*

1. The Sale Serves the Valid Business Purpose of Maximizing the Proceeds from the Sale of the Parcels and Further Relieves the Sale Movants and Mr. Ritter of Deficiency/Guaranty Liability

The Sale serves the valid business purpose of maximizing the proceeds realizable upon the sale of the Parcels. *See Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 564-65 (8th Cir. 1997) (stating that in bankruptcy sales, “a primary

1 objective of the Code [is] to enhance the value of the estate at hand”); *Official Comm. of*
2 *Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650,
3 659 (S.D.N.Y. 1992) (“It is a well-established principle of bankruptcy law that the . . .
4 debtor’s duty with respect to [bankruptcy] sales is to obtain the highest price or greatest
5 overall benefit possible for the estate.”) (quoting *Cello Bag Co. v. Champion Int’l Corp. (In*
6 *re Atlanta Packaging Prods., Inc.)*, 99 B.R. 124, 130 (Bankr. N.D. Ga. 1988)).

7 The Sale Movants have received various expressions of interest for the Parcels over
8 the past five years. The amount agreed to be paid by the Buyer is far and away the highest
9 price, exceeding the price proposed in a 2014 letter of intent by fully 25%.

10 The price is further validated by the actions of certain third parties with an economic
11 stake in related transactions. First, the price of \$275,000 per acre proposed for the Parcels is
12 the same price that the Sale Movants understand and believe was accepted by the owners of
13 the other parcels in the Assemblage. This is a rare occasion in which comparable transactions
14 involving nearly identical properties provide a perfect measure of value. That all required
15 equity owners of all parcels within the Assemblage accepted the same price proposed in the
16 Sale is compelling evidence that the Sale price is the best price available for the Parcels.
17 Importantly, if the Sale is not consummated, there is a substantial risk that no other Buyer
18 would be successful in obtaining the agreement of all of the owners within the Assemblage to
19 sell their respective parcels, thereby reducing the value another buyer might derive from
20 Parcels and, in turn, the price that another buyer would be willing to pay.

21 Second, the Bankruptcy Appellate Panel in *240 N. Brand Partners* recognized that
22 “[t]he requirements of section 363(b) are to protect the creditors’ interest in the assets of the
23 estate.” 200 B.R. at 659. In light of the Lenders’ undersecured position and agreement to
24 waive any deficiency or guarantee claims against the Sale Movants and Mr. Ritter, the
25 Lenders are the only creditors with interests in the Parcels and the price at which they are sold.
26 The Lenders’ approval of the Sale affirms that the Sale price is the best price available for the
27 Parcels. The Lenders have declined to approve prior sales as providing insufficient proceeds
28

1 but have unanimously agreed to approve the Sale on the terms negotiated by the Sale
2 Movants. Their desire that the Sale Movants consummate the Sale should be respected.

3 Finally, even to the extent that a slightly higher price could have been negotiated for
4 the Parcels, which is unlikely, it would have no impact upon the estates given the Lenders'
5 undersecured positions and their agreement to forego any deficiency or guarantee claims.

6 For all of the foregoing reasons, the Sale maximizes the value of the Parcels. The
7 Lenders' agreements in the Acknowledgement and Release Agreements do even better for the
8 estates by eliminating the Lenders' claims above the value of the Parcels.

9 **2. The Sale Was Negotiated in Good Faith**

10 As set forth above, the sale of estate property must be proposed in good faith. *240 N.*
11 *Brand Partners, Ltd.*, 200 B.R. at 659 (citing *In re Wilde Horse Enters., Inc.*, 136 B.R. 830,
12 841 (Bankr. C.D. Cal. 1991)). Moreover, section 363(m) of the Bankruptcy Code provides
13 that "[t]he reversal or modification on appeal of an authorization under subsection (b) or (c) of
14 this section of a sale or lease of property does not affect the validity of a sale or lease under
15 such authorization to an entity that purchased or leased such property in good faith"
16 11 U.S.C. § 363(m). While the Bankruptcy Code does not define "good faith," the term
17 connotes a process conducted with integrity and free of collusion and abuse. *See 240 N.*
18 *Brand Partners*, 200 B.R. at 659.

19 The proposed Sale satisfies the good faith standard. The Sale was negotiated at arms'
20 length between a broker representing the Sale Movants' interests and a broker representing the
21 interests of the unaffiliated Buyer. The terms of the Sale transaction, as described in the
22 PSAs, are straightforward and customary for a transaction involving raw land. Indeed, with
23 such an uncomplicated asset, the price term is far and away the most important and subject to
24 the primary focus of negotiations. The reasonableness of the price term is established both by
25 the process by which it was reached and the outcome. As set forth above, numerous
26 unaffiliated parties engaged in their own arms' length negotiations with the Buyer reached the
27 same sale price.
28

3. The Lenders Have Consented to the Sale Subject to Receipt of the Net Proceeds

Section 363(f) of the Bankruptcy Code provides that estate property may be sold free and clear of claims and interests of an entity other than the estate if, among other things, the entity consents. Here, the Lenders have consented to the Sale of the Parcels free and clear of the Liens subject to the terms provided in Acknowledgement and Releases. Importantly, the Acknowledgment and Releases provide that the Lenders will receive the net proceeds of the Sale. For the reasons set forth below, the Court should approve the sale free of the Lenders' Liens subject to the Acknowledgment and Releases.

4. The Proposed Sale Satisfies the Notice and Other Technical Requirements of the Bankruptcy Rules

Bankruptcy Rule 6004(f)(1) provides that sales of estate property outside of the ordinary course of business may be by private sale or public auction. Fed. R. Bankr. P. 6004(f)(1). Subject to Bankruptcy Rule 6004, the notice of a proposed use, sale, or lease of property required under Bankruptcy Rule 2002(a)(2) must include the terms and conditions of any private sale, and the time fixed for filing objections. *See* Fed. R. Bankr. P. 2002(c)(1). Moreover, the notice of a proposed use, sale, or lease of property is sufficient if it generally describes the property. *Id.*

This Motion, containing the information required by the Bankruptcy Rules and the Local Rules alike, will be served upon all Lenders and other persons requesting notice or otherwise entitled to notice under the Court's notice procedures order entered in the Chapter 11 Cases. The Sale Movants submit that such notices satisfy the notice requirements of Bankruptcy Rules 2002 and 6004 and section 363(b) of the Bankruptcy Code, and constitute good and sufficient notice and that no other or further notice is required. Accordingly, the Sale Movants respectfully submit that this Court should not only approve the Sale, but also find that the notice described herein constitutes good and sufficient notice of the relief requested in the Motion.

B. The Acknowledgment and Releases Are in the Best Interests of the Sale Movants' and Mr. Ritter's Respective Estates

The Lenders' claims against the Sale Movants and Mr. Ritter are undisputed. The Sale Movants are liable to the Lenders in the full outstanding principal amount of the Notes, plus unpaid interest accrued prior to the Entity Petition Date. The Sale Movants calculate the aggregate amount of the Lenders' claims at \$1,176,948.40. Mr. Ritter is liable to the Lenders on account of the Guaranties. Rather than seeking to enforce the full amount of their claims, the Lenders have agreed to accept less than full payment on the terms and subject to the conditions of the Acknowledgment and Releases. Specifically, subject to the Lenders' receipt of the net proceeds from the Sale, the Lenders have agreed to exchange mutual releases with the Sale Movants and Mr. Ritter in respect of the Notes. This arrangement, typically referred to as a short sale, is highly beneficial to the estates of the Sale Movants and Mr. Ritter. In short, it provides the Lenders with the net proceeds of the Parcels, to which they are unquestionably entitled by law by virtue of the Liens granted pursuant to the Deeds of Trust, and provides the Sale Movants and Mr. Ritter with valuable releases for, in effect, facilitating the Sale. These releases reduce unsecured claims against the Sale Movants and Mr. Ritter, in the aggregate, by more than \$585,698.40. Because the Acknowledgement and Releases resolve claims as among the parties, the Sale Movants and Mr. Ritter seek approval thereof pursuant to Bankruptcy Rule 9019.

In determining the fairness, reasonableness and adequacy of a proposed settlement agreement, bankruptcy courts must consider: (a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises. *Martin v. Kane (In re A&C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Or. 1993). In approving a

1 settlement agreement, the Court must “canvass the issues and see whether the settlement ‘falls
2 below the lowest point in the range of reasonableness.’” *Cosoff v. Rodman (In re W.T. Grant*
3 *Co.)*, 699 F.2d 599, 608 (2d Cir. 1983).

4 The settlement embodied in the Acknowledgment and Releases easily clears the low
5 hurdle imposed by Bankruptcy Rule 9019. The Sale Movants and Mr. Ritter are unaware of
6 any claims that they may have against the Lenders. In contrast, the Lenders’ claims against
7 the Sale Movants and Mr. Ritter and the Lenders’ Liens in the Parcels are undisputed. If the
8 Lenders were to assert their deficiency and guarantee claims, they would likely prevail.
9 Instead, they have agreed to waive them. The Lenders would be virtually assured of
10 collection of their ratable share of the Sale Movants’ and/or Mr. Ritter’s estates in these
11 bankruptcy cases. The litigation for the Lenders to assert their claims would not be complex,
12 but would entail some administrative cost for the estates and for the Lenders alike were the
13 Lenders not to relinquish their claims. The Sale Movants do not anticipate objections from
14 other creditors given that the Lenders’ agreement to waive their substantial claims—
15 aggregating more than \$585,698.40—materially reduces the demands made against the Sale
16 Movants’ and Mr. Ritter’s limited estates to the benefit of all other unsecured creditors.

17 For all of the foregoing reasons, the Acknowledgment and Releases should be
18 approved.

19 **C. Bankruptcy Rule 6004(h) Should Be Waived**

20 Bankruptcy Rule 6004(h) stays an order authorizing an asset sale as follows: “[a]n order
21 authorizing the use, sale, or lease of property other than cash collateral is stayed until the
22 expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P.
23 6004(h).

24 The outside date for the Sale Movants to close the Sale pursuant to the PSAs is September
25 28, 2016. The Sale Movants understand that this deadline is the same for all sale agreements
26 governing the sale of the other parcels in the Assemblage. If the Sale Movants are not authorized
27 to sell the Parcels on or prior to September 28, 2016, the Sale may never close and it may not be
28

possible for another Buyer to reach agreements with all of the owners of the other parcels in the Assemblage, thereby destroying value for the Lenders, the estates of the Sale Movants and Mr. Ritter, and other parties in interest. Accordingly, the Sale Movants submit that cause exists to waive the fourteen day stay generally imposed by Bankruptcy Rule 6004(h).

CONCLUSION

For all of the foregoing reasons, the Sale Movants request that the Court (a) enter an order, substantially in the form attached hereto as **Exhibit A**, (i) authorizing the Sale Movants to take all steps necessary to consummate the Sale; (ii) finding that the Sale was proposed and conducted in good faith; (iii) approving the Acknowledgment and Releases; and (iv) waiving the fourteen day stay made applicable by Bankruptcy Rule 6004(h); and (b) grant such other and further relief as the Court deems just and proper.

Dated: August 23, 2016
Las Vegas, Nevada

SCHWARTZ FLANSBURG PLLC

By: /s/ Samuel A. Schwartz
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—and—

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Attorneys for the Debtors

Exhibit A

[Proposed Order]

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Attorneys for the Debtors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re

John A. Ritter,

☒ Affects this Debtor.

BK-16-10933-btb

CHAPTER 11

**JOINTLY ADMINISTERED UNDER
CASE NO.: BK-16-10933-btb**

In re

Agave Properties, LLC,

☐ Affects this Debtor.

BK-16-13338-btb

CHAPTER 11

In re

Cliffrose Investments , LLC,

☐ Affects this Debtor.

BK-16-13340-btb

CHAPTER 11

In re

Focus South Group, LLC,

☐ Affects this Debtor.

BK-16-13341-btb

CHAPTER 11

| | | |
|----|----------------------------------------------------------|----------------------------------|
| 1 | In re | BK-16-13342-btb |
| 2 | FSG-S, LLC, | CHAPTER 11 |
| 3 | <input type="checkbox"/> Affects this Debtor. | |
| 4 | In re | BK-16-13343-btb |
| 5 | JV Properties, LLC, | CHAPTER 11 |
| 6 | <input type="checkbox"/> Affects this Debtor. | |
| 7 | In re | BK-16-13344-btb |
| 8 | N.G.A. #2, LLC, | CHAPTER 11 |
| 9 | <input type="checkbox"/> Affects this Debtor. | |
| 10 | In re | BK-16-13345-btb |
| 11 | Northwest Investments, LLC, | CHAPTER 11 |
| 12 | <input type="checkbox"/> Affects this Debtor. | |
| 13 | In re | BK-16-13346-btb |
| 14 | PV Land Investments, LLC, | CHAPTER 11 |
| 15 | <input type="checkbox"/> Affects this Debtor. | |
| 16 | In re | BK-16-13347-btb |
| 17 | Saguaro Equities, LLC, | CHAPTER 11 |
| 18 | <input checked="" type="checkbox"/> Affects this Debtor. | |
| 19 | In re | BK-16-13348-btb |
| 20 | Southwest Desert Equities, LLC, | CHAPTER 11 |
| 21 | <input checked="" type="checkbox"/> Affects this Debtor. | |
| 22 | In re | BK-16-13349-btb |
| 23 | Succotash, LLC, | CHAPTER 11 |
| 24 | <input type="checkbox"/> Affects this Debtor. | |
| 25 | In re | BK-16-13350-btb |
| 26 | Victor Investments, LP, | CHAPTER 11 |
| 27 | <input type="checkbox"/> Affects this Debtor. | Hearing Date: September 23, 2016 |
| 28 | | Hearing Time: 10:00 a.m. |

**ORDER GRANTING JOINT MOTION OF SAGUARO EQUITIES, LLC,
SOUTHWEST DESERT EQUITIES, LLC, AND JOHN A. RITTER FOR
(A) AUTHORITY TO SELL CERTAIN PROPERTIES PURSUANT TO
SECTIONS 363(b) AND (f) OF THE BANKRUPTCY CODE AND TO OBTAIN
RELATED RELIEF; AND (B) APPROVAL OF SETTLEMENT OF CLAIMS SECURED
BY PROPERTIES PURSUANT TO BANKRUPTCY RULE 9019**

Upon consideration of the motion (the “**Motion**”)¹ of Debtors Saguaro Equities, LLC (“**Saguaro**”) and Southwest Desert Equities, LLC (“**SWDE**”), pursuant to section 105(a) and

¹ Where the context requires, each capitalized term used but not otherwise defined herein shall have the meaning ascribed to such term in the Motion.

