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**PURCHASE AND SALE AGREEMENT**

**BETWEEN**

**KASPER LAND & CATTLE TEXAS, LLC,**  
a Texas limited liability company

**AS SELLER,**

**AND**

**OLD MACS GHOST, LLC,**  
a Texas limited liability company

**AS PURCHASER**

**As of November 11, 2014**

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**Moore & Hartley Counties, Texas**

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**PURCHASE AND SALE AGREEMENT**

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is made as of November 11, 2014 (the “**Execution Date**”) by and between **KASPER LAND & CATTLE TEXAS, LLC**, a Texas limited liability company (“**Seller**”), and **OLD MACS GHOST, LLC**, a Texas limited liability company (“**Purchaser**”), **CHICAGO TITLE INSURANCE COMPANY** (as “**Escrow Agent**” and in its capacity as title insurer sometimes herein called the “**Title Company**”).

WITNESSETH:

**ARTICLE 1**

**PURCHASE AND SALE**

**1.1 Agreement of Purchase and Sale.** Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and convey and Purchaser agrees to purchase the following:

(a) that certain tract or parcel of land located in Hartley and Moore Counties, Texas, consisting of approximately 11,200 acres and more particularly described on Schedule 1.1(a), attached hereto and made a part hereof (the property described in this clause (a) being herein referred to collectively as the “**Land**”);

(b) all those rights, easements, hereditaments and appurtenances pertaining to the Land (whether now or hereafter existing), including (i) all right, title and interest of Seller (if any) in and to any streets, alleys or rights-of-way (whether open, closed or proposed), within or adjacent to the Land, (ii) all right, title and interest of Seller with respect to any easements, covenants, agreements, rights, privileges, tenements, hereditaments and appurtenances that now or hereafter benefit or burden the Land, and (iii) all right, title and interest of Seller in all mineral, gas, oil, profits, executive, and other subsurface rights related to the Land, (the property described in this clause (b) herein referred to collectively as the “**Related Rights**”);

(c) the buildings, structures, facilities, installations, fixtures and other improvements of every kind on the Land, (the property described in this clause (c) being herein referred to collectively as the “**Improvements**”, and the Land, the Related Rights and the Improvements being hereinafter sometimes collectively referred to as the “**Real Property**”);

(d) all of Seller’s right, title and interest in and to the Designated Service Contracts from and after Closing (as defined in Section 5.4(g));

(e) all of Seller’s right, title and interest in, to and under all tangible personal property upon the Land or within the Improvements, including specifically, without limitation, equipment, irrigation, pivots, and other items of tangible personal property owned by Seller and used exclusively in connection with the ownership, use,

maintenance or operation of the Land and the Improvements, and including those items of tangible personal property identified on Schedule 1.1(e), attached hereto and incorporated herein by this reference (the property described in this clause (d) being herein referred to collectively as the “**Tangible Personal Property**”); provided, however, that Tangible Personal Property shall not include (i) the rolling stock and other tangible personal property identified as “Excluded Tangible Personal Property” on Schedule 1.1(e), which Seller and/or Kasper Farms JV shall have the right to keep on the Property until it is removed by Seller and/or Kasper Farms JV, which shall occur on or before the later of the Closing Date and December 31, 2014 and (ii) the milo and sunflower crops presently growing on or in the Land, which shall be the subject of the lease agreement, in the form attached hereto as Schedule 1.1(e)(ii), whereby Purchaser leases a portion of the Property to Kasper Farms JV for the purpose of growing and harvesting crops Seller has already planted (the “**Farms Lease**”);

(f) all of Seller’s right, title and interest in, to and under (i) all assignable existing warranties and guaranties issued to or inuring to the benefit of Seller in connection with the Improvements or the Tangible Personal Property, (ii) all assignable governmental permits, licenses and approvals, if any, belonging to or inuring to the benefit of Seller and pertaining to the Real Property or the Tangible Personal Property, including ,without limitation, the permits listed on Schedule 1.1(e); (iii) all plans, drawings, specifications, surveys, water reports, soil reports, appraisals, environmental studies, engineering reports, and other technical information in the possession of Seller pertaining to the development and construction of the Improvements, (“**Plans and Specifications**”), (iv) other non-confidential and non-proprietary records owned by Seller and used in connection with the operation of the Real Property or any part thereof; (v) (the property described in this clause (f), being sometimes herein referred to collectively as the “**Intangible Property**”).

**1.2 Property Defined.** The Land, the Related Rights, the Improvements, the Tangible Personal Property and the Intangible Property are hereinafter sometimes referred to collectively as the “**Property.**”

**1.3 Permitted Exceptions.** The Property shall be conveyed, and Purchaser shall accept the Property, subject to the matters which are, or are deemed to be, Permitted Exceptions pursuant to ARTICLE 2 hereof (herein referred to collectively as the “**Permitted Exceptions**”).

**1.4 Purchase Price.** Seller is to sell and Purchaser is to purchase the Property for a total purchase price equal to all amounts necessary to (i) satisfy and have canceled of record the Monetary Liens (defined below) affecting the Property that have been asserted by Herring Bank (as all or a part has been assigned to Burgess Y Ranch Co. L.L.C.); Monarch Trust Company, as trustee of the Jessie Herring Johnson Estate Trust No.1; Herring Bank and Jane Slemm Burgess, as co-trustees of the Jessie Herring Johnson Estate Trust No. 2; Herring Bank and Jane Slemm Burgess, as co-trustees of the Cornelia J. Slemm Trust; Herring Bank and Jane Slemm Burgess, as co-trustees of the Louise Johnson Thomas Trust; and Chain-C, Inc.; and (ii) to satisfy the unsecured and administrative claims filed in the Bankruptcy Case (the “**Unsecured Claims**”), provided however, in no event will Purchaser pay a total purchase price greater than Fourteen Million Eight Hundred Thousand and No/100 Dollars (\$14,800,000.00) (the “**Purchase Price**”).

In the event the Purchase Price is insufficient to satisfy the Monetary Liens and the Unsecured Claims described above, then Purchaser shall make an advance against the Holdback Amount in an amount sufficient to fully discharge the Monetary Liens and the Unsecured Claims. In the event the Purchase Price and the Holdback Amount is insufficient to satisfy the Monetary Liens and the Unsecured Claims, then Purchaser in its sole and absolute discretion may terminate this Agreement by sending written notice thereof to Seller, and upon delivery of such notice of termination, this Agreement shall terminate and the Earnest Money shall be returned to Purchaser in accordance with Section 1.7 of this Agreement, and thereafter neither party hereto shall have any further rights, obligations or liabilities hereunder except those indemnities, rights and obligations which, under the terms hereof, expressly survive termination of this Agreement.

**1.5 Holdback Amount.** In addition to the Purchase Price, Purchaser shall also pay to Seller an amount equal to Four Hundred Thousand and No/100 Dollars (\$400,000.00), less any amount advanced at Closing to satisfy the Monetary Liens and the Unsecured Claims over and above the Purchase Price (the “**Holdback Amount**”). The Holdback Amount shall be paid to Seller one-hundred and eighty (180) days after the closing (the “**Holdback Release Date**”) and only upon strict compliance with the following conditions: (i) Seller shall not be in default of any provision of this Agreement that survives Closing (including without limitation, there not having been as of the Closing Date any breach of any warranty or representation made herein as of Closing Date) and (ii) E. Kasper shall not be in default of any provision of the Consulting Agreement, failing either of which Purchaser may set-off against the Holdback Amount the amount of any damages suffered by Purchaser attributable to any such breach. If the Closing does not occur for any reason, other than a default by Purchaser, Purchaser shall have no obligation to pay the Holdback Amount to Seller.

**1.6 Payment of Purchase Price.** The Purchase Price, including so much of the Holdback Amount as may be advanced at Closing as provided for in Section 1.4, as adjusted by prorations and adjustments as herein provided, shall be payable in full at Closing in cash by wire transfer of immediately available federal funds to a bank account of Escrow Agent designated by Escrow Agent in writing to Purchaser prior to the Closing (“**Escrow Agent’s Account**”), and, as adjusted by prorations and adjustments as herein provided, shall be subsequently payable in full at Closing in cash by wire transfer of immediately available federal funds to a bank account designated by Seller in writing to Escrow Agent prior to the Closing.

**1.7 Earnest Money.**

(a) Within three (3) business days following the Effective Date, Purchaser shall deposit with Escrow Agent the sum of Two Hundred Thousand and No/Dollars (\$200,000.00) by wire transfer of immediately available funds (the “**Earnest Money**”). The Earnest Money is consideration for the rights granted to Purchaser to purchase the Property and if Purchaser has not terminated this Agreement in accordance with Section 3.2, then the Earnest Money will be non-refundable except if a Purchaser Permitted Termination Event occurs, in which event the Earnest Money will promptly be returned to Purchaser. The Earnest Money shall be applied to the Purchase Price on the Closing Date and paid to Seller through the escrow process outlined herein. For purposes of this Agreement, “**Purchaser Permitted Termination Event**” means the termination of this Agreement by Purchaser for any of the following reasons: (i) pursuant to Section 3.2 as a result of

Purchaser's inspection of the Property; (ii) pursuant to Section 2.3 as a result of a title or survey matter; (iii) pursuant to Section 4.6 if a closing condition benefiting Purchaser is not satisfied; (v) pursuant to Section 7.1 in the event of "major" damage to the Property; (vi) pursuant to Section 6.2 in the event of a Seller default; or (vii) pursuant to Section 1.4 in the event the Purchase Price and the Holdback Amount cannot satisfy the Monetary Liens or the Unsecured Claims.