1 363(b) of the Bankruptcy Code, Bankruptcy Rules 6004 and 9019, and Local Rule 6004, for
2 (a) authority to sell the Saguaro Parcel and the SWDE Parcel to D.R. Horton, Inc. (the
3 “**Buyer**”) pursuant to the terms set forth in the PSAs and related relief; and (b) approval of
4 compromise with the Lenders as set forth in the Acknowledgment and Releases, and upon
5 consideration of the declaration of Thomas J. DeVore filed concurrently therewith; and it
6 appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and
7 1334; and it further appearing that this matter falls within the Court’s core jurisdiction
8 pursuant to 28 U.S.C. § 157(b)(2)(N) and (O); and it appearing that notice of the Motion
9 provided was due and proper under the circumstances; and upon due deliberation and
10 sufficient cause appearing therefor, the Court hereby:

11 **FINDINGS OF FACT**

12 **FINDS** that Sale Movants negotiated the terms of the Sale with the Buyer at arms’
13 length and without collusion or other abuse; and further

14 **FINDS** that the Sale is reasonably calculated to maximize the proceeds realizable from
15 the sale of the Parcels; and further

16 **FINDS** that the Sale is proposed in good faith in all respects for the purposes of
17 section 363(b) of the Bankruptcy Code; and further

18 **FINDS** that the proposed purchase of the Parcels by the Buyers as provided in the
19 PSAs is and shall be in good faith for the purposes of section 363(m) of the Bankruptcy Code;
20 and further

21 **FINDS** that the Sale and the Acknowledgment and Releases are each in the best
22 interests of the estates of Saguaro, SWDE, and John A. Ritter; and further

23 **ORDER**

24 **ORDERS** that the Motion is hereby GRANTED in all respects and as further set forth
25 herein; and it further

26 **ORDERS** that the Sale on the terms set forth in the PSAs is hereby APPROVED; and
27 it further
28

1 **ORDERS** that the settlement and compromise agreements reflected in the
 2 Acknowledgment and Releases are hereby APPROVED; and it further

3 **ORDERS** that the Debtors are authorized to take all actions necessary and appropriate
 4 to consummated the Sale and all other transactions contemplated by the PSAs and the
 5 Acknowledgment and Releases; and it further

6 **ORDERS** that the Sale of the Parcels shall be free and clear of all Liens, *provided that*
 7 each Lender shall retain a lien (or interest in a lien) in the Net Proceeds (as such term is
 8 defined in the PSAs) of the Sale commensurate with such Lender's respective lien (or interest
 9 in a lien) in the applicable Parcel; and it further

10 **ORDERS** that the Net Proceeds shall be paid to or for the benefit of the Lenders in
 11 accordance with and pursuant to the terms of the PSAs and the Acknowledgment and
 12 Releases; and it further

13 **ORDERS** that, upon payment of the Net Proceeds in accordance with the terms of the
 14 Acknowledgment and Releases, that any claims of the Lenders on account of or otherwise in
 15 respect of the Notes (including, without limitation, pursuant to the Guaranties) shall be and
 16 hereby are DISALLOWED in their entirety and without further order of the Court; and it
 17 further

18 **ORDERS** that this Order shall be and is immediately effective notwithstanding the
 19 fourteen day stay provided pursuant to Bankruptcy Rule 6004(h), which is hereby specifically
 20 waived; and it further

21 **ORDERS** that this Court shall, and hereby does, retain jurisdiction with respect to all
 22 matters arising from or relating to the implementation of this Order.

23 **SO ORDERED.**

24 In accordance with LR 9021, an attorney submitting this document certifies as follows:

25
 26 ___ The Court has waived the requirement set forth in LR 9021(b)(1), except that I have
 27 delivered a copy of this proposed order to the attorneys described below and each has
 28 approved or disapproved the form of the order, or failed to respond, as indicated below:

| Attorney | Response |
|--------------------------------------------|----------|
| William Noall, Esq. | |
| Brian Goldberg, Esq./J. Michal Bloom, Esq. | |
| | |
| | |
| | |
| | |

___ No party appeared at the hearing or filed an objection to the motion.

___ I have delivered a copy of this proposed order to all attorneys who appeared at the hearing and each has approved or disapproved the order, or failed to respond, as indicated below:

___ I certify that this is a case under chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

Submitted by:

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Attorneys for the Debtors

Exhibit B

SHORT SALE ACKNOWLEDGEMENT AND RELEASE AGREEMENT

This Short Sale Acknowledgement and Release Agreement (the "Agreement"), dated as of July ____, 2016, is executed by and between **Saguaro Equities, LLC**, a Nevada limited liability company ("Borrower"), and **J. W. Mullis** ("Lender"). Borrower and Lender are collectively referred to herein as the "Parties."

RECITALS

A. Lender is the current holder of a Promissory Note dated August 15, 2005, in the original principal amount of \$350,000, in favor of the Lender (the "Note"). The Note has an unpaid balance of approximately \$350,000. The Note is secured by that Deed of Trust with Assignment of Rents and Security Agreement dated August 15, 2005, and recorded August 15, 2005, as Instrument No. 0004025, in Book 2005815, in the Official Records of Clark County, Nevada (the "Deed of Trust"). The Deed of Trust encumbers the real property described therein (the "Property"). The repayment of the Note is personally guaranteed by John A. Ritter (collectively, "Guarantor"). The Note, the Deed of Trust, the Guaranty document executed by the Guarantor and all other loan documents, indemnities, guarantees and agreements related thereto, are collectively referred to herein as the "Loan Documents". The loan that is the subject of the Loan Documents is hereinafter referred to as the "Loan".

B. Borrower desires to sell the Property for an amount that will yield less in net proceeds than the current outstanding balance of the Loan.

C. Lender wishes to accept the net proceeds of said sale in full satisfaction of the Loan and the Parties desire to compromise any claims that may exist among them regarding the Loan, the Loan Documents, the Property, and/or any alleged deficiency or potential deficiency that may exist with respect to the Loan.

NOW, THEREFORE, in consideration of the foregoing Recitals, and the following respective promises and covenants, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Sale by Borrower. Borrower shall sell the Property pursuant to the terms of the Agreement for the Purchase and Sale of Real Property and Escrow Instructions by and between Borrower and D.R. Horton, Inc. ("Buyer"), dated as of July 6, 2016, a copy of which is attached hereto as Exhibit "A" (the "Sale Agreement"). If the Buyer fails to close escrow pursuant to the Sale Agreement then this Agreement shall be null and void.

2. Payment of Net Proceeds to Lender. If and when said sale transaction closes escrow, Lender shall receive directly from the sale escrow the Net Proceeds of the sale. As used herein, the "Net Proceeds" shall mean the Purchase Price paid by the buyer pursuant to the Sale Agreement, less Borrower's share of the closing costs and prorations payable by Borrower pursuant to paragraph 3.4 of the Sale Agreement and the commission payable by Borrower pursuant to Article V of the Sale Agreement.

2. Release. Upon the payment to Lender of the Net Proceeds, the Note, the Deed of Trust, the Guaranty of all obligations under any of the Loan Documents and all remaining obligations of any kind of any person or entity under said documents shall be and hereby are automatically and permanently discharged, extinguished and released forever. Lender shall thereafter fully release and waive of any right

to pursue any claim or action against Borrower, Guarantor or any other surety or guarantor of the Loan to recover any deficiency in payment of the outstanding balance of the Loan. Upon payment of the Net Proceeds, Borrower, Guarantor and any other guarantor or surety of the obligations with respect to the Loan, their respective members, managers, employees, agents and attorneys are hereby forever released from any and all claims and obligations to the Lender.

3. Release of Lender. Borrower and Guarantor hereby forever release, discharge and agree to hold Lender, its officers, directors, employees, agents and representatives harmless from any and all claims, causes of action, actions, damages, liabilities and injuries which Borrower may be entitled to pursue, whether known or unknown, asserted or unasserted, which might be brought against Lender concerning, in any manner, the Note, Deed of Trust, or the Property or any negotiations or prior understandings concerning the subject matter of this Agreement.

7. Lender Authority. Lender is the sole holder of 100% of the Note and the beneficial interest under the Deed of Trust and has not assigned any interest in the Note or Deed of Trust to any other person. The individual signing this document for Lender has full power and authority to do so.

8. Execution and Delivery of Documents. Lender agrees to execute and deliver such reconveyance and other documents as may be necessary in order to release the Deed of Trust from the Property. If necessary, Lender shall execute and deliver those documents to escrow pending the close of escrow under the Sale Agreement together with an irrevocable instruction to the escrow to hold those documents and to release them to the Borrower and for recording only when the escrow agent is in a position to immediately pay the Net Proceeds to the Lender.

9. Miscellaneous Provisions.

a. This Agreement integrates all prior negotiations and agreements between the parties and represents the entire and complete agreement with respect to the subject matter addressed herein.

b. The provisions of this Agreement shall be binding upon and inure to the benefit of Lender, Borrower and Guarantor their respective representatives, successors and assigns.

c. Paragraph captions are included for convenient reference only and shall not be construed to alter the effect of any terms or provisions of this Agreement.

d. If any action or dispute arises from any breach or default of any term, covenant, warranty, representation or condition of this Agreement, the non-defaulting party shall be entitled to recover from the defaulting party all attorneys' fees and costs of suit, if any, incurred by the non-defaulting party, whether or not suit is commenced.

e. The terms, covenants and conditions of this Agreement shall survive the delivery of the Deed and shall not be merged into the Deed.

f. This Agreement may be executed in counterparts, all of which, once executed, shall constitute a single, binding Agreement.

g. This Agreement shall be interpreted, enforced and governed in accordance with the laws of the State of Nevada.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures as of the day and year first written above.

“BORROWER”

SAGUARO EQUITIES, LLC

By: Focus Investment Manager, LLC, its Manager

By:  _____

John A. Ritter

Its: Manager

Dated  8/9/16

“GUARANTOR”

 _____

John A. Ritter

Dated  8/9/16

“LENDER”

 _____

J.W. Mullis

Dated  8-3-16

Exhibit C

SHORT SALE ACKNOWLEDGEMENT AND RELEASE AGREEMENT

This Short Sale Acknowledgement and Release Agreement (the "Agreement"), dated as of July 21, 2016, is executed by and between **Southwest Desert Equities, LLC**, a Nevada limited liability company ("**Borrower**"), and the lenders listed on the signature page attached hereto (collectively, "**Lender**"). Borrower and Lender are collectively referred to herein as the "Parties."

RECITALS

A. Lender is the current holder of a Promissory Note dated May 27, 2005, in the original principal amount of \$300,000, in favor of the Lender (the "**Note**"). The Note has an unpaid principal balance of approximately \$260,000. The Note is secured by that Deed of Trust with Assignment of Rents and Security Agreement dated May 27, 2005, and recorded May 27, 2005, as Instrument No. 04506, in Book 20050527, in the Official Records of Clark County, Nevada (the "**Deed of Trust**"). The Deed of Trust encumbers the real property described therein (the "**Property**"). The repayment of the Note is personally guaranteed by John A. Ritter (the, "**Guarantor**"). The Note, the Deed of Trust, the Guaranty document executed by the Guarantor and all other loan documents, indemnities, guarantees and agreements related thereto, are collectively referred to herein as the "**Loan Documents**". The loan that is the subject of the Loan Documents is hereinafter referred to as the "**Loan**".

B. Borrower desires to sell the Property for an amount that will yield less in net proceeds than the current outstanding balance of the Loan.

C. Lender wishes to accept the net proceeds of said sale in full satisfaction of the Loan and the Parties desire to compromise any claims that may exist among them regarding the Loan, the Loan Documents, the Property, and/or any alleged deficiency or potential deficiency that may exist with respect to the Loan.

NOW, THEREFORE, in consideration of the foregoing Recitals, and the following respective promises and covenants, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **Sale by Borrower.** Borrower shall sell the Property pursuant to the terms of the Agreement for the Purchase and Sale of Real Property and Escrow Instructions by and between Borrower and D.R. Horton, Inc. ("Buyer"), dated as of July 6, 2016, a copy of which is attached hereto as Exhibit "A" (the "**Sale Agreement**"). If the Buyer fails to close escrow pursuant to the Sale Agreement then this Agreement shall be null and void.

2. **Payment of Net Proceeds to Lender.** If and when said sale transaction closes escrow, Lender shall receive directly from the sale escrow the Net Proceeds of the sale. As used herein, the "**Net Proceeds**" shall mean the Purchase Price paid by the buyer pursuant to the Sale Agreement, less Borrower's share of the closing costs and prorations payable by Borrower pursuant to paragraph 3.4 of the Sale Agreement and the commission payable by Borrower pursuant to Article V of the Sale Agreement. Each party that comprises Lender agrees that the Net Proceeds are to be split among the Lenders in the percentages listed next to their respective signatures on the signature page of this Agreement.

2. **Release.** Upon the payment to Lender of the Net Proceeds, the Note, the Deed of Trust, the Guaranty of all obligations under any of the Loan Documents and all remaining obligations of any

kind of any person or entity under said documents shall be and hereby are automatically and permanently discharged, extinguished and released forever. Lender shall thereafter fully release and waive of any right to pursue any claim or action against Borrower, Guarantor or any other surety or guarantor of the Loan to recover any deficiency in payment of the outstanding balance of the Loan. Upon payment of the Net Proceeds, Borrower, Guarantor and any other guarantor or surety of the obligations with respect to the Loan, their respective members, managers, employees, agents and attorneys are hereby forever released from any and all claims and obligations to the Lender.

3. Release of Lender. Borrower and Guarantor hereby forever release, discharge and agree to hold Lender, its officers, directors, employees, agents and representatives harmless from any and all claims, causes of action, actions, damages, liabilities and injuries which Borrower may be entitled to pursue, whether known or unknown, asserted or unasserted, which might be brought against Lender concerning, in any manner, the Note, Deed of Trust, or the Property or any negotiations or prior understandings concerning the subject matter of this Agreement.

7. Lender Authority. The parties comprising Lender are all of the individuals and entities that currently hold, among them, 100% of the undivided interests in the Note and all beneficial interests under the Deed of Trust. The individual signing this document for each such beneficiary has full power and authority to do so.

8. Execution and Delivery of Documents. Each party that comprises Lender agrees to execute and deliver such reconveyance and other documents as may be necessary in order to release the Deed of Trust from the Property. If necessary, Lender shall execute and deliver those documents to escrow pending the close of escrow under the Sale Agreement together with an irrevocable instruction to the escrow agent to hold those documents and to release them to the Borrower and for recording only when the escrow agent is in a position to immediately pay the Net Proceeds to the Lender.

9. Miscellaneous Provisions.

a. This Agreement integrates all prior negotiations and agreements between the parties and represents the entire and complete agreement with respect to the subject matter addressed herein.

b. The provisions of this Agreement shall be binding upon and inure to the benefit of Lender, Borrower and Guarantor their respective representatives, successors and assigns.

c. Paragraph captions are included for convenient reference only and shall not be construed to alter the effect of any terms or provisions of this Agreement.

d. If any action or dispute arises from any breach or default of any term, covenant, warranty, representation or condition of this Agreement, the non-defaulting party shall be entitled to recover from the defaulting party all attorneys' fees and costs of suit, if any, incurred by the non-defaulting party, whether or not suit is commenced.

e. The terms, covenants and conditions of this Agreement shall survive the delivery of the Deed and shall not be merged into the Deed.

f. This Agreement may be executed in counterparts, all of which, once executed, shall constitute a single, binding Agreement.

g. This Agreement shall be interpreted, enforced and governed in accordance with the laws of the State of Nevada.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures as of the day and year first written above.

“BORROWER”

SOUTHWEST DESERT EQUITIES, LLC

By: Focus Investment Manager, LLC, its Manager

By: _____

John A. Ritter

Its: Manager

Dated

“GUARANTOR”

John A. Ritter

Dated

“LENDER”

DS IRA Holdings, LLC



By: Dennis Sizemore

It's: Manager



Dated

13.333%

Percentage of Loan

Premier Trust Custodian for Kay R. Bandley, IRA

By:

21.216%

Percentage of Loan

Dated

IN WITNESS WHEREOF, the parties hereto have affixed their signatures as of the day and year first written above.

“BORROWER”

SOUTHWEST DESERT EQUITIES, LLC

By: Focus Investment Manager, LLC, its Manager

By: _____

John A. Ritter

Its: Manager

Dated

“GUARANTOR”

John A. Ritter

Dated

“LENDER”

DS IRA Holdings, LLC

By: Dennis Sizemore

It's: Manager

13.333%

Percentage of Loan

Dated

Premier Trust Custodian for Kay R. Bandley, IRA

Kathy Klein

By:

8-10-16

**KATHY KLEIN
TRUST OFFICER**

21.216%

Percentage of Loan

Dated

Premier Trust Custodian for Hugh R. Campbell, IRA

Kathy Klein
By: **KATHY KLEIN**
TRUST OFFICER

45.450%
Percentage of Loan

8-10-16
Dated

Premier Trust Custodian for Hugh Robert Campbell Irrevocable Trust

Kathleen M. Allinger
By: **Kathleen Allinger**
VP / Trust Officer

20.001%
Percentage of Loan

8/10/16
Dated

EXHIBIT "A"
SALE AGREEMENT

[See Attached]

Exhibit D

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT, (this "Agreement") is made and entered into by and between SAGUARO EQUITIES, LLC, a Nevada limited liability company (the "Seller"), and D.R. HORTON, INC., a Delaware corporation, ("Purchaser"), collectively the "Parties".

I. SALE AND PURCHASE OF PROPERTY.

1.1 **Agreement of Sale and Purchase.** For and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and of the premises, undertakings, and mutual covenants of the Parties set forth herein, Seller hereby agrees to sell and convey unto Purchaser, and Purchaser hereby agrees to purchase and take from Seller, approximately 1.08 acres of raw land (APN: 125-35-701-008), located proximate to Maverick Street and Washburn Road, City of Las Vegas, Clark County, Nevada, said property being more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference for all purposes, together with, except as expressly limited hereby, all improvements thereon and all and singular the rights and appurtenances pertaining thereto, and including, but not limited to, all right, title, and interest of Seller in and to adjacent streets, alleys, easements, rights-of-way, improvement plans, architectural plans, engineering plans, permits, all pre-paid water fees and water meters, and all other prepaid utility fees and deposits (all of such real property, rights, and appurtenances being hereinafter referred to collectively as the "Property").

1.2 **Purchase Price.** Seller shall sell, and Purchaser shall purchase, the Property for Two Hundred Ninety-Seven Thousand and No/100 Dollars (\$297,000.00) (the "Purchase Price"), upon the terms and conditions set forth herein.

1.3 **Earnest Money.** In consideration for the right to purchase the Property granted herein by Seller to Purchaser, Purchaser shall, within ten (10) business days after the Effective Date, deposit with Nevada Title Company, 3993 Howard Hughes Parkway, Suite 120, Las Vegas, NV 89169 Attn: Brenda Burns (the "Title Company") the sum of Nine Thousand and No/100 Dollars (\$9,000) (the "Deposit"). The Deposit may, upon written notice from Purchaser, and in Purchaser's sole discretion, be placed into an interest-bearing escrow account for the benefit of Purchaser. The Deposit shall remain in Escrow unless and until it is refunded to Purchaser hereunder, or paid to Seller and applied to the Purchase Price as provided herein. The Deposit shall remain refundable to Purchaser and Seller shall have no claim thereon, unless and until Purchaser delivers its "Notice of Suitability" within the "Feasibility Period," as provided in Section 2.2 below. Thereafter, the Deposit (also known as the "Earnest Money," as set forth below) shall remain in escrow and only be refundable to Purchaser upon a default of Seller or in the event of a failure of any of the conditions precedent that allow the return of the Deposit as described below.

II. SURVEY, TITLE COMMITMENT AND FEASIBILITY PERIOD.

2.1 **Title Commitment.** Within five (5) days from delivery of this Agreement to the Title Company by Seller and Purchaser's representatives, excluding Corporate

Approval, as hereinafter defined, Seller shall cooperate with Purchaser to cause the Title Company to furnish to Purchaser a title commitment (the "Title Commitment") for issuance of a CLTA Owner's Policy of Title Insurance covering all of the Property to be purchased by this Agreement in an amount equal to the total Purchase Price (as defined below), issued by the Title Company together with certified copies of all instruments (the "Title Instruments") reflected as exceptions therein, including, but not limited to, any easements, restrictions, reservations, terms, covenants, or conditions which may be applicable to or enforceable against any of the Property. The Title Commitment will show the Seller to be owner of fee simple title and will contain the "standard printed exceptions". Within twenty five (25) days after receipt of the Title Commitment, Purchaser shall notify Seller in writing of Purchaser's disapproval of any exception shown on the Title Commitment ("Disapproved Exception"). With the exception of any mortgage, deed of trust, mechanic's lien, delinquent tax lien, judgment lien or other monetary lien shown on the Title Commitment, which mortgages, deeds of trust, mechanic's liens, delinquent tax liens, judgment liens or other monetary liens, if any, shall be removed by Seller at its expense before or at the Closing, any exception not disapproved by Purchaser in writing within such time or as to which Purchaser thereafter waives or is deemed to have waived its objection shall be deemed accepted by Purchaser (the "Permitted Encumbrances"). Within five (5) business days after receiving timely notice of any Disapproved Exception from Purchaser, Seller shall deliver written notice to Purchaser specifying whether or not Seller will remove the Disapproved Exception from the Title Commitment. If Seller does not agree to remove any Disapproved Exception or fails to deliver such notice to Purchaser, then Purchaser may (i) waive Purchaser's prior disapproval and proceed to close Escrow, or (ii) terminate this Agreement, in which event Escrow Agent shall cancel the Escrow and promptly return the Deposit to Purchaser and all other documents and funds to the depositing party, and except as otherwise specified in this Agreement, the Parties shall have no further obligation or liability to each other. Possession shall be delivered at the Closing free and clear of all matters, except the Permitted Encumbrances.

2.2 Feasibility Period/Studies.

(a) Engineering and Feasibility Study. During the Feasibility Period, Purchaser, at its expense, may conduct engineering, environmental and feasibility studies of the Property (including, without limitation, traffic, utilities, drainage, geotechnical, soils, environmental, architectural, historical, marketing, engineering, and financial investigations, tests, and studies) to determine whether or not the Property is suitable to Purchaser in Purchaser's sole and absolute discretion. Purchaser and Purchaser's employees and agents shall have the right of access to the Property from and after the Effective Date of this Agreement and prior to Closing for the purpose of conducting such investigations and inspections, and Purchaser shall have the right to conduct tests of the soils and obtain core samples. Purchaser agrees to indemnify, protect, defend and hold Seller and any of its employees, agents, affiliates, shareholders, members, managers, partners, principals, officers, directors and owners, and its and their respective heirs, successors and assigns (collectively, "Seller Parties") harmless from and against any and all loss, expense, claim, damage and injury to person or property resulting directly from the acts of Purchaser, Purchaser's agents, contractors, subcontractors and/or the contractors or subcontractors of such agents on the Property in connection with the performance of any investigation or other activities upon the Property contemplated herein. Purchaser's

indemnity obligations under this subsection (a) shall survive for a period of one (1) year following Purchaser's termination of this Agreement, if applicable. Purchaser agrees to pay promptly all costs associated with its inspection of the Property and to not permit any lien or encumbrance to be asserted against the Property. Purchaser shall, at its expense, restore any damage to the Property directly caused by the conduct of any such inspection. Prior to any entry on the Property by Purchaser, its agents, consultants or contractors before the Closing, Purchaser shall secure and maintain: (a) a comprehensive general liability and property damage policy or be self-insured in an amount reasonably acceptable to Seller, that will cover the activities of Purchaser and its agents, consultants and contractors on the Property, and (b) workers' compensation and employer's liability insurance in accordance with the provisions of Nevada law.

(b) Seller Materials. All documents in Seller's possession or control related to the Property shall be delivered to Purchaser within three (3) days after the opening of escrow and Seller shall also provide access to or copies of all documents and information regarding (i) all tax bills and notices of appraised value relating to the Property, including, without limitation, real property, personal property, and special assessment notices and property valuation statements for the current year and the prior years of Seller's ownership; (ii) the soils and geological condition of the Property, including, without limitation, all engineering and soil tests and reports, hydrology studies, and hydraulic analyses; (iii) the availability and status of utilities, including, without limitation, water or other utility contracts or will-serve letters; (iv) preliminary plans or maps, including, without limitation, all permits, zoning approvals, minutes of hearings, correspondence, instructions, improvement agreements, conditions of approval; (v) environmental issues (including, without limitation, any Phase I assessments); (vi) any prior land or title surveys, topographical surveys, and other surveys; (vii) status of title; and (viii) all improvements for the Property (collectively, the "Reports"). Seller agrees to execute any and all documents that might be required to facilitate Purchaser obtaining governmental authorization or consent with respect to the above-described due diligence matters at no cost to Seller. Seller shall execute an authorization letter in a form similar to the attached Exhibit B allowing Purchaser to access governmental files with respect to the Property, including soils reports and other reports on file. If Seller fails to deliver the Reports to Purchaser within three (3) days of the opening of escrow in accordance with this section, the Feasibility Period shall automatically be extended by the number of days Seller's full compliance with this section is delayed beyond such three (3) day period.

(c) Processing of Plans/Entitlements. From and after the Effective Date of this Agreement through the Closing or earlier termination of this Agreement, Purchaser shall have the right to process all applications, plans, maps, agreements, documents and other instruments or entitlements necessary or appropriate for the development of the Property as contemplated by Purchaser, including, without limitation, to the extent deemed necessary or advisable by Purchaser, applicable grading and improvement plans, permits, utility assignment and assumption agreements, and commercial designs and floor plans. Purchaser shall proceed with such processing at its sole cost and expense. Seller will, at no cost or expense to Seller, other than general overhead costs and expenses, cooperate with and assist Purchaser in the processing of such items, including, without limitation attending meetings with governmental

authorities relating to the same, and to the extent necessary or appropriate, executing all such items and materials.

(d) Notice of Suitability. In the event the feasibility study indicates, in Purchaser's sole judgment and discretion, that the Property is suitable to Purchaser, Purchaser shall send written notice (the "Notice of Suitability") to Seller on or before **July 7, 2016** (*i.e.*, the last day of the Feasibility Period). Notwithstanding anything contained herein to the contrary, the Notice of Suitability shall not be effective unless such Notice of Suitability shall have been signed by any one of Donald R. Horton, David V. Auld, Michael J. Murray, Bill Wheat or J. Matt Farris, each an officer of Purchaser. The Parties expressly acknowledge and agree that the Notice of Suitability may be transmitted by Purchaser to Seller by electronic scanning and e-mail or by facsimile. Delivery of the Notice of Suitability by any other method described in the Notice section below shall also be acceptable. If Purchaser fails for any reason to send Seller the Notice of Suitability by the end of the Feasibility Period this Agreement shall automatically terminate. Also, if Purchaser notifies Seller in writing at any time prior to issuance of a Notice of Suitability that the results of its inspections, tests, examinations or studies are not suitable to Purchaser, then this Agreement shall automatically terminate. In the event of such automatic termination, the Deposit, along with any accrued interest, will be returned to Purchaser and, with the exception of Purchaser's indemnity obligations set forth in Section 2.2(a) above, the parties shall have no further obligation to each other.

(e) Short Sale Acquisition Notice. Seller owns fee simple title to the Property but the Property is currently encumbered by a deed of trust securing a loan. Seller shall notify Purchaser in writing no later than June 17, 2016 whether Seller has the right by binding written contract ("Short Sale Agreement") to sell the Property in accordance with this Agreement such that the lender(s) will release said deed of trust as of the Closing ("Short Sale Acquisition Notice"). Seller shall include with the Short Sale Acquisition Notice a copy of the Short Sale Agreement to sell the Property in accordance with this Agreement and obtain the reconveyance of said deed of trust at the Closing. Thereafter, Seller shall take all actions necessary to comply with the terms of the Short Sale Agreement. If Seller timely delivers the Short Sale Acquisition Notice to Purchaser, and Closing does not occur by the Closing Date due to a failure by lender(s) to comply with the terms of the Short Sale Agreement, Purchaser may terminate this Agreement by delivering written notice thereof any time after the Closing Date, in which case the Earnest Money then on deposit shall be immediately delivered to Purchaser.

III. PROVISIONS WITH RESPECT TO CLOSING.

3.1 Closing. The Closing of the purchase and sale of the Property (the "Closing"), shall take place on or before **August 4, 2016**, subject to satisfaction in full of all contingencies set forth in this Agreement. Such date is herein referred to as the "Closing Date." The Closing of the Property shall take place in the offices of the Title Company. Notwithstanding any other provision herein, the Closing under this Agreement must occur on a Tuesday, Wednesday, or Thursday which is a Business Day (a "*Permitted Deadline/Closing Day*"), and if the scheduled Closing Date would otherwise occur on a day that is not a Permitted Deadline/Closing Day, then the Closing shall be extended automatically to the next day that is a Permitted Deadline/Closing Day. The term "*Horton Deadline Date*" means a date on which any

funds are to be paid by Purchaser under this Agreement (*e.g.*, Earnest Money/Deposit or extension fees) or the date on which the Feasibility Period expires and/or the Notice of Suitability is due. If a Horton Deadline Date or a scheduled Closing Date falls on any date between March 25th and March 31st, inclusive, then the Horton Deadline Date and/or the Closing Date, as applicable, shall be extended automatically to the next Permitted Deadline/Closing Day in April. If a Horton Deadline Date or a scheduled Closing Date falls on any date between June 24th and June 30th, inclusive, then the Horton Deadline Date and/or the Closing Date, as applicable, shall be extended automatically to the next Permitted Deadline/Closing Day in July. If a Horton Deadline Date or a scheduled Closing Date falls on any date between September 15th and September 30th, inclusive, then the Horton Deadline Date and/or the Closing Date, as applicable, shall be extended automatically to the next Permitted Deadline/Closing Day in October. If a Horton Deadline Date or a scheduled Closing Date falls on any date between December 18th, and January 5th, inclusive, then the Horton Deadline Date and/or the Closing Date, as applicable, shall be extended automatically to the next Permitted Deadline/Closing Day in January.

3.2 **Seller's Obligations At Closing.** At Closing, Seller shall do the following: (a) Execute and deliver to Purchaser a Grant, Bargain, Sale Deed (the "Deed"), duly executed and acknowledged, conveying to Purchaser fee simple title to all of the Property purchased at Closing, subject to the Permitted Encumbrances; (b) Pay or escrow with the Title Company all real property taxes for the Property for the current year up to the date of Closing; (c) Deliver possession of the Property; (d) Pay Seller's Closing Costs; (e) Cause the Title Company to issue the Title Policy in the amount of the Purchase Price, insuring fee simple, good and indefeasible title to such Property in Purchaser, containing no exceptions other than the Permitted Encumbrances; (f) Execute a General Assignment in the form attached as **Exhibit C**, assigning to Purchaser any and all of Seller's rights, to the extent possible, pertaining to the Property, as more fully set forth in Exhibit C ("Conveyed Property Rights"); and (g) deliver such other instruments and information as the Title Company may reasonably require.

3.3 **Purchaser's Obligations At Closing.** At Closing, Purchaser shall pay the Purchase Price, less the amount of the Deposit which shall apply to the Purchase Price, pay Purchaser's closing costs and deliver such instruments and information as the Title Company may reasonably require.

3.4 **Closing Costs.**

(a) Seller shall pay the following costs and expenses in connection with Closing: (i) Seller's portion of the prorated taxes and fees and any assessments; (ii) One-half (1/2) of the real property transfer taxes; (iii) Seller's own attorney's fees; (iv) The cost of preparing the Deed(s); (v) One-half of any Title Company escrow fees; and (vi) The premiums for a CLTA standard coverage owner's title policy (the "Title Policy").

(b) Purchaser shall pay the following costs and expenses in connection with Closing: (i) Purchaser's own attorney's fees; (ii) One-half (1/2) of the real property transfer taxes; (iii) Purchaser's portion of the prorated taxes and fees (as provided below); (iv) The cost of recording the Deed(s); (v) One-half of any Title Company escrow fees; and (vi) Any

incremental cost of an ALTA extended coverage policy and any endorsements thereto required by Purchaser.

3.5 **Proration of Taxes and HOA Assessments.** All taxes, HOA assessments or any other assessments shall be prorated on the Property as of the date of Closing.