(b) Seller acknowledges that Purchaser, in evaluating the Property and performing its due diligence investigation of the Property, will devote internal resources and incur expenses, and that such efforts and expenses of Purchaser also constitute good, valuable and sufficient consideration for this Agreement.

## ARTICLE 2

### TITLE AND SURVEY

**2.1 Title Examination; Commitment for Title Insurance.** No later than three (3) business days after the Effective Date, Purchaser shall order from the Title Company a title commitment (the "**Title Commitment**") covering the Property along with copies of all documents and title exceptions referenced therein.

**2.2 Survey.** Within five (5) business days following the Execution Date, Seller shall deliver to Purchaser its existing survey(s) of the Property, if any. Purchaser may obtain, at Purchaser's sole cost and expense, a new or updated survey of the Property (Seller's existing survey(s) or Purchaser's updated survey, as applicable, are referred to herein as the "**Survey**"). If Seller does not have any surveys of the Property in its possession or control and Purchaser does not obtain a new or updated Survey, all provisions related to the Survey in this Agreement shall be ignored. For purposes of the Deed to be delivered to Purchaser at the Closing, the legal description of the Property shall be the legal description attached hereto as Schedule 1.1(a), less and except any right-of-way or other conveyances previously made by Seller. If, however, the metes and bounds description drawn from the Survey reflects a legal description different from the legal description attached hereto as Schedule 1.1(a), then such metes and bounds description from the Survey shall replace the legal description set forth on Schedule 1.1(a), Seller shall also deliver a quitclaim deed, at Closing, containing the legal description drawn from the Survey. Any difference in the acreage of the Property shown in the Survey shall not be the basis for altering the Purchase Price, provided, however if the difference in acreage as shown in the Survey indicates the discrepancy is acreage decreases the area of the Property by five percent (5%) or more, then Purchaser shall be entitled to offset against the Holdback Amount in the amount of Fifty Thousand and No/Dollars (\$50,000.00).

**2.3 Title Objections; Cure of Title Objections.**

(a) Purchaser or its attorneys shall have until the Inspection Period Termination Date (the "**Title Objection Deadline**") to notify Seller, in writing ("**Objection Letter**"), of such objections as Purchaser may have to the Title Commitment (including the title exception documents referred to therein) or the Survey, if one is obtained (collectively, "**Title Objections**"). Any item contained in the Title

Commitment or shown on the Survey which is not described in the Objection Letter and delivered to Seller on or before the Title Objection Deadline conclusively will be deemed a “**Permitted Exception**.”

(b) In the event Purchaser shall deliver to Seller an Objection Letter on or before the Title Objection Deadline, Seller shall have the right, but not the obligation, to cure any Title Objections. On or before the tenth (10<sup>th</sup>) business day following Seller’s receipt of the Objection Letter (“**Response Period**”), Seller or its attorneys shall notify Purchaser in writing (“**Response Notice**”) whether Seller shall cure any Title Objections (and Seller’s failure to provide a Response Notice on or before the end of the Response Period shall be deemed an election by Seller not to cure the Title Objection). If Seller elects to cure, and provided that Purchaser shall not have terminated this Agreement in accordance with Section 3.2 hereof, then Seller shall remove, satisfy or cure the same. If Seller elects (or is deemed to have elected) not to cure any Title Objections specified in Purchaser’s Objection Letter, then in either such case Purchaser shall have the right to elect one, but not both, of the following options, which election must in each case be made within the time period provided in paragraph (c) below:

(i) to accept a conveyance of the Property subject to the Permitted Exceptions, specifically including any Title Objection which Seller has not elected (or has been deemed to have not elected) to cure, and without reduction of the Purchase Price, in which event all of those Title Objections shall be deemed Permitted Exceptions; or

(ii) to terminate this Agreement by sending written notice thereof to Seller, and upon delivery of such notice of termination, this Agreement shall terminate and the Earnest Money shall be returned to Purchaser in accordance with Section 1.7 of this Agreement, and thereafter neither party hereto shall have any further rights, obligations or liabilities hereunder except those indemnities, rights and obligations which, under the terms hereof, expressly survive termination of this Agreement.

(c) If Seller notifies Purchaser that Seller does not intend to attempt to cure a Title Objection, or if Seller is deemed to have elected not to cure a Title Objection, then in any such case Purchaser shall, within ten (10) business days after the expiration of the Response Period (“**Election Period**”), notify Seller in writing (“**Election Notice**”) whether Purchaser elects to accept conveyance of the Property under clause (b)(1) above or to terminate this Agreement under clause (b)(2) above. Purchaser’s failure to deliver the Election Notice within the Election Period conclusively will be deemed an election by Purchaser to accept conveyance of the Property under clause (b)(1) above).

(d) Notwithstanding anything contained herein to the contrary, regardless of whether Purchaser objects to the same, Seller shall be obligated at Closing to discharge (a) all mortgages, and (b) all mechanics’ liens, judgment liens, tax liens, assessment liens or other liens affecting the Property, in each case which can be satisfied by payment of a sum certain (collectively, “**Monetary Liens**”). It being understood by the Parties that Purchaser shall provide the funds payable on account of the Seller to satisfy the Monetary



Liens described in Section 1.4 and Seller shall have the obligation to satisfy any other Monetary Liens. The term “mortgage” as used herein includes any mortgage, deed of trust, deed to secure debt and similar security instrument encumbering the Property or any portion thereof; the terms “discharge” and “discharged” as used herein shall mean having the Monetary Lien satisfied and cancelled of record or bonded over.

(e) Notwithstanding anything contained herein to the contrary, if Seller fails to take any actions to have a Monetary Lien satisfied and cancelled of record which Seller was obligated to take under Section 2.3(d) above, or fails to cure a Title Objection that Seller indicates it would cure pursuant to Section 2.3(b) above, the same shall constitute a default by Seller hereunder, and the default provisions of Article 6 shall apply.

**2.4 Conveyance of Title.** At Closing, Seller shall convey and transfer the Real Property to Purchaser by special warranty deed subject to all Permitted Exceptions. It shall be a condition to Purchaser’s obligation to close this transaction that title to the Real Property conveyed and transferred to Purchaser shall be such title to the Real Property as will enable the Title Company to issue to Purchaser an Owner’s Policy of Title Insurance (Form T-1) (the “**Title Policy**”) covering the Real Property, in the full amount of the Purchase Price, subject to all Permitted Exceptions.

**2.5 Pre-Closing “Gap” Title/Survey Defects.** Whether or not Purchaser shall have furnished to Seller any Objection Letter pursuant to the foregoing provisions of this Agreement, Purchaser may, at or prior to Closing, notify Seller in writing of any objections to title or survey matters having a material effect on the operation or value of the Property and first appearing of record (as to title matters) or first arising (as to survey matters) between (a) the effective date of the Title Commitment or the last date of field work for the Survey and (b) the Closing Date (each a “**New Matter**”); provided, however, that Purchaser must identify any New Matter as a Title Objection by delivering to Seller an Objection Letter within ten (10) business days after Purchaser’s first receipt of the updated Title Commitment, updated survey or other document, whichever first provides notice of the New Matter. Any New Matter which is not identified as a Title Objection by delivery of an Objection Letter by Purchaser to Seller within this ten (10) business day period conclusively will be deemed to be a Permitted Exception for all purposes under this Agreement. If Purchaser timely delivers an Objection Letter to Seller with respect to any New Matter, then, except for objections arising or resulting from Seller’s breach of the covenant contained in Section 2.6 hereof, the same elections, procedures and time periods as set forth in Section 2.3 with respect to Title Objections (including, without limitation, the Response Period, the Election Period, the Cure Period and Purchaser’s right to terminate this Agreement or waive the Title Objections with respect to any New Matter) also will apply to any Title Objections timely made with respect to any New Matter. Provided, however, any lien or encumbrance arising by, through or under Purchaser shall automatically become a Permitted Exception.

**2.6 Seller’s Covenant Not to Encumber.** Seller agrees that, between the Execution Date and the Closing Date, Seller will not sell, assign, rent, lease, convey (absolutely or as security), grant a security interest in, or otherwise encumber or dispose of, or enter into any agreements that contemplate any of the aforementioned, the Property (or any part thereof or

estate therein) in any manner that will survive Closing, except as approved in writing by Purchaser or as expressly provided for in or contemplated by this Agreement.

### ARTICLE 3

#### INSPECTION PERIOD

##### 3.1 Right of Inspection.

(a) Beginning on the Effective Date and continuing thereafter so long as this Agreement remains in full force and effect, Purchaser shall have the right to make physical inspections of the Property and to examine at such place or places at the Property, in the offices of the property manager or elsewhere as the same may be located, any operating files maintained by Seller or its property manager in connection with the farming, leasing, maintenance, operation, condition and/or management of the Property, including, without limitation, bills, invoices, receipts and other general records relating to the income and expenses of the Property, surveys, plans and specifications, warranties for services and materials provided to the Property and similar materials, (the “**Inspections**”).