3.6 **Contingencies to Closing.** This Agreement and Purchaser's obligation to close escrow hereunder is expressly contingent upon:

(a) The Title Company issuing the Title Policy in the amount of the Purchase Price, insuring fee simple title to the Property;

(b) There being no material, adverse change after the expiration of the Feasibility Period and prior to Closing in: (i) the areas determined to be flood prone areas as such affect the Property; (ii) access to the Property; or (iii) the existing zoning of the Property (unless changed as a result of Purchaser's pursuit of the Entitlements);

(c) Purchaser receiving, at Purchaser's expense, approval of the following with conditions acceptable to Purchaser in Purchaser's sole discretion: (i) a site plan; and (ii) a "Tentative Map," with any necessary waivers and variances required by Purchaser, to develop a minimum of fifty-five (55) single-family detached units on the Property and the Adjacent Parcels, as such terms are defined below, utilizing the existing R-D zoning designation for the Property. Purchaser's contingencies described herein are referred to as the "Entitlements." The Parties acknowledge that a zone change may be required on certain of the Adjacent Parcels to obtain full approval of the Entitlements as defined herein, and that such zone change for those certain Adjacent Parcels is a contingency hereunder and shall be deemed part of the Entitlements as defined herein. Purchaser shall within the Feasibility Period make such applications as are necessary for approval of the Entitlements and Seller shall execute all such applications as Purchaser reasonably requests of Seller. Approval of the Entitlements shall be deemed to occur only after the entry of approval by the governing authority (City of Las Vegas) with all appeals periods having run and no such appeal being filed.

(d) This Agreement is also contingent upon Purchaser (i) acquiring the adjacent parcels commonly known as APNs: 125-35-701-001, 125-35-701-002, 125-35-701-003, 125-35-701-005, 125-35-701-006, 125-35-701-007, 125-35-701-009 and 125-35-701-010 (the "Adjacent Parcels") concurrently with the Closing, and (ii) having received entitlement approvals for the Adjacent Parcels consistent with those approvals for the Property set forth in Section 3.6(c) and satisfactory to Purchaser.

Upon the failure of any of the above contingencies, prior to Closing, Purchaser may, in Purchaser's sole discretion, either (1) waive any such failed contingency in writing and proceed with the transaction, or (2) terminate this Agreement by written notification to Seller at any time prior to Closing and, notwithstanding any other provisions of this Agreement, the Deposit, together with all interest thereon, shall be immediately refunded to Purchaser, and the parties hereto shall have no further obligation to each other except for those obligations which expressly survive termination of this Agreement. In the event of any termination of this Agreement,

Purchase shall assign, to the extent assignable, and deliver to Seller the entitlement and mapping applications and related documents it has prepared and filed in connection with the Property together with all studies and reports it has prepared in connection with such applications and/or with its due diligence investigation of the Property (collectively, "Entitlement and Investigation Documents"), subject to the following terms and conditions. Notwithstanding anything in this Agreement to the contrary, in no event shall Purchaser be obligated to provide Seller (and Purchaser will not provide to Seller) (i) any environmental site assessments, reports, or summaries, or any other documents relating to Purchaser's environmental due diligence on or with respect to the Property; (ii) copies of any marketing studies or any documents or other information which are proprietary or which contain proprietary information or analysis; or (iii) any other document or information which is otherwise confidential or is privileged under applicable law. All Entitlement and Investigation Documents delivered to Seller shall be delivered "as is, where is, and with all faults." With respect to any Entitlement and Investigation Documents provided to Seller, Seller acknowledges and agrees that (i) Purchaser makes no covenant, representation or warranty whatsoever as to such information, including, without limitation, its content, reliability, accuracy or completeness, (ii) if Seller uses or relies on any Entitlement and Investigation Documents provided by Purchaser, Seller shall do so solely at Seller's own risk, and Purchaser makes no representation, warranty or assurance as to whether Seller has any right to use or rely thereon, (iii) the parties preparing any such Entitlement and Investigation Documents are not the agents of Purchaser, (iv) Purchaser shall have no duty to advise Seller of any misrepresentations, misstatements, mistakes, errors or other inaccuracies contained in such Entitlement and Investigation Documents, and (v) Purchaser shall have no liability, and is hereby released from all liability, to Seller, its successors and/or assigns, with respect to such Entitlement and Investigation Documents, including, without limitation any liability for misrepresentations, misstatements, mistakes, errors or other inaccuracies contained in such information. Moreover, in no event shall Purchaser be obligated to provide Seller (and Purchaser will not provide to Seller) any Entitlement and Investigation Documents if Seller has defaulted under this Agreement. This covenant shall survive Closing and any termination of this Agreement.

IV. REMEDIES.

4.1 **Seller's Remedies.** In the event that Seller has fulfilled all of Seller's obligations pursuant to this Agreement, and should Purchaser breach any term of this Agreement, excepting any breach by Purchaser of its obligations under Section 2.2(a) above and its obligations under Article V below, Seller shall be entitled, as Seller's sole and exclusive remedy, to (i) waive the contractual obligations of Purchaser in writing; (ii) extend the time for performance by such period of time as may be mutually agreed upon in writing by the Parties hereto; or (iii) terminate this Agreement and retain or receive the Earnest Money then on deposit as liquidated damages for such default and not as a penalty, in which event the Parties shall be released herefrom and have no further rights, obligations, or responsibilities hereunder. Seller's extension of the time for Purchaser's performance pursuant to clause (ii) above shall not constitute an election of remedies and shall not prohibit Seller's exercise of Seller's other remedies set forth above in the event Purchaser fails to cure such breach prior to the expiration of such extension period. If Purchaser breaches its obligations under Section 2.2(a) and/or its obligations under Article V and/or Seller has any claim under any other indemnity provision in

favor of Seller provided for in this Agreement and Seller has suffered damage as a direct result of such breach, and Seller has, as of the time of such breach, fulfilled all of its obligations under this Agreement, then Seller shall be entitled to recover from Purchaser its actual, direct damages from such breach, but in no event shall Seller be entitled to recover any consequential, incidental or punitive damages for any breach by Purchaser of any obligations under this Agreement. Seller waives any right to specific performance of this Agreement, and except for a claim based on breach of Section 2.2(a) and/or its obligations under Article V as set forth above, waives any and all rights to recover any damages against Purchaser whether special, consequential, exemplary, punitive or otherwise.

4.2 **Purchaser's Remedies.** If Seller defaults in performing Seller's obligations hereunder for any reason other than Purchaser's default, Purchaser shall be entitled, as Purchaser's sole and exclusive remedy, to (i) waive the contractual obligations of Seller in writing; (ii) extend the time for performance by such period of time as may be mutually agreed upon in writing by the Parties hereto; (iii) terminate this Agreement and receive a return of the Earnest Money then on deposit; or (iv) enforce specific performance of this Agreement. Purchaser's extension of the time for Seller's performance pursuant to clause (ii) above shall not constitute an election of remedies and shall not prohibit Purchaser's exercise of Purchaser's other remedies set forth above in the event Seller fails to cure such breach prior to the expiration of such extension period. Notwithstanding anything to the contrary herein, this limitation on remedies does not apply to Purchaser's rights to indemnity under Articles V and VII, and/or any other indemnity provision in favor of Purchaser provided for in this Agreement, and Purchaser is entitled to recover its actual, direct damages from such breach, but in no event shall Purchaser be entitled to recover any consequential, incidental or punitive damages for any breach by Seller of any obligations under this Agreement.

V. COMMISSION.

Upon the successful close of escrow, Seller shall pay a commission equal to six percent (6%) of the Purchase Price, split equally between Juliet Realty Group, LLC c/o Ray Paglia; and Focus Commercial Group, Inc. c/o Bill Boschetto (collectively, "**Broker**"). Seller and Purchaser each hereby warrant and represent to the other that no other brokers, agents, finders' fees or commissions, or other similar fees, are due or arising in connection with the entering into of this Agreement, the sale and purchase of the Property, or the consummation of transactions contemplated herein; and Seller and Purchaser each hereby agree to indemnify and hold the other harmless from and against all liability, loss, cost, damage, or expense (including, but not limited to, attorneys' fees and costs of litigation) which the other party shall suffer or incur because of any claim by a broker, agent, or finder claiming by, through, or under such indemnifying party, whether or not such claim is meritorious, for any compensation with respect to entering into this Agreement, the sale and purchase of the Property, or the consummation of the transactions contemplated herein.

VI. NOTICE AND RIGHT TO CURE.

Unless otherwise specified herein, each party shall be entitled to written notice of any default and shall have thirty (30) days from receipt of such notice to cure such default prior

to the exercise of any remedy provided herein. The Parties agree to cooperate with each other in any and all attempts by each other to cure any default within any applicable default cure period. Notwithstanding the above, no such notice and cure rights shall apply to Purchaser's obligations to timely deposit the Deposit into Escrow or to cause the Closing to occur on or before the Closing Date.

VII. REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER.

Seller hereby makes the following representations and warranties and covenants, which shall also be true and applicable as of the Closing Date of the Property to Purchaser, and which shall survive the Closing as provided herein:

7.1 There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, trespassers, or otherwise.

7.2 With the exception of the required short sale approval described in Section 2.2(e) above, Seller has full right, power, and authority to execute and deliver this Agreement and to consummate the purchase and sale transactions provided for herein without obtaining any further consents or approvals from, or the taking of any other actions with respect to, any third parties. This Agreement, when executed and delivered by Seller and Purchaser, will constitute the valid and binding agreement of Seller, enforceable against Seller in accordance with its terms.

7.3 Seller has not received any written notice of any condemnation or similar proceedings having been instituted or threatened against the Property or any part thereof nor is any such proceeding threatened or contemplated of which Seller has not received formal notice.

7.4 Immediately upon obtaining express notice or actual knowledge of the institution of any proceedings for the condemnation of the Property or any portion thereof, or any other proceedings arising out of injury or damage to the Property or any portion thereof, Seller will notify Purchaser of the pendency of such proceedings

7.5 Seller is not a "foreign person", as defined in the Internal Revenue Code and, prior to the Closing contemplated under this Agreement, agrees to provide to Purchaser an affidavit to that effect;

7.6 Without Purchaser's prior written consent, which consent may be withheld or granted in Purchaser's sole and absolute discretion, Seller shall not (i) transfer or convey all or any portion of the Property or any right, title, or interest of Seller in the Property, or (ii) grant any deed of trust lien upon or mortgage any portion of the Property.

7.7 Seller will not enter into any maintenance, management or other service contracts involving the Property that are not cancellable with thirty (30) days prior notice without the prior written approval of Purchaser.

7.8 No labor has been performed or material furnished for the Property, or any part thereof, at the request or direction of Seller for which Seller has not fully paid, or for which a mechanic's or materialman's lien or liens, or any other lien, can be claimed by any person, party or entity.

7.9 Seller has not received any written notice of any violation of (nor, to Seller's actual knowledge, is there any violation of) any ordinance, regulation, law, or statute of any governmental authority or agency pertaining to the Property, there is no legal or other proceeding pending with respect to the Property.

7.10 There are no attachments, executions, assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy or under any applicable debtor relief laws, or any other litigation currently existing or contemplated by Seller, or to the best of Seller's actual knowledge, pending or threatened against Seller or the Property.

7.11 All taxes, liens and other encumbrances have been or will be paid by Seller at or prior to Closing.

7.12 Seller is, or at the Close of Escrow, will be, the fee simple owner of the Property.

7.13 Seller hereby represents and warrants to Purchaser that (i) neither Seller nor, to Seller's actual knowledge, any previous owner of the Property or any other person or entity has ever used, generated, processed, stored, disposed of, released or discharged any Hazardous Substance (as hereinafter defined) on, under, or about the Property or transported it to or from the Property, nor has any party ever alleged that any such activities have occurred; and (ii) no use by either Seller or, to Seller's actual knowledge, any prior owner of the Property or any other person, has occurred which violates or has been alleged by any party to violate any applicable Environmental Law (as hereinafter defined), and, to Seller's actual knowledge, the Property is not on any "Superfund" list under any applicable Environmental Law, nor is it subject to any lien related to any environmental matter. As used in this Agreement, "Hazardous Substance" shall mean and include all hazardous or toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous constituents, radon and urea formaldehyde), and any other similar substances or materials which are included or regulated by any local, state, or Federal law, rule, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, and the Federal Insecticide, Fungicide and Rodenticide Act, as amended (collectively, "Environmental Laws"). In the event Seller has breached the representations and warranties in this paragraph, Seller shall indemnify and hold Purchaser, its successors and assigns, harmless from and against all fines and

penalties and liabilities, including reasonable attorneys' fees, directly or indirectly and in whole or in part arising out of or attributable to Hazardous Substances existing beneath or on the surface of the Property on or prior to any Closing or the migration thereof within or from the Property at any time, whether before or after any Closing, including, without limitation, the cost of any remedial, removal, response, abatement, clean-up, investigative and monitoring costs, and any other related costs and expenses. Notwithstanding anything to the contrary contained herein, the representations and warranties in this paragraph shall be deemed remade as to the Property as of the Closing, and such representations and warranties and the indemnification provisions in this paragraph shall survive Closing for a period of one (1) year and shall not be merged therein.

7.14 In accordance with Section 2.2(b) above, and subject to all of the caveats and disclaimers set forth in that Section, Seller shall provide to Purchaser copies of all reports, studies, and other materials that Seller possesses or controls that pertain to the environmental condition of the Property (collectively, the "Existing Environmental Reports").

7.15 For purposes hereof, the term "Seller's actual knowledge" or similar phrase concerning the knowledge of Seller means the current actual knowledge of Thomas J. DeVore, without duty of independent investigation or inquiry. If any of the representations or warranties contained herein are materially untrue or incorrect, Seller shall at all times before Closing use Seller's commercially reasonable efforts to take such necessary action to make such representations or warranties true and correct. Seller shall also indemnify and hold Purchaser, its successors and assigns, harmless from and against any and all loss, cost or damage suffered by Purchaser resulting from or attributable to a breach of any of Seller's representations and warranties. Seller's warranties and representations set forth herein shall survive the Closing and delivery of the Deed for a period of one (1) year. Purchaser hereby waives and releases any and all claims, rights and remedies against Seller under this Article VII if an action is not filed within the period described above. Any recovery under this subsection shall be limited to the actual, out-of-pocket damages suffered by Purchaser and shall not include special, incidental or consequential damages. Furthermore, Purchaser may not recover any damages hereunder if Purchaser, prior to or at the Closing, had actual knowledge of any fact or circumstance which would cause a representation or warranty of Seller to be untrue or misleading, or with the passage of time would become untrue or misleading, and thereafter proceeds to consummate the Closing.

VIII. REPRESENTATIONS, WARRANTIES AND COVENANTS OF PURCHASER.

Purchaser hereby makes the following representations, warranties and covenants, which shall also be true and applicable as of the Closing, and which shall survive the Closing:

8.1 Purchaser has the full right, power, and authority to purchase the Property from Seller as provided in this Agreement and to carry out its obligations hereunder; and all required action necessary to authorize Purchaser to enter into this Agreement and to carry out its obligations hereunder has been or will have been taken prior to the Closing Date;

8.2 Purchaser shall promptly repair any and all damage caused by Purchaser, its employees, agents, and subcontractors to the Property prior to Closing.

8.3 Purchaser acknowledges and agrees that, except as otherwise set forth herein and in any documents executed and delivered to the Title Company by Seller at Closing, the Property is to be sold and conveyed to, and accepted by Purchaser, in “as is” condition with all faults. As of the expiration of the Feasibility Period, Purchaser shall have investigated and have knowledge of operative or proposed governmental laws and regulations (including, but not limited to, zoning, environmental and land use laws and regulations) to which the Property is or may be subject and, except as otherwise set forth herein and in any documents executed and delivered to the Title Company by Seller at Closing, shall accept the Property solely upon the basis of its review and determination of the applicability and effect of such laws and regulations. With the exception of Seller’s representations and warranties expressly set forth herein and in any documents executed and delivered to the Title Company by Seller at Closing, Purchaser acknowledges that it is entering into this Agreement on the basis of Purchaser’s own investigation of the physical and environmental conditions of the Property, including subsurface conditions, and Purchaser assumes the risk that adverse physical and environmental conditions may not have been revealed by its own investigation. Purchaser acknowledges that Seller, its agents and employees and other persons acting on behalf of Seller have, except as expressly set forth herein and in any documents executed and delivered to the Title Company by Seller at Closing, made no representation or warranty of any kind in connection with any matter relating to the condition, value, fitness for a particular use, merchantability, use or zoning of the Property upon which Purchaser has relied directly or indirectly for any purpose. Purchaser acknowledges that Seller did not grade or construct any improvements on the Property. The Purchase Price and the terms and conditions set forth in this Agreement are the result of arm’s-length bargaining between persons familiar with transactions of this kind and said price, terms and conditions reflect the fact that Purchaser, except as expressly set forth in this Agreement and in any documents delivered to the Title Company by Seller at Closing, shall have the benefit of, and is relying upon, no statements, representations or warranties whatsoever made by or enforceable directly against Seller relating to the condition, operations, dimensions, descriptions, environmental or soil condition, suitability, availability of water and other utilities, compliance or lack of compliance with any state, federal, county or local law, ordinance, order, permit or regulation or any other attribute or matter of or relating to the Property. Purchaser shall be responsible for the design, grading and construction of all improvements required for or in connection with Purchaser’s construction of homes on the Property. Purchaser acknowledges that Seller has no bonds posted with any municipality, quasi-municipal entity or utility with respect to the Property. The terms of this Section shall survive the Closing and not merge with the deed.