(b) Purchaser and its agents, representatives, contractors and consultants (collectively the “**Purchaser Parties**”) shall have the right to enter upon the Property during regular business hours for the purpose of conducting such Inspections as Purchaser may reasonably require; provided that all Inspections will be scheduled in advance with Seller with reasonable prior telephonic notice to Seller. Under no circumstances will Purchaser’s right of entry to the Property be interpreted as delivery of possession of the Property prior to Closing. During any Inspections, Purchaser will not cause any material damage or make any material physical changes to the Property. Any and all Inspections shall be done at Purchaser’s sole cost and expense. Without limiting the generality of the foregoing and subject to the limitations in this Section 3.1, Purchaser shall have the right to cause its engineering consultants to perform environmental and other assessments upon the Property and a property condition and engineering investigation of the Property. Purchaser shall restore, or cause to be restored, the Property to a substantially similar condition as existed immediately prior to any such Inspections.

(c) Seller shall deliver to Purchaser the information and documents relating to the Property in possession of or available to Seller, including but not limited to: title insurance policies, surveys, environmental reports, property assessment reports, copies of all permits, licenses, agreements, feasibility studies, tax statements and paid tax receipts for the immediately preceding calendar year, copies of any agreements with governmental agencies or quasi-governmental agencies, if any, related to the Property, zoning reports, plats, and copies of all presently effective leases, warranties or service contracts related to the Property as soon as practicably possible following the Execution Date, but in no event later than the date which is five (5) business days following the Execution Date (“**Seller’s Deliveries**”).

(d) Notwithstanding anything to the contrary contained in this Agreement, Purchaser will not perform or allow any of its agents, servants, employees, contractors or representatives to perform a Phase II environmental audit and inspection of the Property or any other form of invasive property testing without Seller's prior written consent, which will not be unreasonably withheld.

(e) Purchaser will pay for all Inspections and other due diligence surveys or reports promptly after receipt of any invoices. Purchaser will not suffer or permit the filing of any liens against the Property. If any liens are filed as a result of Purchaser's Inspections, Purchaser will promptly cause them to be released or otherwise eliminated from being a lien on the Property at Purchaser's sole cost.

(f) During the Inspection Period, Purchaser and Curtis Lockhart ("**Lockhart**") shall seek to agree to a lease (the "**Lockhart Lease**"), in form and substance reasonably satisfactory to Lockhart and Purchaser, whereby Purchaser leases a portion of the Property to Lockhart for the purpose of growing crops and grazing cattle.

(g) During the Inspection Period, Purchaser and Eric Kasper ("**E. Kasper**") shall seek to agree to a consulting agreement (the "**Consulting Agreement**"), in form and substance reasonably satisfactory to Kasper and Purchaser, whereby E. Kasper agrees to provide certain consulting services to Purchaser pertaining to the Property and the farming operation contained thereon.

**3.2 Right of Termination.** Seller agrees that in the event Purchaser determines, in Purchaser's sole and absolute discretion, that it does not wish to acquire the Property for any reason or no reason (including the failure to reach agreement on the terms of the Lockhart Lease or the Consulting Agreement), then Purchaser shall have the right to terminate this Agreement by giving written notice of such termination to Seller on or before the date which is fifteen (15) days following the Effective Date (the "**Inspection Period Termination Date**"). Upon any such termination of this Agreement pursuant to Purchaser's rights under this Section 3.2 the Earnest Money shall be promptly returned to Purchaser in accordance with Section 1.7 hereof, and neither party hereto shall have any further rights, obligations or liabilities hereunder except those indemnities, rights and obligations which, under the terms hereof, expressly survive termination of this Agreement. If Purchaser fails to give Seller written notice of termination on or before the Inspection Period Termination Date, then Purchaser (i) shall no longer have the right to terminate this Agreement under this Section 3.2, and (ii) (subject to any contrary provisions of this Agreement) shall be bound to proceed to Closing and consummate the transaction contemplated hereby pursuant to the terms of this Agreement. The period commencing on the Effective Date and ending on the Inspection Period Termination Date is sometimes referred to herein as the "**Inspection Period.**"

**3.3 Condition of Property.** Purchaser acknowledges and agrees that it has made and is relying on its own inspection of the Property in purchasing the Property and not upon any representations or warranties of Seller or Seller's agents except as expressly provided in this Agreement. Purchaser acknowledges, represents, warrants and agrees to and with Seller that, except as otherwise expressly provided in this Agreement: (i) Seller makes no warranties or representations, express or implied, regarding the Property, the condition or uses thereof or any

other matter, and (ii) Purchaser is purchasing the Property in its existing condition: “AS IS, WHERE IS, AND WITH ALL FAULTS” with respect to all facts, circumstances, conditions and defects.

## ARTICLE 4

### CLOSING

**4.1 Time and Place.** The consummation of the transaction contemplated hereby (“Closing”) shall be held at the office of Escrow Agent on the date agreed to by Seller and Purchaser after this Agreement shall have been approved in the Chapter 11 Bankruptcy case filed by Seller in the United States Bankruptcy Court for the Northern District of Texas (the “**Bankruptcy Court**”), on or about March 3, 2014 and bearing case number 14-20074-RLJ-11 (the “**Bankruptcy Case**”), but not later than December 5, 2014. The date when this Agreement shall have been approved in the Bankruptcy Case shall be referred to herein as the “**Effective Date**.” At Closing, Seller and Purchaser shall perform the obligations set forth in, respectively, Section 4.2 and Section 4.3. The Closing may be held at such other place or such earlier time and date as Seller and Purchaser shall mutually approve in writing. The date on which the Closing is scheduled to occur hereunder (or, if earlier, the date on which Closing occurs) is sometimes referred to herein as the “**Closing Date**.”

**4.2 Seller’s Obligations at Closing.** At Closing, Seller shall deliver to Escrow Agent or as indicated in this Section 4.2, Purchaser:

(a) a duly executed special warranty deed conveying the Real Property to Purchaser subject only to the Permitted Exceptions, in the form attached hereto as Schedule 4.2(a) (the “**Deed**”);

(b) a bill of sale, assignment and assumption agreement in form and substance reasonably satisfactory to Purchaser duly executed by Seller, pursuant to which Seller shall convey the Tangible Personal Property and the Intangible Property to Purchaser, and pursuant to which Purchaser will assume all of the Seller’s interest in the Designated Service Contracts from and after the Closing Date, in the form attached hereto as Schedule 4.2(b) (“**Bill of Sale, Assignment and Assumption Agreement**”);

(c) evidence in form and substance reasonably satisfactory to the Title Company that Seller has the power and authority to execute and enter into this Agreement and to consummate the sale of the Property, and that any and all actions required to authorize and approve the execution of and entry into this Agreement by Seller, the performance by Seller of all of Seller’s duties and obligations under this Agreement, and the execution and delivery by Seller of all documents and other items to be executed by Seller at Closing, have been accomplished, and that the person or persons executing documents on behalf of Seller are properly authorized to do so;

(d) an affidavit duly executed by Seller stating that Seller is not a “foreign person” as defined in the Federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act;

(e) a title insurance affidavit and a gap indemnity, duly executed by Seller, in the form attached hereto as Schedule 4.2(e), which shall be approved by the Title Company and allow the Title Company to issue the Title Policy without a gap exception or an exception for statutory or mechanic's liens;

(f) an affidavit duly executed by Seller stating that, as of the Closing Date there are no tenants in possession of the Property other than tenants under that certain lease by and between Seller and Kasper Farms, JV and the Seller's lease with Lockhart (both of which will be terminated at Closing);

(g) to Purchaser, possession and occupancy of the Property, subject only to the Permitted Exceptions and rights of tenants under the Lockhart Lease and the Farms Lease.

(h) a closing statement evidencing the transaction contemplated by this Agreement (the "**Closing Statement**");

(i) if the legal description attached hereto as Schedule 1.1(a) differs from the legal description of the Property drawn from the Survey, Seller shall at Closing deliver (in addition to the Deed) a quit claim deed conveying the Property pursuant to the legal description drawn from the Survey; and

(j) such additional documents or instruments as may be reasonably required to effectuate the terms, conditions and provisions of this Agreement and to carry out the intent of the parties, or as may be reasonably required by the Title Company.

**4.3 Purchaser's Obligations at Closing.** At Closing, Purchaser shall deliver to Escrow Agent or Seller as appropriate:

(a) the full amount of the Purchase Price, as increased or decreased by prorations and adjustments as herein provided, on the Closing Date, in immediately available federal funds so that the same may be paid to satisfy the Monetary Liens and the Unsecured Claims identified in Section 1.4;

(b) the Farms Lease, duly executed by Purchaser;

(c) the Consulting Agreement, duly executed by Purchaser;

(d) the Lockhart Lease, duly executed by Purchaser;

(e) evidence in form and substance reasonably satisfactory to the Title Company that Purchaser has the power and authority to execute and enter into this Agreement and to consummate the purchase of the Property, and that any and all actions required to authorize and approve the execution of and entry into this Agreement by Purchaser, the performance by Purchaser of all of Purchaser's duties and obligations under this Agreement, and the execution and delivery by Purchaser of all documents and other items to be executed by Purchaser at Closing, have been accomplished, and that the

person or persons executing documents on behalf of Purchaser are properly authorized to do so; and

(f) such additional documents or instruments as may be reasonably required to effectuate the terms, conditions and provisions of this Agreement and to carry out the intent of the parties, or as may be reasonably required by the Title Company.

#### **4.4 Credits and Prorations.**

(a) All income and expenses in connection with the operation of the Property shall be apportioned, as of 11:59 p.m. (Central Daylight time) on the day prior to the Closing Date, as if Purchaser were vested with title to the Property during the entire Closing Date, such that, except as otherwise expressly provided to the contrary in this Agreement, Seller shall have the benefit of income and the burden of expenses for the day preceding the Closing Date and the Purchaser shall have the benefit of income and the burden of expenses for the Closing Date and thereafter. Items (1)-(3) below will be prorated at Closing utilizing the information known at that time. Such prorated items shall include, without limitation, the following:

(1) ad valorem taxes and assessments levied against the Property (including personal property taxes on the Tangible Personal Property), which shall be prorated as set forth in Section 4.4(b)(2) hereof;

(2) gas, electricity, water and other utility charges for which Seller is liable, if any, such charges to be apportioned at Closing on the basis of the most recent meter reading occurring prior to Closing or the most recent utility bill received by Seller, as applicable, including, without limitation, water charges not yet due and payable to such utility provider at Closing, but which amounts are customarily billed directly to Seller and reimbursed by tenants; and

(3) any other operating expenses or other items pertaining to the Property which are customarily prorated between a purchaser and a seller in comparable commercial transactions in the area in which the Property is located.

(b) Notwithstanding anything contained in the foregoing provisions:

(1) At Closing, (A) Seller shall credit to Purchaser the amount of all security deposits, and (B) Purchaser shall credit to the account of Seller all refundable cash or other deposits posted with utility companies serving the Property, or, in lieu of such credit, at either party's option, Purchaser shall contract directly with the utility companies and Seller shall be entitled to receive and retain such refundable cash and deposits; provided that Purchaser and Seller will cooperate so that utility service to the Property is not interrupted.

(2) Any ad valorem taxes for the current year paid at or prior to Closing shall be prorated based upon the amounts actually paid for the current tax year. If all taxes and assessments for the current tax year have not been paid before Closing, then Seller shall be charged at Closing an amount equal to that

portion of such taxes and assessments which relates to the period before Closing and Purchaser shall pay the taxes and assessments prior to their becoming delinquent. Any such apportionment made with respect to a tax year for which the tax bill is not available shall be based upon the greater of (i) the prior year's tax bill for the Property; or (ii) the most recent county tax assessor's valuation of the Property applied to the most recently published property tax millage rate which is applicable to the Property. To the extent that the actual taxes and assessments for the current tax year differ from the amount apportioned at Closing, the parties shall make all necessary adjustments by appropriate payments between themselves following Closing promptly following the availability of the final tax bills. For the avoidance of doubt, special assessments which are certified or become a lien prior to Closing and not payable in installments shall be credited to Purchaser at Closing.

(c) Gas, electricity, water and other utility charges referred to in Section 4.4(a)(4) above which are payable by any tenant directly to a third party shall not be apportioned hereunder, and Purchaser shall accept title subject to any of such charges which are unpaid and Purchaser shall look solely to the responsible tenant for the payment of the same.

(d) The Tangible Personal Property is included in this sale, without further charge.

(e) If this sale or Purchaser's use of the Property after Closing results in the assessment of additional taxes, penalties or interest ("**Roll-Back Assessments**") for periods prior to closing, the Roll-Back Assessments will be the obligation of Purchaser. If Seller's change in use of the Property prior to closing or denial of a special use valuation on the Property claimed by Seller results in Roll-Back Assessments for periods prior to Closing, the Roll-Back Assessments will be the obligation of Seller. Obligations imposed by this Section 4.4(e) will survive the Closing.

**4.5 Closing Costs.** Seller shall pay (a) the fees of any counsel representing it in connection with this transaction; (b) with regard to title, the cost of curing all title objections for which Seller is responsible under this Agreement; (c) the costs of recording all Monetary Lien cancellations; (d) any and all transfer tax or other excise or franchise tax relating to the transfer of the Property; (e) one-half (1/2) of the escrow fee charged by the Title Company; (f) the cost of the title commitment and the Title Policy; and (g) except as otherwise provided herein, to Purchaser, outside of closing or otherwise, all costs incurred by Purchaser (or its affiliate or principals) prior to the Effective Date relating to diligence undertaken with respect to a proposed refinancing of Property in which Purchaser (or its affiliate) would act as the secured lender. The costs referenced in Section 4.5(f) shall include but not be limited to: attorneys' fees, appraisal costs, groundwater irrigation costs, and travel costs. Purchaser shall pay (i) the fees of any counsel representing Purchaser in connection with this transaction from and after the Effective Date; (ii) the fees for recording the Deed; (iii) the premium on any endorsements to the Title Policy and the costs of any lender's policy of title insurance; (iv) one-half (1/2) of the escrow fee charged by the Title Company; (v) the cost of the Survey, if any, including updates or revisions necessary to comply with the requirements of Purchaser or its lender; (vi) all fees, costs and

document recordation taxes and charges related to any financing obtained by Purchaser; and (vii) all expenses and costs associated with any Inspections or the engagement of any Purchaser Parties to perform Inspections from and after the Effective Date; provided, however, in the event Purchaser shall terminate this Agreement as provided for in Section 3.2, Seller shall reimburse Purchaser all costs incurred by Purchaser within ten (10) days of written request for reimbursement. Such costs to be reimbursed include but are not limited to Purchaser's costs and expense associated with: attorneys' fees, title costs, cost of the Survey, travel costs associated with inspections of the Property, other transactional costs, and other costs associated with Inspections of the Property.

**4.6 Conditions Precedent to Obligation of Purchaser.** The obligation of Purchaser to consummate the transaction hereunder shall be subject to the fulfillment on or before the date of Closing (or such earlier time as otherwise required hereby) of all of the following conditions, any or all of which may be waived by Purchaser in its sole discretion:

(a) Seller shall have delivered all of the items required to be delivered by Seller or Seller's agents pursuant to the terms of this Agreement, including but not limited to, those provided for in Section 4.2.

(b) All of the representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the date of Closing.

(c) Seller shall have performed and observed, in all respects, all covenants and agreements of this Agreement to be performed and observed by Seller as of the Closing Date.

(d) A final order approving this Agreement and the sale, transfer, and conveyance of the Property from Seller to Purchaser for the Purchase Price and on the terms and conditions set forth herein has been entered by the Bankruptcy Court, and the time for the filing of notices of appeal with respect to that order has expired, or, in the discretion of Purchaser, such an order has been entered by the Bankruptcy Court and the order is not subject to a stay.

(e) Seller has satisfied all of the Purchaser's Title Objections which Seller has elected to cure and all of the Schedule C requirements contained in the Title Commitment that are Seller's obligation to satisfy and Seller has done nothing to prevent the Title Company from being able to deliver at Closing the Owner's Policy of Title Insurance pursuant to the Title Commitment, without exception other than the Permitted Exceptions.

(f) There occurring, between the date hereof and the date of Closing, no material adverse change in the physical condition of the Property, the zoning status of the Property, or in any other aspect of the Property.

(g) Lockhart shall have executed the Lockhart Lease, in the form agreed to during the Inspection Period, and Purchaser shall have countersigned the Lockhart Lease at Closing.



(h) Kasper Farms JV shall have executed the Farms Lease, and Purchaser shall have countersigned the Farms Lease at Closing.

(i) E. Kasper shall have executed the Consulting Agreement, in the form agreed to during the Inspection Period, and Purchaser shall have countersigned the Consulting Agreement at Closing.

(j) Seller and Kasper Farms JV shall have entered into an agreement terminating any lease or access agreement in place between Seller and Kasper Farms JV which grants Kasper Farms JV any rights in the Property or allows Kasper Farms JV to access the Property (other than as contemplated by the Farms Lease and pursuant to Section 1.1(e)).

(k) Seller and Lockhart shall have entered into an agreement terminating any lease or access agreement in place between Seller and Lockhart which grants Lockhart any rights in the Property or allows Lockhart to access the Property (other than as contemplated by the Lockhart Lease).

(l) On the Closing Date, there shall be no litigation pending or threatened, seeking (i) to enjoin the consummation of the sale and purchase hereunder, (ii) to recover title to the Property, or any part thereof or any interest therein, or (iii) to enjoin the violation of any law, rule, regulation, restrictive covenant or zoning ordinance that may be applicable to the Property.

(m) Seller shall have paid or the Closing Statement shall make provisions for the payments to Purchaser of the costs and expenses described in Section 4.5(f).

In the event any of the foregoing conditions have not been satisfied by the Closing Date, Purchaser shall have the right to terminate this Agreement by written notice given to Seller on the Closing Date, whereupon Escrow Agent shall promptly refund the entire amount of the Earnest Money to Purchaser and neither party hereto shall have any further rights, obligations or liabilities hereunder except those which are expressly provided herein to survive the termination of this Agreement; provided, however, that if any of the foregoing conditions have not been satisfied due to a default by Purchaser or Seller hereunder, then Purchaser's and Seller's respective rights, remedies and obligations shall instead be determined in accordance with Article 6. For the avoidance of doubt, the foregoing conditions are for the benefit of Purchaser and may be waived, in writing, in whole or in part, at Purchaser's discretion.