IX. NOTICE.

9.1 Any notice or communication required or permitted hereunder, except for the Notice of Suitability as provided for above, shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage fully prepaid, registered or certified mail, addressed to the intended recipient at the address stated below or when received if delivered personally. Any address for notice may be changed by ten (10) days’ prior written

notice so given. Notices given otherwise than in accordance with this section, such as by facsimile or by overnight delivery, will be effective upon receipt. An additional copy of any notice to Purchaser required or permitted hereunder shall be delivered by Seller to the persons set forth below.

If to Seller: Saguaro Equities, LLC
Attn: Legal Dept.
3455 Cliff Shadows Pkwy. Suite 220
Las Vegas, Nevada 89129
Tel: (702) 242-4949
Fax: (702) 216-2067
Email: tdevore@fcglv.com

If to Purchaser: D.R. HORTON, INC.
Attn: Matthew L. Stark
1081 Whitney Ranch Drive, Ste. 141
Henderson, NV 89014
Tel: (702) 413-0929
Fax: (817) 928-2467

With Copy to: David S. Jennings, Esq.
Division Counsel
1081 Whitney Ranch Drive, Ste. 141
Henderson, NV 89014
Tel: (702) 413-0927
Fax: (800) 731-6120

And to: Christopher Barnette, Esq.
600 W. Broadway, Suite 700
San Diego, CA 92101
Tel: (619) 940-5175
Fax: (888) 413-9775

And to: Ted I. Harbour, Esq.
Senior V.P. and Chief Legal Officer
301 Commerce St., Suite 500
Fort Worth, TX 76102
Tel: (817) 390-8200
Fax: (817) 928-6120

X. MISCELLANEOUS PROVISIONS.

10.1 Any covenant or agreement herein which contemplates performance after the time of Closing of the sale of the Property pursuant hereto shall not be deemed to be

merged into or waived by the instruments of the Closing, but shall expressly survive Closing, to the extent and for the period provided herein, and be binding upon the Parties obligated thereby.

10.2 The terms, provisions, warranties, representations, covenants, and agreements contained in this Agreement shall apply to, be binding upon, and inure to the benefit of, the Parties hereto and their respective legal representatives, successors, and assigns. If Seller consists of more than one entity or person, then: (1) each reference to Seller herein shall be deemed to refer to each person or entity constituting Seller, both individually and in the aggregate, and (2) if Seller is comprised of more than one person or entity, each person or entity constituting Seller shall be jointly and severally liable for all liabilities and obligations of Seller hereunder.

10.3 Time is of the essence in the performance of this Agreement. Should the date for the giving of any notice, the performance of any act, or the beginning or end of any period provided for herein fall on a Saturday, Sunday or other legal holiday, such date shall be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday, except as otherwise provided for herein.

10.4 The Parties will each reasonably cooperate with each other, their employees, and agents to facilitate the purchase of Property by Purchaser under the terms and conditions herein set forth.

10.5 This Agreement shall be governed and interpreted under the laws of the State of Nevada.

10.6 The paragraph headings used in this Agreement are for convenience purposes only, and shall not be used in the interpretation of this Agreement.

10.7 All exhibits attached hereto are incorporated herein by reference and made a part of this Agreement.

10.8 Failure of the Parties to insist in any one or more instances upon the performance of any of the covenants, agreements, and/or conditions of this Agreement, or to exercise any right or privilege herein conferred shall not be construed as a waiver of any such covenant or condition.

10.9 Purchaser acquires no real property interest in the Property by the execution of this Agreement. Purchaser's rights vest upon Closing and the payment of the sums specified herein. Purchaser shall not record this Agreement or any memorandum of this Agreement.

10.10 This Agreement contains the entire agreement between the Parties relating to the Property, and neither party shall be bound by any verbal statement or agreement made heretofore. This Agreement cannot be varied except by written agreement executed by Parties and subject to Purchaser Corporate Approval as set forth in 10.20.

10.11 If any items, terms, or provisions contained in this instrument are in conflict with any applicable Federal, state, or local laws, this Agreement shall be affected only as to its application to such items, terms, or provisions, and shall in all other respects remain in full force and effect.

10.12 Subject to the express conditions and limitations set forth herein, all of the representations, warranties, covenants, and agreements made by Seller and by Purchaser shall survive the Closing(s) and shall not be merged therein for the benefit of Purchaser and Seller and their respective legal representatives, successors, and assigns.

10.13 In the event the Seller or Purchaser breaches any of the terms, provisions, warranties, representations, covenants, or agreements contained in this Agreement and Seller and Purchaser become involved in litigation with regard to breach hereof, the prevailing party shall be entitled to be paid its reasonable attorneys' fees and costs.

10.14 Nothing contained herein is intended to create, nor shall it ever be construed to make, Seller and Purchaser partners or joint venturers.

10.15 Any consent requested or required by one party under the terms of the Agreement shall not be unreasonably withheld or delayed by the other party hereto.

10.16 The provisions of this Agreement are severable, and if any provision or part hereof or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provisions or part hereof to other persons or circumstances shall not be affected thereby.

10.17 The term "Effective Date", as used herein, shall mean the later of the following dates: (1) the date of Seller's signature; (2) the date of Purchaser's signature; or (3) the date of the corporate approval of the Purchaser ("Corporate Approval"), as evidenced by the signature of either one of Donald R. Horton, David V. Auld, Michael J. Murray, Bill Wheat or J. Matt Farris under the signature block styled "Corporate Approval-Horton" below. ~~The Effective Date must occur on or before March 4, 2016 or either party may terminate this Agreement.~~



10.18 Purchaser shall not have the right to sell, assign, or transfer this Agreement without the prior approval of Seller, which approval shall not be unreasonably withheld so long as, notwithstanding such assignment, Purchaser shall remain fully liable for all its obligations hereunder. Purchaser shall have the right, without prior approval of Seller, to assign its rights hereunder to an affiliate company of Purchaser so long as, notwithstanding such assignment, such assignment shall expressly state that Purchaser shall remain fully liable for all its obligations hereunder.

10.19 This Agreement may be executed in duplicate counterparts by Seller and Purchaser, the legal effect of which shall be the same as if both parties had signed the same instrument. Furthermore, facsimile and email pdf signatures shall be legal and binding for all purposes. As to Electronic Signatures, this Agreement may only be amended, modified, or

changed by a traditional written document properly executed by Purchaser and Seller. Such amendment may be transmitted by e-mail, facsimile, or other method permitted by the provisions for giving notice in this Agreement. Unless otherwise expressly set forth in this Agreement, Purchaser does not assent or agree to and will not be bound by any electronic signature or other electronic record. Without limiting the foregoing, Purchaser and Seller agree that except as expressly set forth in this Agreement, the Electronic Signatures in Global and National Commerce Act, any version of the Uniform Electronic Transactions Act, including without limitation Chapter 719 of the Nevada Revised Statutes, or any other law applicable to contracting electronically do not and shall not apply to this Agreement or any amendment hereto. The Parties acknowledge and agree that execution of the Notice of Suitability by an Executive Officer and execution of this Agreement or any amendment to this Agreement by an Executive Officer for the purpose of Corporate Approval may be accomplished by electronic signature utilizing DocuSign or any similar technology.

10.20 NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY HEREIN, THIS AGREEMENT SHALL NOT BE EFFECTIVE IF THE AGREEMENT IS NOT EXECUTED BY ANY ONE OF DONALD R. HORTON, DAVID V. AULD, MICHAEL J. MURRAY, BILL WHEAT OR J. MATT FARRIS, EACH AN OFFICER OF THE PURCHASER ("EXECUTIVE OFFICER"). MOREOVER, NEITHER THE NOTICE OF SUITABILITY, NOR ANY AMENDMENT HERETO, SHALL BE A VALID AND ENFORCEABLE OBLIGATION OF PURCHASER UNLESS THE NOTICE OF SUITABILITY OR AMENDMENT IS EXECUTED BY AN EXECUTIVE OFFICER.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original, on the dates set forth below.

SELLER:

SAGUARO EQUITIES, LLC, a Nevada limited liability company
By: Focus Investment Group, LLC, its Manager

By: 

Name: Thomas J. DeVore

Title: Manager

Date: May 11, 2016

[Purchaser signatures on following page]

PURCHASER:

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: Bradley F. Burns

Title: Las Vegas Division President

Date: June 29, 2016

CORPORATE APPROVAL - PURCHASER

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: _____

Title: _____

Date: _____

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The undersigned Title Company hereby acknowledges receipt of a copy of this Agreement and the Deposit, and agrees to hold and dispose of the Deposit in accordance with the provisions of this Agreement.

TITLE COMPANY:

NEVADA TITLE COMPANY

Date: _____

By: _____
Name: _____
Title: _____

Enclosures:

Exhibit A: Legal Description
Exhibit B: Authorization Letter
Exhibit C: General Assignment

EXHIBIT A

Legal Description

Assessor's Parcel Numbers:

125-35-701-008

EXHIBIT B

Authorization Letter

[letterhead]

To whom it may concern:

As a representative of the owner of the following parcels: multiple lots (the "Lots") (APN's: 125-35-701-008) located in Clark County (the "County"), Nevada (the "Property"), I, _____, hereby state the following:

1. SAGUARO EQUITIES, LLC., a Nevada limited liability company ("SELLER") has entered into a Purchase and Sale Agreement with D.R. HORTON, INC for the sale of the above Property, dated on or about _____, 2016, wherein SELLER has covenanted with D.R. HORTON, INC., as Purchaser, to allow Purchaser to conduct any and all feasibility studies deemed necessary by Purchaser.
2. SELLER does hereby authorize the release of the soils report for the Property for review and copying by D.R. HORTON, INC., or any of its affiliates or consultants possessing a copy of this letter.
3. SELLER does hereby authorize each and every municipality, utility provider or other service provider to release to D.R. HORTON, INC., or any of its affiliates or consultants possessing a copy of this letter any and all information related to the Property in possession of such municipality, utility provider or other service provider.
4. D.R. HORTON, INC, or any of its affiliates are authorized by the owner of the Property to conduct due diligence related to the Property and to obtain any and all information pertaining to the Property.
5. The property is located proximate to the intersections of _____.

If you have any questions, please contact the undersigned at the following phone number: (702) _____.

Sincerely,

Date: _____

EXHIBIT C

GENERAL ASSIGNMENT

THIS GENERAL ASSIGNMENT (“**Assignment**”) is made this ____ day of _____ 2016, by and between SAGUARO EQUITIES, LLC, a Nevada limited liability company (“**Assignor**”), and D.R. Horton, Inc., a Delaware corporation (“**Assignee**”).

RECITALS

Assignor and Assignee entered into that certain Purchase and Sale Agreement dated as of _____, 2016 (the “**Agreement**”), respecting the sale of certain property.

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

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Seller has GRANTED, BARGAINED, SOLD, CONVEYED and ASSIGNED, and by these present does hereby GRANT, BARGAIN, SELL, CONVEY and ASSIGN to Purchaser all of Seller’s right, title and interest in and to the following, but only to the extent same pertain to the Parcel(s) (as defined in the Agreement) (“**Conveyed Property Rights**”):

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

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

(c) all licenses, permits, governmental approvals, utility commitments, utility rights (including rights to capacity or service), drainage and detention rights, development rights or other similar rights, inclusive of any prepaid impact fees, impact fee credits or other similar development credits;

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

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

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

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

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

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

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

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

6. This Assignment shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of Nevada, without giving effect to the principles of the conflicts of laws.

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the day and year first written above.

ASSIGNOR:

SAGUARO EQUITIES, LLC, a Nevada limited liability company
By: Focus Investment Group, LLC, its Manager

By: _____
Name: Thomas J. DeVore
Title: Manager
Dated: _____

ASSIGNEE:

D.R. HORTON, INC. a Delaware corporation

By: _____

Name: _____

Title: _____

Date: _____

FIRSTAMENDMENT
TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT, (this "Agreement") is made and entered into by and between SAGUARO EQUITIES, LLC, a Nevada limited liability company (the "Seller"), and D.R. HORTON, INC., a Delaware corporation, ("Purchaser"), collectively the "Parties".

RECITALS:

A. Seller and Purchaser are parties to that certain Purchase and Sale Agreement, effective as of July 6, 2016 (the "Agreement"), for the sale by Seller and the purchase by Purchaser of approximately 1.08 acres of raw land (APN: 125-35-701-008), located proximate to Maverick Street and Washburn Road in Clark County, Nevada, as more particularly described in the Agreement. Capitalized terms not otherwise defined herein shall have the meanings assigned such terms in the Agreement.

B. Seller and Purchaser desire to amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. AMENDMENT TO AGREEMENT.

a. The first sentence of Section 3.1 of the Agreement is hereby removed and replaced with the following:

"The Closing of the purchase and sale of the Property (the "Closing") shall take place on or before **September 28, 2016**, subject to satisfaction in full of all contingencies set forth in this Agreement; provided that, should the Closing not occur on or before September 28, 2016 due to failure of the contingency set forth in Section 3.6(d) below, then the Closing, which shall remain subject to satisfaction in full of all contingencies set forth in this Agreement, shall be automatically extended to **October 27, 2016.**"

2. MISCELLANEOUS PROVISIONS.

a. The provisions of this Amendment shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

b. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

c. Except as expressly amended or modified by this Amendment, the Agreement shall remain unchanged and in full force and effect in accordance with its terms. In

the event of any inconsistency between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern.

d. Headings and titles used in this Amendment are for purposes of reference only and do not control, add to, reduce, or in any way effect the terms, rights, obligations, covenants, representations, warranties and consequences set forth in this Amendment or the Agreement.

e. This Amendment shall be governed by the laws of Nevada.


f. If any provision of this Amendment is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Amendment shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

g. **NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY HEREIN, THIS AGREEMENT SHALL NOT BE EFFECTIVE IF THE AGREEMENT IS NOT EXECUTED BY ANY ONE OF DONALD R. HORTON, DAVID V. AULD, MICHAEL J. MURRAY, BILL WHEAT, OR J. MATT FARRIS EACH AN OFFICER OF THE PURCHASER ("AUTHORIZED OFFICER"). MOREOVER, NEITHER THE NOTICE OF SUITABILITY, NOR ANY AMENDMENT HERETO, SHALL BE A VALID AND ENFORCEABLE OBLIGATION OF PURCHASER UNLESS THE NOTICE OF SUITABILITY OR AMENDMENT IS EXECUTED BY AN AUTHORIZED OFFICER.**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original, on the dates set forth below.

SELLER:

SAGUARO EQUITIES, LLC, a Nevada limited liability company

By: 
Name: Thomas J. DeVone
Title: Manager of Holding Manager, LLC
Date: 8/8/16

[PURCHASER SIGNATURES ON FOLLOWING PAGE]

PURCHASER:

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: Bradley F. Burns

Title: Las Vegas Division President

Date: _____

CORPORATE APPROVAL - PURCHASER

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: _____

Title: _____

Date: _____

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Exhibit E

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT, (this "Agreement") is made and entered into by and between SOUTHWEST DESERT EQUITIES, LLC, a Nevada limited liability company (the "Seller"), and D.R. HORTON, INC., a Delaware corporation, ("Purchaser"), collectively the "Parties".