**4.7 Conditions Precedent to Obligation of Seller.** The obligation of Seller to consummate the transaction hereunder shall be subject to the fulfillment on or before the Closing Date (or such earlier time as otherwise required hereby) of all of the following conditions, any or all of which may be waived by Seller in its sole discretion:

(a) A final order approving this Agreement and the sale, transfer, and conveyance of the Property from Seller to Purchaser for the Purchase Price has been entered by the Bankruptcy Court, and the time for the filing of notices of appeal with respect to that order has expired, or, in the discretion of Seller, such an order has been entered by the Bankruptcy Court and the order is not subject to a stay.

(b) Purchaser has delivered all of the items required to be delivered by Purchaser or Purchaser's agents pursuant to the terms of this Agreement, including but not limited to, those provided for in Section 4.3.

(c) All of the representations and warranties of Purchaser contained in this Agreement are true and correct in all material respects as of the date of Closing.

(d) Purchaser shall have countersigned the Farms Lease.

(e) Purchaser shall have countersigned the Consulting Agreement, in the form agreed to during the Inspection Period

(f) Purchaser has performed and observed, in all respects, all covenants and agreements of this Agreement to be performed and observed by Purchaser as of the Closing Date.

In the event any of the foregoing conditions have not been satisfied by the Closing Date, Seller shall have the right to terminate this Agreement by written notice given to Purchaser on the Closing Date, whereupon Escrow Agent shall promptly pay the entire amount of the Earnest Money to Seller and neither party hereto shall have any further rights, obligations or liabilities hereunder, except those indemnities, rights and obligations which, under the terms hereof, expressly survive termination of this Agreement; provided, however, that if any of the foregoing conditions have not been satisfied due to a default by Purchaser or Seller hereunder, then Purchaser's and Seller's respective rights, remedies and obligations shall instead be determined in accordance with Article 6. For the avoidance of doubt, the foregoing conditions are for the benefit of Seller and may be waived, in writing, in whole or in part, at Seller's discretion.

## ARTICLE 5

### REPRESENTATIONS, WARRANTIES AND COVENANTS

**5.1 Representations and Warranties of Seller.** Seller hereby makes the following representations and warranties to Purchaser as of the date this Agreement is executed by Seller, the Effective Date and shall be deemed remade at Closing.

(a) **Organization and Authority.** Seller has been duly organized and is validly existing as a limited liability company under the laws of the State of Texas. Seller has the full right and authority to enter into this Agreement and to transfer the Property pursuant hereto and to consummate or cause to be consummated the transactions contemplated herein. The person signing this Agreement on behalf of Seller is authorized to do so. Neither the execution and delivery of this Agreement nor any other documents executed and delivered, or to be executed and delivered, by Seller in connection with the transactions described herein, will violate any provision of Seller's organizational documents or of any agreements, regulations, or laws to or by which Seller is bound. This Agreement has been duly authorized, executed and delivered by Seller, is a valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium,

fraudulent conveyance and other laws affecting the rights of creditors generally; and (ii) the exercise of judicial discretion in accordance with general principles of equity.

(b) **Consents**. Except for Bankruptcy Court approval referred to in this Agreement, Seller has obtained all consents and permissions (if any) related to the transactions herein contemplated and required under any covenant, agreement, encumbrance, law or regulation by which Seller or the Property is bound.

(c) **Pending Actions**. Except as relates to the Monetary Liens described in Section 1.4, Seller has not received written notice of any violation, action, suit, arbitration, administrative or judicial proceeding, or unsatisfied order or judgment against Seller or the Property. To Seller's knowledge, no such action, suit, arbitration, administrative or judicial proceeding has been overtly threatened in writing.

(d) **Leases**. Other than a lease with Kasper Farms JV and a lease with Lockhart, both which will be terminated at Closing, there are no leases affecting the Real Property.

(e) **Vacant**. As of the Closing Date (i) the Property will be vacant and there will be no parties in possession of any portion of the Property as lessees, tenants at sufferance, or licensees, (ii) there are no options or contracts granting any rights to acquire any right, title, or interest in all or any portion of the Property, and (iii) other than the Farms Lease and the Lockhart Lease to be executed at Closing, there are no unexpired leases (regardless of whether the lessee is still occupying the Property) or leases that have not yet commenced.

(f) **Condemnation**. Seller has not received written notice of any threatened or pending condemnation proceedings relating to the Property.

(g) **No Violation**. Seller has not received written notice that the Property or the use thereof violates any permit, governmental law or regulation or any covenants or restrictions encumbering the Property in any material respect.

(h) **No Liens**. The Property is not subject to any recorded mechanic's, materialman's, or other statutory lien or encumbrance.

(i) **Environmental Matters**. Seller has no knowledge of any violation in any material respect of any environmental law, code, rule, regulation or order ("**Environmental Law**") related to the Real Property or the presence or release of any Hazardous Materials on or from the Property in material violation of any Environmental Law. Except for amounts of Hazardous Materials used, stored and disposed of in accordance with Environmental Laws, and used in connection with the customary maintenance and operation of the Property and agricultural operations, (x) Seller has not manufactured, introduced, released or discharged from or onto the Property any Hazardous Materials or any toxic wastes, substances or materials (including, without limitation, asbestos) and (y) Seller has not used the Property or any part thereof for the generation, treatment, storage, handling or disposal of any Hazardous Materials. For purposes hereof, "**Hazardous Materials**" means "Hazardous Material," "Hazardous

Substance,” “Pollutant or Contaminant,” and “Petroleum” and “Natural Gas Liquids,” as those terms are defined or used in Section 101 of CERCLA, any “solid waste” as defined in the Solid Waste Disposal Act and any other substances regulated because of their effect or potential effect on public health and the environment, including, without limitation, PCBs, lead paint, asbestos, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials.

(j) **Service Contracts.** There are no service, supply, equipment rental or similar agreements (each a “**Service Contract**” and collectively “**Service Contracts**”) to which Seller is a party affecting the Property other than those set forth in Schedule 5.1(i), and those Service Contracts which have been or will be delivered by Seller to Purchaser are true, correct and complete in all material respects and include any material amendments or modifications thereto. Seller is not in default with respect to its obligations or liabilities under any of the Service Contracts.

(k) **Employees.** Seller has no employees which Purchaser shall be obligated to employ following the Closing.

(l) **Operating Statements.** The operating statements for the Property delivered to Purchaser are the operating statements maintained by Seller and relied on by Seller for internal administration and accounting purposes, and are complete and accurate in all material respects.

(m) **No Conflict with or Breach of Other Agreements.** Neither the execution and delivery of this Agreement, nor the incurrence of the obligations herein set forth, nor the consummation of the transactions provided for herein, nor compliance with the terms of this Agreement, conflict with or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness, or any indenture, mortgage, deed of trust, loan agreement, lease, or other material agreement or instrument to which Seller is a party or by which the Property may be bound (not including the Monetary Liens described in Section 1.4).

(n) **Personal Property.** Seller has good and marketable title to the Personal Property, free and clear of any liens, encumbrances or claims other than Monetary Liens.

(o) **Foreign Person.** Seller is not a foreign person within the meaning of Section 1445(f) of the Internal Revenue Code.

(p) **Condition of Property.** No material adverse change in the condition of the Property has occurred since Purchaser last visited and inspected the Property on November 8, 2014 (provided, however, Seller shall have no liability for any breach of this representation or warranty caused by matters outside the reasonable control of Seller).

**5.2 Knowledge Defined.** References to the “knowledge” of Seller shall refer only to the conscious awareness of the members of Seller, and such members of Seller shall have a reasonable duty of inquiry and investigation with respect to the Property and all documents in their possession or control. Seller represents and warrants to Purchaser that the members of

Seller are the individuals in the best position to have knowledge of the representations and warranties made herein, and that no other representative of Seller is likely to have information regarding the representations and warranties set forth in this Article 5 which would be superior to or more comprehensive than that of the members of Seller.

**5.3 Survival of Seller's Representations and Warranties.** All representations and warranties of Seller in Section 5.1 shall survive Closing for a period of twelve (12) months after Closing. If any of Seller's representations and warranties contained in Section 5.1 are determined to be untrue or incorrect in any material respect, then Seller shall indemnify and hold Purchaser harmless from and against any and all actual and direct loss, damage, cost or expense incurred by Purchaser and arising solely from the representation or warranty being untrue or incorrect in any material respect. The obligations in this Section 5.3 will expire and be of no further force or effect once a period of twelve (12) months after Closing has elapsed.

**5.4 Covenants of Seller.** Seller hereby covenants with Purchaser, from the Execution Date (or Inspection Period Termination Date where indicated) until the Closing or earlier termination of this Agreement, as follows:

(a) **Operation of Property.** Seller shall operate and maintain the Property in a manner consistent with the manner in which Seller has operated and maintained the Property prior to the date hereof and otherwise consistent with the requirements of any loan secured by the Property.

(b) **Maintenance of Insurance.** Seller shall maintain all insurance it currently has in place and not allow any such policies to lapse.

(c) **Provide Copies of Notices.** Seller shall furnish Purchaser with a copy of all written notices received by Seller from any governmental authority of any violation of any law, statute, ordinance, regulation or order of any governmental or public authority relating to the Property within five (5) business days following Seller's receipt thereof, but, if received by such date, in no event later than two (2) business days prior to the Closing Date.

(d) **Removal and Replacement of Tangible Personal Property.** Seller shall not remove any Tangible Personal Property except as may be required for necessary repair or replacement (which repair and replacement shall be of equal quality and quantity as existed as of the time of the removal).

(e) **Execution of New Contracts.** Seller shall not, without Purchaser's prior written consent in each instance (which consent shall not be unreasonably withheld, conditioned or delayed), (x) materially amend or terminate any of the Designated Service Contracts after Purchaser has notified Seller of the Service Contracts that Purchaser will require be Designated Service Contracts in accordance with Section 5.4(k) or (y) enter into any other contract or agreement that will be an obligation affecting the Property or binding on Purchaser after the Closing. Subject to the foregoing, (i) Seller may enter into, amend or enforce (including enforcement by termination) Service Contracts in the ordinary course of business as reasonably necessary for the continued operation and

maintenance of the Property, provided any new Service Contracts are terminable without cause or penalty on thirty (30) days' notice.

(f) **Maintenance of Permits.** Seller shall maintain in existence all licenses, permits and approvals that are now in existence with respect to, and are required for, the ownership, operation or improvement of the Property, and that are of a continuing nature.

(g) **Designated Service Contracts.** “**Designated Service Contracts**” means those certain Service Contracts which are assignable in accordance with their terms which Purchaser identifies by written notice delivered to Seller on or before the Inspection Period Termination Date as the Service Contracts Purchaser elects Seller to assign to Purchaser at Closing (the “**Designated Service Contracts.**”) At Closing, Seller will cause the Service Contracts which Purchaser has elected not to have assigned to Purchaser, by operation of the aforesaid notice on or before the Inspection Period Termination Date, to be terminated at Seller's expense, such termination to be effective within the time period provided for in the applicable Service Contract (or if no such time period is provided, as promptly as practicable after the Closing Date; provided, however, that Seller shall be responsible for all termination fees incurred after the Closing Date arising from the termination of such Service Contracts after the Closing Date). The provisions of this Section 5.4(g) shall survive Closing.

**5.5 Representations and Warranties of Purchaser.** Purchaser hereby makes the following representations and warranties to Seller as of the Effective Date and as of the Closing Date:

(a) **Organization and Authority.** Purchaser has been duly organized, is validly existing as a limited liability company under the laws of the State of Texas. Purchaser has the full right and authority to enter into this Agreement and to purchase the Property pursuant hereto and to consummate or cause to be consummated the transactions contemplated herein. The person signing this Agreement on behalf of Purchaser is authorized to do so. Neither the execution and delivery of this Agreement nor any other documents executed and delivered, or to be executed and delivered, by Purchaser in connection with the transactions described herein, will violate any provision of Purchaser's organizational documents or of any agreements, regulations, or laws to or by which Purchaser is bound. This Agreement has been duly authorized, executed and delivered by Purchaser, is a valid and binding obligation of Purchaser and is enforceable against Purchaser in accordance with its terms subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws affecting the rights of creditors generally; and (ii) the exercise of judicial discretion in accordance with general principles of equity.

(b) **Consents.** Purchaser has obtained all consents and permissions (if any) related to the transactions herein contemplated and required under any covenant, agreement, encumbrance, law or regulation by which Purchaser is bound.

(c) **Pending Actions.** To Purchaser's knowledge, there is no action, suit, arbitration, administrative or judicial administrative proceeding, or unsatisfied order or

judgment pending or threatened against Purchaser or the transaction contemplated by this Agreement, which, if adversely determined, could individually or in the aggregate have a material adverse effect on Purchaser's ability to consummate the transaction contemplated herein.

## ARTICLE 6

### DEFAULT

**6.1 Default by Purchaser.** If the sale of the Property as contemplated hereunder is not consummated due to Purchaser's default hereunder, then Seller shall be entitled, as its sole and exclusive remedy for such default, to terminate this Agreement and receive the Earnest Money as liquidated damages for the breach of this Agreement and not as a penalty, it being agreed between the parties hereto that the actual damages to Seller in the event of such breach are impractical to ascertain and the amount of the Earnest Money is a reasonable estimate thereof, Seller hereby expressly waiving and relinquishing any and all other remedies at law or in equity. Seller's right to receive the Earnest Money is intended not as a penalty, but as full liquidated damages. The right to receive the Earnest Money as full liquidated damages is Seller's sole and exclusive remedy in the event of default hereunder by Purchaser, and Seller hereby waives and releases any right to (and hereby covenants that it shall not) sue Purchaser: (a) for specific performance of this Agreement, or (b) to recover any damages of any nature or description other than or in excess of the Earnest Money. This Section 6.1 is subject to Section 6.4 hereof.

**6.2 Default by Seller.** If the sale of the Property as contemplated hereunder is not consummated due to Seller's default hereunder, then in addition and without prejudice to any other rights of Purchaser under any other agreements with Seller, Purchaser shall be entitled under this Agreement, as its remedy for such default, to either: (a) receive the return of the Earnest Money and reimbursement of the amount of all direct third party out-of-pocket costs and expenses actually incurred by Purchaser in connection with this Agreement, as documented by paid invoices and evidence of payment, including reasonable attorneys' fees, and the costs of inspection, acquisition and financing of the Property, including, without limitation, any forfeited good faith and/or rate lock deposits, which return and reimbursement shall operate to terminate this Agreement and release Seller from any and all liability hereunder, (b) waive the default by Seller and close the purchase notwithstanding the default by Seller, (c) enforce specific performance of Seller's obligation to execute and deliver the documents and perform its obligations as contained hereunder, or (d) seek its damages for such default. This Section 6.2 is subject to Section 6.4 hereof. In no event will Seller be in default for complying with any terms and conditions set for the sale of the Property, or for not complying with any of the terms and conditions applicable to Seller in this Agreement, based upon any order of by the Bankruptcy Court in the Bankruptcy Case, including, without limitation, if Seller puts the Property up for public bidding pursuant to an order of the Bankruptcy Court.

**6.3 Notice of Default; Opportunity to Cure.** Neither Seller nor Purchaser shall be deemed to be in default hereunder until and unless such party has been given written notice of its failure to comply with the terms hereof and thereafter does not cure such failure within ten (10) business days after receipt of such notice; provided, however, that this Section 6.3 (i) shall not be

applicable to Purchaser's failure to deliver the Earnest Money or any portion thereof on the date required hereunder or to a party's failure to make any deliveries required of such party on the Closing Date and, accordingly, (ii) shall not have the effect of extending the Closing Date or the due date of any Earnest Money deposit hereunder.

**6.4 Recoverable Damages.** Notwithstanding Sections 6.1 and 6.2 hereof, in no event shall the provisions of Sections 6.1 or 6.2 limit (i) either Purchaser's or Seller's obligation to indemnify the other party or any other indemnified party, or the damages recoverable by the indemnified party against the indemnifying party due to a party's express obligation to indemnify in accordance with Sections 3.1(e), 5.3 or 8.2 of this Agreement or in any indemnity contained in any of the documents delivered by either party at Closing, or (ii) either party's obligation to pay costs, fees or expenses under Section 4.5 hereof, or the damages recoverable by either party against the other party due to a party's failure to pay such costs. Notwithstanding any provision of this Agreement or applicable law to the contrary, under no circumstances will any party be liable for any consequential, indirect, special, punitive or exemplary damages for any claim or dispute related to or arising under this Agreement.

## ARTICLE 7

### RISK OF LOSS

**7.1 Damage.** In the event of "damage" to the Property or any portion thereof prior to Closing, which is "major" (as such terms are hereinafter defined) then Seller shall promptly notify Purchaser thereof. In the event of such major damage, Purchaser may elect to proceed with the Closing (subject to the other provisions of this Agreement) or may terminate this Agreement by delivering written notice thereof to Seller within ten (10) days after Purchaser's receipt of Seller's notice respecting the damage. If, within ten (10) days of receipt of Seller's notice respecting such major damage, Purchaser delivers written notice of termination of this Agreement to Seller, this Agreement shall terminate, all Earnest Money shall be returned to Purchaser and neither party hereto shall have any further rights, obligations or liabilities hereunder, except those indemnities, rights and obligations which, under the terms hereof, expressly survive termination of this Agreement. If Purchaser does not timely elect to terminate this Agreement, Purchaser shall have no further right to terminate this Agreement as a result of the damage and in such event, Seller shall pay over or assign to Purchaser at Closing all of Seller's right, title and interest in and to all insurance claims with respect to the damage and all insurance proceeds or condemnation awards payable as a result of such damage that have not been paid on account of Monetary Liens. If the damage is not major, then Purchaser may not terminate this Agreement and Seller shall pay over or assign to Purchaser at Closing all of Seller's right, title and interest in and to all insurance claims with respect to the damage and all insurance proceeds or condemnation awards payable as a result of such damage that have not been paid on account of Monetary Liens. Purchaser shall receive a credit at the Closing for the amount of any deductible under any of Seller's insurance policies, as applicable.