I. SALE AND PURCHASE OF PROPERTY.

1.1 **Agreement of Sale and Purchase.** For and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and of the premises, undertakings, and mutual covenants of the Parties set forth herein, Seller hereby agrees to sell and convey unto Purchaser, and Purchaser hereby agrees to purchase and take from Seller, approximately 1.07 acres of raw land (APN: 125-35-701-009), located proximate to Maverick Street and Washburn Road, City of Las Vegas, Clark County, Nevada, said property being more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference for all purposes, together with, except as expressly limited hereby, all improvements thereon and all and singular the rights and appurtenances pertaining thereto, and including, but not limited to, all right, title, and interest of Seller in and to adjacent streets, alleys, easements, rights-of-way, improvement plans, architectural plans, engineering plans, permits, all pre-paid water fees and water meters, and all other prepaid utility fees and deposits (all of such real property, rights, and appurtenances being hereinafter referred to collectively as the "Property").

1.2 **Purchase Price.** Seller shall sell, and Purchaser shall purchase, the Property for Two Hundred Ninety-Four Thousand Two Hundred Fifty and No/100 Dollars (\$294,250) (the "Purchase Price"), upon the terms and conditions set forth herein.

1.3 **Earnest Money.** In consideration for the right to purchase the Property granted herein by Seller to Purchaser, Purchaser shall, within ten (10) business days after the Effective Date, deposit with Nevada Title Company, 3993 Howard Hughes Parkway, Suite 120, Las Vegas, NV 89169 Attn: Brenda Burns (the "Title Company") the sum of Nine Thousand and No/100 Dollars (\$9,000) (the "Deposit"). The Deposit may, upon written notice from Purchaser, and in Purchaser's sole discretion, be placed into an interest-bearing escrow account for the benefit of Purchaser. The Deposit shall remain in Escrow unless and until it is refunded to Purchaser hereunder, or paid to Seller and applied to the Purchase Price as provided herein. The Deposit shall remain refundable to Purchaser and Seller shall have no claim thereon, unless and until Purchaser delivers its "Notice of Suitability" within the "Feasibility Period," as provided in Section 2.2 below. Thereafter, the Deposit (also known as the "Earnest Money," as set forth below) shall remain in escrow and only be refundable to Purchaser upon a default of Seller or in the event of a failure of any of the conditions precedent that allow the return of the Deposit as described below.

II. SURVEY, TITLE COMMITMENT AND FEASIBILITY PERIOD.

2.1 **Title Commitment.** Within five (5) days from delivery of this Agreement to the Title Company by Seller and Purchaser's representatives, excluding Corporate

Approval, as hereinafter defined, Seller shall cooperate with Purchaser to cause the Title Company to furnish to Purchaser a title commitment (the "Title Commitment") for issuance of a CLTA Owner's Policy of Title Insurance covering all of the Property to be purchased by this Agreement in an amount equal to the total Purchase Price (as defined below), issued by the Title Company together with certified copies of all instruments (the "Title Instruments") reflected as exceptions therein, including, but not limited to, any easements, restrictions, reservations, terms, covenants, or conditions which may be applicable to or enforceable against any of the Property. The Title Commitment will show the Seller to be owner of fee simple title and will contain the "standard printed exceptions". Within twenty five (25) days after receipt of the Title Commitment, Purchaser shall notify Seller in writing of Purchaser's disapproval of any exception shown on the Title Commitment ("Disapproved Exception"). With the exception of any mortgage, deed of trust, mechanic's lien, delinquent tax lien, judgment lien or other monetary lien shown on the Title Commitment, which mortgages, deeds of trust, mechanic's liens, delinquent tax liens, judgment liens or other monetary liens, if any, shall be removed by Seller at its expense before or at the Closing, any exception not disapproved by Purchaser in writing within such time or as to which Purchaser thereafter waives or is deemed to have waived its objection shall be deemed accepted by Purchaser (the "Permitted Encumbrances"). Within five (5) business days after receiving timely notice of any Disapproved Exception from Purchaser, Seller shall deliver written notice to Purchaser specifying whether or not Seller will remove the Disapproved Exception from the Title Commitment. If Seller does not agree to remove any Disapproved Exception or fails to deliver such notice to Purchaser, then Purchaser may (i) waive Purchaser's prior disapproval and proceed to close Escrow, or (ii) terminate this Agreement, in which event Escrow Agent shall cancel the Escrow and promptly return the Deposit to Purchaser and all other documents and funds to the depositing party, and except as otherwise specified in this Agreement, the Parties shall have no further obligation or liability to each other. Possession shall be delivered at the Closing free and clear of all matters, except the Permitted Encumbrances.

2.2 Feasibility Period/Studies.

(a) Engineering and Feasibility Study. During the Feasibility Period, Purchaser, at its expense, may conduct engineering, environmental and feasibility studies of the Property (including, without limitation, traffic, utilities, drainage, geotechnical, soils, environmental, architectural, historical, marketing, engineering, and financial investigations, tests, and studies) to determine whether or not the Property is suitable to Purchaser in Purchaser's sole and absolute discretion. Purchaser and Purchaser's employees and agents shall have the right of access to the Property from and after the Effective Date of this Agreement and prior to Closing for the purpose of conducting such investigations and inspections, and Purchaser shall have the right to conduct tests of the soils and obtain core samples. Purchaser agrees to indemnify, protect, defend and hold Seller and any of its employees, agents, affiliates, shareholders, members, managers, partners, principals, officers, directors and owners, and its and their respective heirs, successors and assigns (collectively, "Seller Parties") harmless from and against any and all loss, expense, claim, damage and injury to person or property resulting directly from the acts of Purchaser, Purchaser's agents, contractors, subcontractors and/or the contractors or subcontractors of such agents on the Property in connection with the performance of any investigation or other activities upon the Property contemplated herein. Purchaser's

indemnity obligations under this subsection (a) shall survive for a period of one (1) year following Purchaser's termination of this Agreement, if applicable. Purchaser agrees to pay promptly all costs associated with its inspection of the Property and to not permit any lien or encumbrance to be asserted against the Property. Purchaser shall, at its expense, restore any damage to the Property directly caused by the conduct of any such inspection. Prior to any entry on the Property by Purchaser, its agents, consultants or contractors before the Closing, Purchaser shall secure and maintain: (a) a comprehensive general liability and property damage policy or be self-insured in an amount reasonably acceptable to Seller, that will cover the activities of Purchaser and its agents, consultants and contractors on the Property, and (b) workers' compensation and employer's liability insurance in accordance with the provisions of Nevada law.

(b) Seller Materials. All documents in Seller's possession or control related to the Property shall be delivered to Purchaser within three (3) days after the opening of escrow and Seller shall also provide access to or copies of all documents and information regarding (i) all tax bills and notices of appraised value relating to the Property, including, without limitation, real property, personal property, and special assessment notices and property valuation statements for the current year and the prior years of Seller's ownership; (ii) the soils and geological condition of the Property, including, without limitation, all engineering and soil tests and reports, hydrology studies, and hydraulic analyses; (iii) the availability and status of utilities, including, without limitation, water or other utility contracts or will-serve letters; (iv) preliminary plans or maps, including, without limitation, all permits, zoning approvals, minutes of hearings, correspondence, instructions, improvement agreements, conditions of approval; (v) environmental issues (including, without limitation, any Phase I assessments); (vi) any prior land or title surveys, topographical surveys, and other surveys; (vii) status of title; and (viii) all improvements for the Property (collectively, the "Reports"). Seller agrees to execute any and all documents that might be required to facilitate Purchaser obtaining governmental authorization or consent with respect to the above-described due diligence matters at no cost to Seller. Seller shall execute an authorization letter in a form similar to the attached Exhibit B allowing Purchaser to access governmental files with respect to the Property, including soils reports and other reports on file. If Seller fails to deliver the Reports to Purchaser within three (3) days of the opening of escrow in accordance with this section, the Feasibility Period shall automatically be extended by the number of days Seller's full compliance with this section is delayed beyond such three (3) day period.

(c) Processing of Plans/Entitlements. From and after the Effective Date of this Agreement through the Closing or earlier termination of this Agreement, Purchaser shall have the right to process all applications, plans, maps, agreements, documents and other instruments or entitlements necessary or appropriate for the development of the Property as contemplated by Purchaser, including, without limitation, to the extent deemed necessary or advisable by Purchaser, applicable grading and improvement plans, permits, utility assignment and assumption agreements, and commercial designs and floor plans. Purchaser shall proceed with such processing at its sole cost and expense. Seller will, at no cost or expense to Seller, other than general overhead costs and expenses, cooperate with and assist Purchaser in the processing of such items, including, without limitation attending meetings with governmental

authorities relating to the same, and to the extent necessary or appropriate, executing all such items and materials.

(d) Notice of Suitability. In the event the feasibility study indicates, in Purchaser's sole judgment and discretion, that the Property is suitable to Purchaser, Purchaser shall send written notice (the "Notice of Suitability") to Seller on or before **July 7, 2016** (*i.e.*, the last day of the Feasibility Period). Notwithstanding anything contained herein to the contrary, the Notice of Suitability shall not be effective unless such Notice of Suitability shall have been signed by any one of Donald R. Horton, David V. Auld, Michael J. Murray, Bill Wheat or J. Matt Farris, each an officer of Purchaser. The Parties expressly acknowledge and agree that the Notice of Suitability may be transmitted by Purchaser to Seller by electronic scanning and e-mail or by facsimile. Delivery of the Notice of Suitability by any other method described in the Notice section below shall also be acceptable. If Purchaser fails for any reason to send Seller the Notice of Suitability by the end of the Feasibility Period this Agreement shall automatically terminate. Also, if Purchaser notifies Seller in writing at any time prior to issuance of a Notice of Suitability that the results of its inspections, tests, examinations or studies are not suitable to Purchaser, then this Agreement shall automatically terminate. In the event of such automatic termination, the Deposit, along with any accrued interest, will be returned to Purchaser and, with the exception of Purchaser's indemnity obligations set forth in Section 2.2(a) above, the parties shall have no further obligation to each other.

(e) Short Sale Acquisition Notice. Seller owns fee simple title to the Property but the Property is currently encumbered by a deed of trust securing a loan. Seller shall notify Purchaser in writing no later than June 17, 2016 whether Seller has the right by binding written contract ("Short Sale Agreement") to sell the Property in accordance with this Agreement such that the lender(s) will release said deed of trust as of the Closing ("Short Sale Acquisition Notice"). Seller shall include with the Short Sale Acquisition Notice a copy of the Short Sale Agreement to sell the Property in accordance with this Agreement and obtain the reconveyance of said deed of trust at the Closing. Thereafter, Seller shall take all actions necessary to comply with the terms of the Short Sale Agreement. If Seller timely delivers the Short Sale Acquisition Notice to Purchaser, and Closing does not occur by the Closing Date due to a failure by lender(s) to comply with the terms of the Short Sale Agreement, Purchaser may terminate this Agreement by delivering written notice thereof any time after the Closing Date, in which case the Earnest Money then on deposit shall be immediately delivered to Purchaser.

III. PROVISIONS WITH RESPECT TO CLOSING.

3.1 Closing. The Closing of the purchase and sale of the Property (the "Closing"), shall take place on or before **August 4, 2016**, subject to satisfaction in full of all contingencies set forth in this Agreement. Such date is herein referred to as the "Closing Date." The Closing of the Property shall take place in the offices of the Title Company. Notwithstanding any other provision herein, the Closing under this Agreement must occur on a Tuesday, Wednesday, or Thursday which is a Business Day (a "*Permitted Deadline/Closing Day*"), and if the scheduled Closing Date would otherwise occur on a day that is not a Permitted Deadline/Closing Day, then the Closing shall be extended automatically to the next day that is a Permitted Deadline/Closing Day. The term "*Horton Deadline Date*" means a date on which any

funds are to be paid by Purchaser under this Agreement (e.g., Earnest Money/Deposit or extension fees) or the date on which the Feasibility Period expires and/or the Notice of Suitability is due. If a Horton Deadline Date or a scheduled Closing Date falls on any date between March 25th and March 31st, inclusive, then the Horton Deadline Date and/or the Closing Date, as applicable, shall be extended automatically to the next Permitted Deadline/Closing Day in April. If a Horton Deadline Date or a scheduled Closing Date falls on any date between June 24th and June 30th, inclusive, then the Horton Deadline Date and/or the Closing Date, as applicable, shall be extended automatically to the next Permitted Deadline/Closing Day in July. If a Horton Deadline Date or a scheduled Closing Date falls on any date between September 15th and September 30th, inclusive, then the Horton Deadline Date and/or the Closing Date, as applicable, shall be extended automatically to the next Permitted Deadline/Closing Day in October. If a Horton Deadline Date or a scheduled Closing Date falls on any date between December 18th, and January 5th, inclusive, then the Horton Deadline Date and/or the Closing Date, as applicable, shall be extended automatically to the next Permitted Deadline/Closing Day in January.

3.2 **Seller's Obligations At Closing.** At Closing, Seller shall do the following: (a) Execute and deliver to Purchaser a Grant, Bargain, Sale Deed (the "Deed"), duly executed and acknowledged, conveying to Purchaser fee simple title to all of the Property purchased at Closing, subject to the Permitted Encumbrances; (b) Pay or escrow with the Title Company all real property taxes for the Property for the current year up to the date of Closing; (c) Deliver possession of the Property; (d) Pay Seller's Closing Costs; (e) Cause the Title Company to issue the Title Policy in the amount of the Purchase Price, insuring fee simple, good and indefeasible title to such Property in Purchaser, containing no exceptions other than the Permitted Encumbrances; (f) Execute a General Assignment in the form attached as **Exhibit C**, assigning to Purchaser any and all of Seller's rights, to the extent possible, pertaining to the Property, as more fully set forth in Exhibit C ("Conveyed Property Rights"); and (g) deliver such other instruments and information as the Title Company may reasonably require.

3.3 **Purchaser's Obligations At Closing.** At Closing, Purchaser shall pay the Purchase Price, less the amount of the Deposit which shall apply to the Purchase Price, pay Purchaser's closing costs and deliver such instruments and information as the Title Company may reasonably require.

3.4 **Closing Costs.**

(a) Seller shall pay the following costs and expenses in connection with Closing: (i) Seller's portion of the prorated taxes and fees and any assessments; (ii) One-half (1/2) of the real property transfer taxes; (iii) Seller's own attorney's fees; (iv) The cost of preparing the Deed(s); (v) One-half of any Title Company escrow fees; and (vi) The premiums for a CLTA standard coverage owner's title policy (the "Title Policy").

(b) Purchaser shall pay the following costs and expenses in connection with Closing: (i) Purchaser's own attorney's fees; (ii) One-half (1/2) of the real property transfer taxes; (iii) Purchaser's portion of the prorated taxes and fees (as provided below); (iv) The cost of recording the Deed(s); (v) One-half of any Title Company escrow fees; and (vi) Any

incremental cost of an ALTA extended coverage policy and any endorsements thereto required by Purchaser.

3.5 **Proration of Taxes and HOA Assessments.** All taxes, HOA assessments or any other assessments shall be prorated on the Property as of the date of Closing.