Definition of Major Damage. **For purposes of Section 7.1:**

(a) **"damage"** means (i) physical damage to or destruction of all or any part of the Real Property by reason of fire, earthquake, tornado, flood, water intrusion or other



casualty occurring after the Execution Date or (ii) the physical taking of all or part of the Real Property by condemnation or by conveyance in lieu of condemnation occurring after the Execution Date; and

(b) “**major**” damage refers to the following: (i) damage such that the cost of repairing or restoring the premises in question to a condition substantially similar to that of the premises in question prior to the event of damage would in the opinion of an architect or other reasonable professional selected by Purchaser and reasonably approved by Seller, be equal to or greater than One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00), or (ii) any damage due to a condemnation or conveyance in lieu of condemnation which permanently and materially impairs the current use or value of the Property or access to the Property from public roads.

**7.2 Seller’s Insurance.** If necessary or appropriate for Purchaser to evaluate its options or enforce its rights under this Article 7 following any damage to the Property, Seller shall promptly provide to Purchaser on request a copy of Seller’s property insurance policies (or other applicable insurance policies) with respect to the Property, and the period within which Purchaser must make any election hereunder shall be extended for ten (10) days after receipt of the applicable insurance policies.

**7.3 Damage to Improvements, Tangible Personal Property.** In the event any Improvements or Tangible Personal Property is damaged, other than normal wear and tear, between the Execution Date and the Closing Date, Seller shall repair same at its sole cost and expense or provide Purchaser a credit at Closing for the cost and expense necessary to cause such improvement of Tangible Personal Property to be repaired.

## ARTICLE 8

### COMMISSIONS

**8.1 Representation and Indemnity.** Purchaser and Seller each hereby represents and warrants to the other that it has not dealt with, any real estate broker, agent or salesman so as to create any legal right or claim in any such broker, agent or salesman for a real estate commission or similar fee or compensation with respect to the negotiation and/or consummation of this Agreement or the conveyance of the Property by Seller to Purchaser. Purchaser and Seller shall indemnify, hold harmless and defend each other from and against any and claims and demands for a real estate brokerage commission or similar fee or compensation arising out of any claimed dealings with the indemnifying party and relating to this Agreement or the purchase and sale of the Property (including reasonable attorneys’ fees and expenses and court costs incurred in defending any such claim or in enforcing this indemnity).

**8.2 Survival.** This Article 8 shall survive the rescission, cancellation, termination or consummation of this Agreement.

## ARTICLE 9

### RESERVED

## ARTICLE 10

### ESCROW AGENT

**10.1 Investment of Earnest Money.** Escrow Agent shall invest the Earnest Money pursuant to Purchaser's directions in an interest bearing account at a commercial bank whose deposits are insured by the Federal Deposit Insurance Corporation. Escrow Agent shall notify Seller, no later than one (1) business day after Escrow Agent's receipt thereof, that Escrow Agent has received the Earnest Money in immediately available funds, and is holding the same in accordance with the terms of this Agreement. However, Escrow Agent shall invest the Earnest Money only in such accounts as will allow Escrow Agent to disburse the Earnest Money upon no more than one (1) business days' notice.

**10.2 Payment on Demand.** Upon receipt of any written certification from Seller or Purchaser claiming the Earnest Money pursuant to the provisions of this Agreement, Escrow Agent shall promptly forward a copy thereof to the other such party (i.e., Purchaser or Seller, whichever did not claim the Earnest Money pursuant to such notice) and, unless such other party within ten (10) days thereafter notifies Escrow Agent of any objection to such requested disbursement of the Earnest Money in which case Escrow Agent shall retain the Earnest Money subject to Section 10.5 below, Escrow Agent shall disburse the Earnest Money to the party demanding the same and shall thereupon be released and discharged from any further duty or obligation hereunder. Notwithstanding the forgoing, in the event Purchaser timely terminates this Agreement pursuant to its rights under Section 3.2 of this Agreement, Seller hereby agrees that its consent shall not be required for Escrow Agent to refund such Earnest Money.

**10.3 Exculpation of Escrow Agent.** It is agreed that the duties of Escrow Agent are herein specifically provided and are purely ministerial in nature, and that Escrow Agent shall incur no liability whatsoever except for its misconduct or negligence, so long as Escrow Agent is acting in good faith. Subject to the foregoing, Seller and Purchaser do each hereby release Escrow Agent from any liability for any error of judgment or for any act done or omitted to be done by Escrow Agent in the good faith performance of its duties hereunder and do each hereby indemnify Escrow Agent against, and agree to hold, save, and defend Escrow Agent harmless from, any costs, liabilities, and expenses incurred by Escrow Agent in serving as Escrow Agent hereunder and in faithfully discharging its duties and obligations hereunder. Seller and Purchaser are aware the Federal Deposit Insurance Corporation (FDIC) coverages apply to a maximum amount of \$250,000.00 per depositor (as may be modified by the FDIC from time to time). Further, Seller and Purchaser do not and will not hold Escrow Agent liable for any loss occurring which arises from bank failure or error, insolvency or suspension, or a situation or event which falls under the FDIC coverages.

**10.4 Stakeholder.** Escrow Agent is acting as a stakeholder only with respect to the Earnest Money. If there is any dispute as to whether Escrow Agent is obligated to deliver the Earnest Money or as to whom the Earnest Money is to be delivered, Escrow Agent may refuse to make any delivery and may continue to hold the Earnest Money until receipt by Escrow Agent of an authorization in writing, signed by Seller and Purchaser, directing the disposition of the Earnest Money, or, in the absence of such written authorization, until final determination of the rights of the parties in an appropriate judicial proceeding. If such written authorization is not

given, or a proceeding for such determination is not begun, within thirty (30) days of notice to Escrow Agent of such dispute, Escrow Agent may bring an appropriate action or proceeding for leave to deposit the Earnest Money in a court of competent jurisdiction located in the Amarillo, Texas metropolitan area pending such determination. Escrow Agent shall be reimbursed for all costs and expenses of such action or proceeding, including, without limitation, reasonable attorneys' fees and disbursements, by the party determined not to be entitled to the Earnest Money. Upon making delivery of the Earnest Money in any of the manners herein provided, Escrow Agent shall have no further liability or obligation hereunder.

**10.5 Interest.** All interest and other income earned on the Earnest Money deposited with Escrow Agent hereunder shall be reported for income tax purposes as earnings of Purchaser. Purchaser's taxpayer identification number is \_\_\_\_\_.

**10.6 Execution by Escrow Agent.** Escrow Agent has executed this Agreement solely for the purpose of acknowledging and agreeing to the provisions of this ARTICLE 10. Escrow Agent's consent to any modification or amendment of this Agreement other than this ARTICLE 10 shall not be required.

## ARTICLE 11

### MISCELLANEOUS

**11.1 Assignment.** Purchaser may freely assign its rights under this Agreement or any interest therein without first obtaining Seller's written approval.

**11.2 Notices.** Any notice, request or other communication (a "notice") required or permitted to be given hereunder shall be in writing and shall be delivered by hand or overnight courier (such as United Parcel Service or Federal Express), sent by electronic mail (provided a copy of such notice is deposited with an overnight courier for next business day delivery) or mailed by United States registered or certified mail, return receipt requested, postage prepaid and addressed to each party at its address as set forth below. Any such notice shall be considered given on the date of receipt of such hand or courier delivery, electronic mail transmission if received on a business day (provided a copy of such notice is deposited with an overnight courier for next business day delivery). Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice. By giving at least five (5) days' prior written notice thereof, any party may from time to time and at any time change its mailing address hereunder. Any notice of any party may be given by such party's counsel.

The parties' respective addresses for notice purposes are as follows. Notice by telephone shall not be effective.

If to Purchaser: Old Macs Ghost, LLC  
206 New Bern Place  
Raleigh, NC 27601  
Attention: David Chatleton

*with a copy to:* Williams Mullen  
301 Fayetteville Street, Suite 1700  
Raleigh, NC 27601  
Attention: David F. Paulson, Jr.  
dpaulson@williamsmullen.com

If to Seller: Kasper Land & Cattle Texas, LLC  
3349 Hill Road  
Melba, ID 83641  
Attention: Eric Kasper  
ericatui@hotmail.com

*with a copy to:* Kasper Land & Cattle Texas, LLC  
3349 Hill Road  
Melba, ID 83641  
Attention: Jenell Kasper  
jenellkasper@gmail.com

*with a copy to:* Holland & Hart, LLP  
800 W. Main Street, Suite 1750  
Boise, ID 83702  
Attention: Robert A. Faucher  
rfaucher@hollandhart.com

If to Escrow Agent: Chicago Title Insurance Co.  
421 Fayetteville Street, Suite 1116  
Raleigh, NC 27601  
Attention: James W. Williams, III  
jay.williams@ctt.com

**11.3 Modifications; Electronic Signatures.** This Agreement cannot be changed orally, and no agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought. Signatures inscribed on the signature pages of this Agreement or any formal amendment which are transmitted by telecopy or email transmission (e.g., PDF files) shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver to the other party an executed original of this Agreement or any such formal amendment with its actual signature, but a failure to do so shall not affect the enforceability of this Agreement or any such formal amendment, it being expressly agreed that each party to this Agreement or any formal amendment shall be bound by its own telecopied or emailed signature and shall accept the telecopied or emailed signature of the other party to this Agreement or any formal amendment.