3.6 **Contingencies to Closing.** This Agreement and Purchaser's obligation to close escrow hereunder is expressly contingent upon:

(a) The Title Company issuing the Title Policy in the amount of the Purchase Price, insuring fee simple title to the Property;

(b) There being no material, adverse change after the expiration of the Feasibility Period and prior to Closing in: (i) the areas determined to be flood prone areas as such affect the Property; (ii) access to the Property; or (iii) the existing zoning of the Property (unless changed as a result of Purchaser's pursuit of the Entitlements);

(c) Purchaser receiving, at Purchaser's expense, approval of the following with conditions acceptable to Purchaser in Purchaser's sole discretion: (i) a site plan; and (ii) a "Tentative Map," with any necessary waivers and variances required by Purchaser, to develop a minimum of fifty-five (55) single-family detached units on the Property and the Adjacent Parcels, as such terms are defined below, utilizing the existing R-D zoning designation for the Property. Purchaser's contingencies described herein are referred to as the "Entitlements." The Parties acknowledge that a zone change may be required on certain of the Adjacent Parcels to obtain full approval of the Entitlements as defined herein, and that such zone change for those certain Adjacent Parcels is a contingency hereunder and shall be deemed part of the Entitlements as defined herein. Purchaser shall within the Feasibility Period make such applications as are necessary for approval of the Entitlements and Seller shall execute all such applications as Purchaser reasonably requests of Seller. Approval of the Entitlements shall be deemed to occur only after the entry of approval by the governing authority (City of Las Vegas) with all appeals periods having run and no such appeal being filed.

(d) This Agreement is also contingent upon Purchaser (i) acquiring the adjacent parcels commonly known as APNs: 125-35-701-001, 125-35-701-002, 125-35-701-003, 125-35-701-005, 125-35-701-006, 125-35-701-007, 125-35-701-008 and 125-35-701-010 (the "Adjacent Parcels") concurrently with the Closing, and (ii) having received entitlement approvals for the Adjacent Parcels consistent with those approvals for the Property set forth in Section 3.6(c) and satisfactory to Purchaser.

Upon the failure of any of the above contingencies, prior to Closing, Purchaser may, in Purchaser's sole discretion, either (1) waive any such failed contingency in writing and proceed with the transaction, or (2) terminate this Agreement by written notification to Seller at any time prior to Closing and, notwithstanding any other provisions of this Agreement, the Deposit, together with all interest thereon, shall be immediately refunded to Purchaser, and the parties hereto shall have no further obligation to each other except for those obligations which expressly

survive termination of this Agreement. In the event of any termination of this Agreement, Purchaser shall assign, to the extent assignable, and deliver to Seller the entitlement and mapping applications and related documents it has prepared and filed in connection with the Property together with all studies and reports it has prepared in connection with such applications and/or with its due diligence investigation of the Property (collectively, “Entitlement and Investigation Documents”), subject to the following terms and conditions. Notwithstanding anything in this Agreement to the contrary, in no event shall Purchaser be obligated to provide Seller (and Purchaser will not provide to Seller) (i) any environmental site assessments, reports, or summaries, or any other documents relating to Purchaser's environmental due diligence on or with respect to the Property; (ii) copies of any marketing studies or any documents or other information which are proprietary or which contain proprietary information or analysis; or (iii) any other document or information which is otherwise confidential or is privileged under applicable law. All Entitlement and Investigation Documents delivered to Seller shall be delivered “as is, where is, and with all faults.” With respect to any Entitlement and Investigation Documents provided to Seller, Seller acknowledges and agrees that (i) Purchaser makes no covenant, representation or warranty whatsoever as to such information, including, without limitation, its content, reliability, accuracy or completeness, (ii) if Seller uses or relies on any Entitlement and Investigation Documents provided by Purchaser, Seller shall do so solely at Seller’s own risk, and Purchaser makes no representation, warranty or assurance as to whether Seller has any right to use or rely thereon, (iii) the parties preparing any such Entitlement and Investigation Documents are not the agents of Purchaser, (iv) Purchaser shall have no duty to advise Seller of any misrepresentations, misstatements, mistakes, errors or other inaccuracies contained in such Entitlement and Investigation Documents, and (v) Purchaser shall have no liability, and is hereby released from all liability, to Seller, its successors and/or assigns, with respect to such Entitlement and Investigation Documents, including, without limitation any liability for misrepresentations, misstatements, mistakes, errors or other inaccuracies contained in such information. Moreover, in no event shall Purchaser be obligated to provide Seller (and Purchaser will not provide to Seller) any Entitlement and Investigation Documents if Seller has defaulted under this Agreement. This covenant shall survive Closing and any termination of this Agreement.

IV. REMEDIES.

4.1 **Seller’s Remedies.** In the event that Seller has fulfilled all of Seller’s obligations pursuant to this Agreement, and should Purchaser breach any term of this Agreement, excepting any breach by Purchaser of its obligations under Section 2.2(a) above and its obligations under Article V below, Seller shall be entitled, as Seller’s sole and exclusive remedy, to (i) waive the contractual obligations of Purchaser in writing; (ii) extend the time for performance by such period of time as may be mutually agreed upon in writing by the Parties hereto; or (iii) terminate this Agreement and retain or receive the Earnest Money then on deposit as liquidated damages for such default and not as a penalty, in which event the Parties shall be released herefrom and have no further rights, obligations, or responsibilities hereunder. Seller’s extension of the time for Purchaser’s performance pursuant to clause (ii) above shall not constitute an election of remedies and shall not prohibit Seller’s exercise of Seller’s other remedies set forth above in the event Purchaser fails to cure such breach prior to the expiration of such extension period. If Purchaser breaches its obligations under Section 2.2(a) and/or its obligations under Article V and/or Seller has any claim under any other indemnity provision in

favor of Seller provided for in this Agreement and Seller has suffered damage as a direct result of such breach, and Seller has, as of the time of such breach, fulfilled all of its obligations under this Agreement, then Seller shall be entitled to recover from Purchaser its actual, direct damages from such breach, but in no event shall Seller be entitled to recover any consequential, incidental or punitive damages for any breach by Purchaser of any obligations under this Agreement. Seller waives any right to specific performance of this Agreement, and except for a claim based on breach of Section 2.2(a) and/or its obligations under Article V as set forth above, waives any and all rights to recover any damages against Purchaser whether special, consequential, exemplary, punitive or otherwise.

4.2 **Purchaser's Remedies.** If Seller defaults in performing Seller's obligations hereunder for any reason other than Purchaser's default, Purchaser shall be entitled, as Purchaser's sole and exclusive remedy, to (i) waive the contractual obligations of Seller in writing; (ii) extend the time for performance by such period of time as may be mutually agreed upon in writing by the Parties hereto; (iii) terminate this Agreement and receive a return of the Earnest Money then on deposit; or (iv) enforce specific performance of this Agreement. Purchaser's extension of the time for Seller's performance pursuant to clause (ii) above shall not constitute an election of remedies and shall not prohibit Purchaser's exercise of Purchaser's other remedies set forth above in the event Seller fails to cure such breach prior to the expiration of such extension period. Notwithstanding anything to the contrary herein, this limitation on remedies does not apply to Purchaser's rights to indemnity under Articles V and VII, and/or any other indemnity provision in favor of Purchaser provided for in this Agreement, and Purchaser is entitled to recover its actual, direct damages from such breach, but in no event shall Purchaser be entitled to recover any consequential, incidental or punitive damages for any breach by Seller of any obligations under this Agreement.

V. COMMISSION.

Upon the successful close of escrow, Seller shall pay a commission equal to six percent (6%) of the Purchase Price, split equally between Juliet Realty Group, LLC c/o Ray Paglia; and Focus Commercial Group, Inc. c/o Bill Boschetto (collectively, "**Broker**"). Seller and Purchaser each hereby warrant and represent to the other that no other brokers, agents, finders' fees or commissions, or other similar fees, are due or arising in connection with the entering into of this Agreement, the sale and purchase of the Property, or the consummation of transactions contemplated herein; and Seller and Purchaser each hereby agree to indemnify and hold the other harmless from and against all liability, loss, cost, damage, or expense (including, but not limited to, attorneys' fees and costs of litigation) which the other party shall suffer or incur because of any claim by a broker, agent, or finder claiming by, through, or under such indemnifying party, whether or not such claim is meritorious, for any compensation with respect to entering into this Agreement, the sale and purchase of the Property, or the consummation of the transactions contemplated herein.

VI. NOTICE AND RIGHT TO CURE.

Unless otherwise specified herein, each party shall be entitled to written notice of any default and shall have thirty (30) days from receipt of such notice to cure such default prior

to the exercise of any remedy provided herein. The Parties agree to cooperate with each other in any and all attempts by each other to cure any default within any applicable default cure period. Notwithstanding the above, no such notice and cure rights shall apply to Purchaser's obligations to timely deposit the Deposit into Escrow or to cause the Closing to occur on or before the Closing Date.

VII. REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER.

Seller hereby makes the following representations and warranties and covenants, which shall also be true and applicable as of the Closing Date of the Property to Purchaser, and which shall survive the Closing as provided herein:

7.1 There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, trespassers, or otherwise.

7.2 With the exception of the required short sale approval described in Section 2.2(e) above, Seller has full right, power, and authority to execute and deliver this Agreement and to consummate the purchase and sale transactions provided for herein without obtaining any further consents or approvals from, or the taking of any other actions with respect to, any third parties. This Agreement, when executed and delivered by Seller and Purchaser, will constitute the valid and binding agreement of Seller, enforceable against Seller in accordance with its terms.

7.3 Seller has not received any written notice of any condemnation or similar proceedings having been instituted or threatened against the Property or any part thereof nor is any such proceeding threatened or contemplated of which Seller has not received formal notice.

7.4 Immediately upon obtaining express notice or actual knowledge of the institution of any proceedings for the condemnation of the Property or any portion thereof, or any other proceedings arising out of injury or damage to the Property or any portion thereof, Seller will notify Purchaser of the pendency of such proceedings

7.5 Seller is not a "foreign person", as defined in the Internal Revenue Code and, prior to the Closing contemplated under this Agreement, agrees to provide to Purchaser an affidavit to that effect;

7.6 Without Purchaser's prior written consent, which consent may be withheld or granted in Purchaser's sole and absolute discretion, Seller shall not (i) transfer or convey all or any portion of the Property or any right, title, or interest of Seller in the Property, or (ii) grant any deed of trust lien upon or mortgage any portion of the Property.

7.7 Seller will not enter into any maintenance, management or other service contracts involving the Property that are not cancellable with thirty (30) days prior notice without the prior written approval of Purchaser.

7.8 No labor has been performed or material furnished for the Property, or any part thereof, at the request or direction of Seller for which Seller has not fully paid, or for which a mechanic's or materialman's lien or liens, or any other lien, can be claimed by any person, party or entity.

7.9 Seller has not received any written notice of any violation of (nor, to Seller's actual knowledge, is there any violation of) any ordinance, regulation, law, or statute of any governmental authority or agency pertaining to the Property, there is no legal or other proceeding pending with respect to the Property.

7.10 There are no attachments, executions, assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy or under any applicable debtor relief laws, or any other litigation currently existing or contemplated by Seller, or to the best of Seller's actual knowledge, pending or threatened against Seller or the Property.

7.11 All taxes, liens and other encumbrances have been or will be paid by Seller at or prior to Closing.

7.12 Seller is, or at the Close of Escrow, will be, the fee simple owner of the Property.

7.13 Seller hereby represents and warrants to Purchaser that (i) neither Seller nor, to Seller's actual knowledge, any previous owner of the Property or any other person or entity has ever used, generated, processed, stored, disposed of, released or discharged any Hazardous Substance (as hereinafter defined) on, under, or about the Property or transported it to or from the Property, nor has any party ever alleged that any such activities have occurred; and (ii) no use by either Seller or, to Seller's actual knowledge, any prior owner of the Property or any other person, has occurred which violates or has been alleged by any party to violate any applicable Environmental Law (as hereinafter defined), and, to Seller's actual knowledge, the Property is not on any "Superfund" list under any applicable Environmental Law, nor is it subject to any lien related to any environmental matter. As used in this Agreement, "Hazardous Substance" shall mean and include all hazardous or toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous constituents, radon and urea formaldehyde), and any other similar substances or materials which are included or regulated by any local, state, or Federal law, rule, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, and the Federal Insecticide, Fungicide and Rodenticide Act, as amended (collectively, "Environmental Laws"). In the event Seller has breached the representations and warranties in this paragraph, Seller shall indemnify and hold Purchaser, its successors and assigns, harmless from and against all fines and

penalties and liabilities, including reasonable attorneys' fees, directly or indirectly and in whole or in part arising out of or attributable to Hazardous Substances existing beneath or on the surface of the Property on or prior to any Closing or the migration thereof within or from the Property at any time, whether before or after any Closing, including, without limitation, the cost of any remedial, removal, response, abatement, clean-up, investigative and monitoring costs, and any other related costs and expenses. Notwithstanding anything to the contrary contained herein, the representations and warranties in this paragraph shall be deemed remade as to the Property as of the Closing, and such representations and warranties and the indemnification provisions in this paragraph shall survive Closing for a period of one (1) year and shall not be merged therein.

7.14 In accordance with Section 2.2(b) above, and subject to all of the caveats and disclaimers set forth in that Section, Seller shall provide to Purchaser copies of all reports, studies, and other materials that Seller possesses or controls that pertain to the environmental condition of the Property (collectively, the "Existing Environmental Reports").

7.15 For purposes hereof, the term "Seller's actual knowledge" or similar phrase concerning the knowledge of Seller means the current actual knowledge of Thomas J. DeVore, without duty of independent investigation or inquiry. If any of the representations or warranties contained herein are materially untrue or incorrect, Seller shall at all times before Closing use Seller's commercially reasonable efforts to take such necessary action to make such representations or warranties true and correct. Seller shall also indemnify and hold Purchaser, its successors and assigns, harmless from and against any and all loss, cost or damage suffered by Purchaser resulting from or attributable to a breach of any of Seller's representations and warranties. Seller's warranties and representations set forth herein shall survive the Closing and delivery of the Deed for a period of one (1) year. Purchaser hereby waives and releases any and all claims, rights and remedies against Seller under this Article VII if an action is not filed within the period described above. Any recovery under this subsection shall be limited to the actual, out-of-pocket damages suffered by Purchaser and shall not include special, incidental or consequential damages. Furthermore, Purchaser may not recover any damages hereunder if Purchaser, prior to or at the Closing, had actual knowledge of any fact or circumstance which would cause a representation or warranty of Seller to be untrue or misleading, or with the passage of time would become untrue or misleading, and thereafter proceeds to consummate the Closing.

VIII. REPRESENTATIONS, WARRANTIES AND COVENANTS OF PURCHASER.

Purchaser hereby makes the following representations, warranties and covenants, which shall also be true and applicable as of the Closing, and which shall survive the Closing:

8.1 Purchaser has the full right, power, and authority to purchase the Property from Seller as provided in this Agreement and to carry out its obligations hereunder; and all required action necessary to authorize Purchaser to enter into this Agreement and to carry out its obligations hereunder has been or will have been taken prior to the Closing Date;

8.2 Purchaser shall promptly repair any and all damage caused by Purchaser, its employees, agents, and subcontractors to the Property prior to Closing.

8.3 Purchaser acknowledges and agrees that, except as otherwise set forth herein and in any documents executed and delivered to the Title Company by Seller at Closing, the Property is to be sold and conveyed to, and accepted by Purchaser, in “as is” condition with all faults. As of the expiration of the Feasibility Period, Purchaser shall have investigated and have knowledge of operative or proposed governmental laws and regulations (including, but not limited to, zoning, environmental and land use laws and regulations) to which the Property is or may be subject and, except as otherwise set forth herein and in any documents executed and delivered to the Title Company by Seller at Closing, shall accept the Property solely upon the basis of its review and determination of the applicability and effect of such laws and regulations. With the exception of Seller’s representations and warranties expressly set forth herein and in any documents executed and delivered to the Title Company by Seller at Closing, Purchaser acknowledges that it is entering into this Agreement on the basis of Purchaser’s own investigation of the physical and environmental conditions of the Property, including subsurface conditions, and Purchaser assumes the risk that adverse physical and environmental conditions may not have been revealed by its own investigation. Purchaser acknowledges that Seller, its agents and employees and other persons acting on behalf of Seller have, except as expressly set forth herein and in any documents executed and delivered to the Title Company by Seller at Closing, made no representation or warranty of any kind in connection with any matter relating to the condition, value, fitness for a particular use, merchantability, use or zoning of the Property upon which Purchaser has relied directly or indirectly for any purpose. Purchaser acknowledges that Seller did not grade or construct any improvements on the Property. The Purchase Price and the terms and conditions set forth in this Agreement are the result of arm’s-length bargaining between persons familiar with transactions of this kind and said price, terms and conditions reflect the fact that Purchaser, except as expressly set forth in this Agreement and in any documents delivered to the Title Company by Seller at Closing, shall have the benefit of, and is relying upon, no statements, representations or warranties whatsoever made by or enforceable directly against Seller relating to the condition, operations, dimensions, descriptions, environmental or soil condition, suitability, availability of water and other utilities, compliance or lack of compliance with any state, federal, county or local law, ordinance, order, permit or regulation or any other attribute or matter of or relating to the Property. Purchaser shall be responsible for the design, grading and construction of all improvements required for or in connection with Purchaser’s construction of homes on the Property. Purchaser acknowledges that Seller has no bonds posted with any municipality, quasi-municipal entity or utility with respect to the Property. The terms of this Section shall survive the Closing and not merge with the deed.

IX. NOTICE.

9.1 Any notice or communication required or permitted hereunder, except for the Notice of Suitability as provided for above, shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage fully prepaid, registered or certified mail, addressed to the intended recipient at the address stated below or when received if delivered personally. Any address for notice may be changed by ten (10) days’ prior written

notice so given. Notices given otherwise than in accordance with this section, such as by facsimile or by overnight delivery, will be effective upon receipt. An additional copy of any notice to Purchaser required or permitted hereunder shall be delivered by Seller to the persons set forth below.

If to Seller: Southwest Desert Equities, LLC
Attn: Legal Dept.
3455 Cliff Shadows Pkwy. Suite 220
Las Vegas, Nevada 89129
Tel: (702) 242-4949
Fax: (702) 216-2067
Email: tdevore@fcglv.com

If to Purchaser: D.R. HORTON, INC.
Attn: Matthew L. Stark
1081 Whitney Ranch Drive, Ste. 141
Henderson, NV 89014
Tel: (702) 413-0929
Fax: (817) 928-2467

With Copy to: David S. Jennings, Esq.
Division Counsel
1081 Whitney Ranch Drive, Ste. 141
Henderson, NV 89014
Tel: (702) 413-0927
Fax: (800) 731-6120

And to: Christopher Barnette, Esq.
600 W. Broadway, Suite 700
San Diego, CA 92101
Tel: (619) 940-5175
Fax: (888) 413-9775

And to: Ted I. Harbour, Esq.
Senior V.P. and Chief Legal Officer
301 Commerce St., Suite 500
Fort Worth, TX 76102
Tel: (817) 390-8200
Fax: (817) 928-6120

X. MISCELLANEOUS PROVISIONS.

10.1 Any covenant or agreement herein which contemplates performance after the time of Closing of the sale of the Property pursuant hereto shall not be deemed to be

merged into or waived by the instruments of the Closing, but shall expressly survive Closing, to the extent and for the period provided herein, and be binding upon the Parties obligated thereby.

10.2 The terms, provisions, warranties, representations, covenants, and agreements contained in this Agreement shall apply to, be binding upon, and inure to the benefit of, the Parties hereto and their respective legal representatives, successors, and assigns. If Seller consists of more than one entity or person, then: (1) each reference to Seller herein shall be deemed to refer to each person or entity constituting Seller, both individually and in the aggregate, and (2) if Seller is comprised of more than one person or entity, each person or entity constituting Seller shall be jointly and severally liable for all liabilities and obligations of Seller hereunder.

10.3 Time is of the essence in the performance of this Agreement. Should the date for the giving of any notice, the performance of any act, or the beginning or end of any period provided for herein fall on a Saturday, Sunday or other legal holiday, such date shall be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday, except as otherwise provided for herein.

10.4 The Parties will each reasonably cooperate with each other, their employees, and agents to facilitate the purchase of Property by Purchaser under the terms and conditions herein set forth.

10.5 This Agreement shall be governed and interpreted under the laws of the State of Nevada.

10.6 The paragraph headings used in this Agreement are for convenience purposes only, and shall not be used in the interpretation of this Agreement.

10.7 All exhibits attached hereto are incorporated herein by reference and made a part of this Agreement.

10.8 Failure of the Parties to insist in any one or more instances upon the performance of any of the covenants, agreements, and/or conditions of this Agreement, or to exercise any right or privilege herein conferred shall not be construed as a waiver of any such covenant or condition.

10.9 Purchaser acquires no real property interest in the Property by the execution of this Agreement. Purchaser's rights vest upon Closing and the payment of the sums specified herein. Purchaser shall not record this Agreement or any memorandum of this Agreement.

10.10 This Agreement contains the entire agreement between the Parties relating to the Property, and neither party shall be bound by any verbal statement or agreement made heretofore. This Agreement cannot be varied except by written agreement executed by Parties and subject to Purchaser Corporate Approval as set forth in 10.20.

10.11 If any items, terms, or provisions contained in this instrument are in conflict with any applicable Federal, state, or local laws, this Agreement shall be affected only as to its application to such items, terms, or provisions, and shall in all other respects remain in full force and effect.

10.12 Subject to the express conditions and limitations set forth herein, all of the representations, warranties, covenants, and agreements made by Seller and by Purchaser shall survive the Closing(s) and shall not be merged therein for the benefit of Purchaser and Seller and their respective legal representatives, successors, and assigns.

10.13 In the event the Seller or Purchaser breaches any of the terms, provisions, warranties, representations, covenants, or agreements contained in this Agreement and Seller and Purchaser become involved in litigation with regard to breach hereof, the prevailing party shall be entitled to be paid its reasonable attorneys' fees and costs.

10.14 Nothing contained herein is intended to create, nor shall it ever be construed to make, Seller and Purchaser partners or joint venturers.

10.15 Any consent requested or required by one party under the terms of the Agreement shall not be unreasonably withheld or delayed by the other party hereto.

10.16 The provisions of this Agreement are severable, and if any provision or part hereof or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provisions or part hereof to other persons or circumstances shall not be affected thereby.

10.17 The term "Effective Date", as used herein, shall mean the later of the following dates: (1) the date of Seller's signature; (2) the date of Purchaser's signature; or (3) the date of the corporate approval of the Purchaser ("Corporate Approval"), as evidenced by the signature of either one of Donald R. Horton, David V. Auld, Michael J. Murray, Bill Wheat or J. Matt Farris under the signature block styled "Corporate Approval-Horton" below. ~~The Effective Date must occur on or before March 4, 2016 or either party may terminate this Agreement.~~



10.18 Purchaser shall not have the right to sell, assign, or transfer this Agreement without the prior approval of Seller, which approval shall not be unreasonably withheld so long as, notwithstanding such assignment, Purchaser shall remain fully liable for all its obligations hereunder. Purchaser shall have the right, without prior approval of Seller, to assign its rights hereunder to an affiliate company of Purchaser so long as, notwithstanding such assignment, such assignment shall expressly state that Purchaser shall remain fully liable for all its obligations hereunder.

10.19 This Agreement may be executed in duplicate counterparts by Seller and Purchaser, the legal effect of which shall be the same as if both parties had signed the same instrument. Furthermore, facsimile and email pdf signatures shall be legal and binding for all purposes. As to Electronic Signatures, this Agreement may only be amended, modified, or

changed by a traditional written document properly executed by Purchaser and Seller. Such amendment may be transmitted by e-mail, facsimile, or other method permitted by the provisions for giving notice in this Agreement. Unless otherwise expressly set forth in this Agreement, Purchaser does not assent or agree to and will not be bound by any electronic signature or other electronic record. Without limiting the foregoing, Purchaser and Seller agree that except as expressly set forth in this Agreement, the Electronic Signatures in Global and National Commerce Act, any version of the Uniform Electronic Transactions Act, including without limitation Chapter 719 of the Nevada Revised Statutes, or any other law applicable to contracting electronically do not and shall not apply to this Agreement or any amendment hereto. The Parties acknowledge and agree that execution of the Notice of Suitability by an Executive Officer and execution of this Agreement or any amendment to this Agreement by an Executive Officer for the purpose of Corporate Approval may be accomplished by electronic signature utilizing DocuSign or any similar technology.

10.20 NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY HEREIN, THIS AGREEMENT SHALL NOT BE EFFECTIVE IF THE AGREEMENT IS NOT EXECUTED BY ANY ONE OF DONALD R. HORTON, DAVID V. AULD, MICHAEL J. MURRAY, BILL WHEAT OR J. MATT FARRIS, EACH AN OFFICER OF THE PURCHASER ("EXECUTIVE OFFICER"). MOREOVER, NEITHER THE NOTICE OF SUITABILITY, NOR ANY AMENDMENT HERETO, SHALL BE A VALID AND ENFORCEABLE OBLIGATION OF PURCHASER UNLESS THE NOTICE OF SUITABILITY OR AMENDMENT IS EXECUTED BY AN EXECUTIVE OFFICER.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original, on the dates set forth below.

SELLER:

SOUTHWEST DESERT EQUITIES, LLC, a Nevada limited liability company
By: Focus Investment Group, LLC, its Manager

By: 

Name: Thomas J. DeVore

Title: Manager

Date: May 11, 2016

[Purchaser signatures on following page]

PURCHASER:

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: Bradley F. Burns

Title: Las Vegas Division President

Date: June 29, 2016

CORPORATE APPROVAL - PURCHASER

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: _____

Title: _____

Date: _____

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The undersigned Title Company hereby acknowledges receipt of a copy of this Agreement and the Deposit, and agrees to hold and dispose of the Deposit in accordance with the provisions of this Agreement.

TITLE COMPANY:

NEVADA TITLE COMPANY

Date: _____

By: _____

Name: _____

Title: _____

Enclosures:

Exhibit A: Legal Description
Exhibit B: Authorization Letter
Exhibit C: General Assignment

EXHIBIT A

Legal Description

Assessor's Parcel Numbers:

125-35-701-009

EXHIBIT B

Authorization Letter

[letterhead]

To whom it may concern:

As a representative of the owner of the following parcels: multiple lots (the "Lots") (APN: 125-35-701-009) located in Clark County (the "County"), Nevada (the "Property"), I,
_____, hereby state the following:

1. SOUTHWEST DESERT EQUITIES, LLC, a Nevada limited liability company ("SELLER") has entered into a Purchase and Sale Agreement with D.R. HORTON, INC for the sale of the above Property, dated on or about _____, 2016, wherein SELLER has covenanted with D.R. HORTON, INC., as Purchaser, to allow Purchaser to conduct any and all feasibility studies deemed necessary by Purchaser.
2. SELLER does hereby authorize the release of the soils report for the Property for review and copying by D.R. HORTON, INC., or any of its affiliates or consultants possessing a copy of this letter.
3. SELLER does hereby authorize each and every municipality, utility provider or other service provider to release to D.R. HORTON, INC., or any of its affiliates or consultants possessing a copy of this letter any and all information related to the Property in possession of such municipality, utility provider or other service provider.
4. D.R. HORTON, INC, or any of its affiliates are authorized by the owner of the Property to conduct due diligence related to the Property and to obtain any and all information pertaining to the Property.
5. The property is located proximate to the intersections of _____.

If you have any questions, please contact the undersigned at the following phone number: (702) _____.

Sincerely,

Date: _____

EXHIBIT C

GENERAL ASSIGNMENT

THIS GENERAL ASSIGNMENT (“**Assignment**”) is made this ____ day of _____ 2016, by and between SOUTHWEST DESERT EQUITIES, LLC, a Nevada limited liability company (“**Assignor**”), and D.R. Horton, Inc., a Delaware corporation (“**Assignee**”).

RECITALS

Assignor and Assignee entered into that certain Purchase and Sale Agreement dated as of _____, 2016 (the “**Agreement**”), respecting the sale of certain property.

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

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Seller has GRANTED, BARGAINED, SOLD, CONVEYED and ASSIGNED, and by these present does hereby GRANT, BARGAIN, SELL, CONVEY and ASSIGN to Purchaser all of Seller’s right, title and interest in and to the following, but only to the extent same pertain to the Parcel(s) (as defined in the Agreement) (“**Conveyed Property Rights**”):

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

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

(c) all licenses, permits, governmental approvals, utility commitments, utility rights (including rights to capacity or service), drainage and detention rights, development rights or other similar rights, inclusive of any prepaid impact fees, impact fee credits or other similar development credits;

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

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

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

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

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

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

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

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

6. This Assignment shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of Nevada, without giving effect to the principles of the conflicts of laws.

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the day and year first written above.

ASSIGNOR:

SOUTHWEST DESERT EQUITIES, LLC, a Nevada limited liability company
By: Focus Investment Group, LLC, its Manager

By: _____
Name: Thomas J. DeVore
Title: Manager
Dated: _____

ASSIGNEE:

D.R. HORTON, INC. a Delaware corporation

By: _____

Name: _____

Title: _____

Date: _____

FIRST AMENDMENT
TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT, (this "Agreement") is made and entered into by and between SOUTHWEST DESERT EQUITIES, LLC, a Nevada limited liability company (the "Seller"), and D.R. HORTON, INC., a Delaware corporation, ("Purchaser"), collectively the "Parties".

RECITALS:

A. Seller and Purchaser are parties to that certain Purchase and Sale Agreement, effective as of July 6, 2016 (the "Agreement"), for the sale by Seller and the purchase by Purchaser of approximately 1.07 acres of raw land (APN: 125-35-701-009), located proximate to Maverick Street and Washburn Road in Clark County, Nevada, as more particularly described in the Agreement. Capitalized terms not otherwise defined herein shall have the meanings assigned such terms in the Agreement.

B. Seller and Purchaser desire to amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. AMENDMENT TO AGREEMENT.

a. The first sentence of Section 3.1 of the Agreement is hereby removed and replaced with the following:

"The Closing of the purchase and sale of the Property (the "Closing") shall take place on or before **September 28, 2016**, subject to satisfaction in full of all contingencies set forth in this Agreement; provided that, should the Closing not occur on or before September 28, 2016 due to failure of the contingency set forth in Section 3.6(d) below, then the Closing, which shall remain subject to satisfaction in full of all contingencies set forth in this Agreement, shall be automatically extended to **October 27, 2016.**"

2. MISCELLANEOUS PROVISIONS.

a. The provisions of this Amendment shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

b. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

c. Except as expressly amended or modified by this Amendment, the Agreement shall remain unchanged and in full force and effect in accordance with its terms. In

the event of any inconsistency between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern.

d. Headings and titles used in this Amendment are for purposes of reference only and do not control, add to, reduce, or in any way effect the terms, rights, obligations, covenants, representations, warranties and consequences set forth in this Amendment or the Agreement.

e. This Amendment shall be governed by the laws of Nevada.


f. If any provision of this Amendment is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Amendment shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

g. **NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY HEREIN, THIS AGREEMENT SHALL NOT BE EFFECTIVE IF THE AGREEMENT IS NOT EXECUTED BY ANY ONE OF DONALD R. HORTON, DAVID V. AULD, MICHAEL J. MURRAY, BILL WHEAT, OR J. MATT FARRIS EACH AN OFFICER OF THE PURCHASER ("AUTHORIZED OFFICER"). MOREOVER, NEITHER THE NOTICE OF SUITABILITY, NOR ANY AMENDMENT HERETO, SHALL BE A VALID AND ENFORCEABLE OBLIGATION OF PURCHASER UNLESS THE NOTICE OF SUITABILITY OR AMENDMENT IS EXECUTED BY AN AUTHORIZED OFFICER.**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original, on the dates set forth below.

SELLER:

SOUTHWEST DESERT EQUITIES, LLC, a Nevada limited liability company

By: 
Name: Thomas J. DeVore
Title: Manager of Holdings Manager, LLC
Date: 8/8/16

[PURCHASER SIGNATURES ON FOLLOWING PAGE]

PURCHASER:

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: Bradley F. Burns

Title: Las Vegas Division President

Date: _____

CORPORATE APPROVAL - PURCHASER

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: _____

Title: _____

Date: _____

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