**11.4 Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday under the laws of the State in which the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

**11.5 Successors and Assigns.** Subject to Section 11.1 hereof, the terms and provisions of this Agreement are to apply to and bind the permitted successors and assigns of the parties hereto.

**11.6 Entire Agreement.** This Agreement, including the Schedules, contain the entire agreement between the parties pertaining to the subject matter hereof and fully supersede all prior written or oral agreements and understandings between the parties pertaining to such subject matter.

**11.7 Further Assurances.** Each party agrees that it will without further consideration execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. The provisions of this Section 11.7 shall survive Closing.

**11.8 Counterparts.** This Agreement may be executed in identical counterparts, and all such executed counterparts shall constitute the same agreement.

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

**11.10 Applicable Law.** This Agreement is performable in the state in which the Property is located and shall in all respects be governed by, and construed in accordance with, the substantive federal laws of the United States and the laws of the state of Texas. Seller and Purchaser hereby irrevocably submit to the jurisdiction of any state or federal court sitting in the state and judicial district in which the Property is located in any action or proceeding arising out of or relating to this Agreement and hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in a state or federal court sitting in the state and judicial district in which the Property is located. Purchaser and Seller agree that the provisions of this Section 11.10 shall survive the Closing of the transaction contemplated by this Agreement.

**11.11 No Third Party Beneficiary.** The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing (other than Escrow Agent as to the provisions of Article 10).

**11.12 Schedules.** The following schedules attached hereto shall be deemed to be an integral part of this Agreement:

<u>Schedule 1.1(a)</u>	-	Legal Description of the Land
<u>Schedule 1.1(d)</u>	-	Tangible Personal Property; Excluded Tangible Property
<u>Schedule 1.1(e)</u>	-	Permits
<u>Schedule 4.2(a)</u>	-	Deed
<u>Schedule 4.2(b)</u>	-	Bill of Sale, Assignment and Assumption Agreement
<u>Schedule 4.2(e)</u>	-	Seller's Indemnity
<u>Schedule 5.1(i)</u>	-	Service Contracts

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

**11.14 Construction.** The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any schedules or amendments hereto.

**11.15 Termination of Agreement.** It is understood and agreed that if either Purchaser or Seller terminates this Agreement pursuant to a right of termination granted hereunder, such termination shall operate to relieve Seller and Purchaser from all obligations under this Agreement, except those indemnities, rights and obligations which, under the terms hereof, expressly survive termination of this Agreement.

**11.16 Survival.** The provisions of this Agreement shall not survive Closing and shall be merged into the execution and delivery of the Deed; provided, however, that the representations and warranties of Seller contained in Section 5.1, and the representations and warranties of Purchaser contained in Section 5.5, shall survive for the period, and are subject to the terms set forth in Sections 5.3 and 5.6 respectively.

**11.17 Time of Essence.** Time is of the essence with respect to this Agreement.

**11.18 Covenant Not to Record.** Purchaser shall not record this Agreement or any memorandum or other evidence thereof; provided, however, the foregoing covenant shall not preclude Purchaser from filing a *lis pendens* in connection with a suit for specific performance brought pursuant to Section 6.2 of this Agreement.

**11.19 JURY WAIVER.** IN ANY LAWSUIT OR OTHER PROCEEDING INITIATED BY SELLER OR PURCHASER UNDER OR WITH RESPECT TO THIS AGREEMENT, SELLER AND PURCHASER EACH WAIVE ANY RIGHT IT MAY HAVE TO TRIAL BY JURY.

[SIGNATURES ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Execution Date.

**SELLER:**

**KASPER LAND & CATTLE TEXAS, LLC,**  
a Texas limited liability company

By: 

Print: THOMAS J. KASPER

Its: MANAGING PARTNER

[SIGNATURES CONTINUED ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Execution Date.

**PURCHASER:**

**OLD MACS GHOST, LLC,**  
a Texas limited liability company

DocuSigned by:  
*David Chattleton*  
49B17B8DB282432...

By: \_\_\_\_\_

Print: David Chattleton

Its: Managing Partner

[SIGNATURES CONTINUED ON THE FOLLOWING PAGES]



Escrow Agent has executed this Agreement for the limited purposes set forth herein.

**ESCROW AGENT:**

**CHICAGO TITLE INSURANCE CO.**

By: \_\_\_\_\_

Print: \_\_\_\_\_

Its: \_\_\_\_\_

[SIGNATURES CONTINUED ON THE FOLLOWING PAGES]

**Chicago Title Insurance Co., as Escrow Agent, is a party to such Purchase and Sale Agreement for the limited purposes set forth therein.**

**Schedule 1.1(a)**

**LEGAL DESCRIPTION OF THE LAND**

**Tract 1:**

Sections 297, 333, 334, 335, 337, 338, 339, 340, 341, 374, 375, 376, 377, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas (Sections 341 and 374 are also in Moore County, Texas), and Section 373, Block 44, H. & T. C. Ry. Co. Survey, Moore County, Texas.

**Tract 2:**

Sections 418 and 423, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas

**Tract 3**

Section 382 and the East one-half of Section 381, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas

**Schedule 1.1(e)**

**INVENTORY OF TANGIBLE PERSONAL PROPERTY**

- 423 K1 18 tower Valley, 1999 model, Serial # 2223995, rebuilt tower boxes 2012  
 Drop hoses, regulators, nozzles new 2009  
 NW 50 hp sub with 454, 60kw genset new 2011, motor SN# NA, generator SN# 3498-0886  
 middle well Cat 333 exchange for used motor 2011, morot SN# 68D691, gearhead randolph  
 SN# NA  
 SE well, Cat 333 motor, new 600 gpm pump 2012, motor SN# 68D220, gearhead SN#  
 R0705174  
 new 6" line to K2 N well in 2012
  
- 418 K2 18 tower Valley, new in late 90s, Serial # 66160  
 N sub 50 hp, SN# NA  
 NE sub new 300 gpm pump 2010, 50 hp, again in 2013 SN# NA  
 SE sub, 40 or 50 hp, SN# NA  
 middle sub, 40 or 50 hp, SN# NA  
 S redrilled in 2012 to 840' 650gpm pump 150hp hollowshaft electric motor, motor SN#  
 GE82064224  
 SW sub, 40 or 50 hp
  
- 381 West well new 2009 830' deep, 600 gpm pump, Cat 3406 NA, new bowls 2013, motor SN#  
 NA, gearhead SN# G040AB1951076  
 well at K4 center new 2009 880' deep, 1100 gpm pump, Cat 3406 TA, engine rebuilt 2013,  
 motor SN#4FD1037, gearhead SN# C805175  
 pipelines from new wells to K5 center new in 2009. 12" 80 psi pipe to section line and 15" 80  
 psi to K5 pivot center  
 SW well, 30 Hp sub, chev 350 40 kw generator. New long block 2012, motor SN# NA,  
 generator SN# LM413815  
 E well, 30 hp sub, hooked to grid 2012, SN# NA
  
- K3 7 tower Zimmatic, late 90s, SN# L-47313
  
- K4 8 tower Zimattic, early 90s, SN# A-11744
  
- 382 K5 17 tower Zimmattic, late 90, SN# L-47290  
 west sub 40 hp, new motor 2011, SN# NA  
 SW well, 30 Hp sub, chev 350 40 kw generator. Motor SN# SP7L-438H, generator SN# NA

- 377 K6 18 tower Reinke, 1997 model, Serial # 0897-15390, regulators removed renozzled 2011  
 N well, 262 chev new 2013 and new bowls 300gpm 2013, motor SN#27507456, gearhead SN# R0801022  
 NW 50 hp sub new with new chev 454, 60kw genset 2011, motor SN# S00654714, generator SN# LC-441522  
 W well, 262 chev, new gearhead 2011, motor SN# NA, gearhead B612019  
 SW motor rebuilt 2013, 454 chev, motor SN# S00658174, gearhead SN# R0801044  
 Pivot motor new well 2012 555' 450 gpm pump, rebuilt 30kw generator, 333 CAT, motor SN# 68D620, gearhead SN# R0803280, generator SN# AD153021  
 SE well, 262 chev, new long block, gearhead 2012, motor SN# NA, gearhead SN# NA
- 376 NE well, 855 cummins 150 kw generator to run 2nd well in K8 and 50hp sub at motor new 2012, motor SN# 10296344, generator SN# LC-441905  
 replaced all old lines with 6" to K8 nw well in 2012
- 375 K8 18 tower T&L, 90s model, Serial # 9209, removed regulators renozzled 2011, pushed in pond plumbed direct 2012  
 NW sub, 50 hp, SN# NA  
 SW sub, 30 hp, 350 chev with 40 kw generator, sub new in 2011, new long block motor 2013, motor SN# S00653755, generator SN# LM340525  
 middle sub, 30 hp, replaced 2012, SN# NA  
 pivot pond removed, new chev 350 and 40 kw generator 2012, motor SN# 13210772, generator SN# MX-151742
- 374 K9 18 tower Reinke, 1999 model, Serial # 1299-18885, New drop hoses renozzled 2011, updated reverser 2013  
 SW well changed to 30 HP sub, chev 350 40 kw generator 2012, new generator 2013, motor SN# NA, generator SN# MX-184274  
 pivot motor 454 chev, 30 kw generator, motor and generator booster pump rebuilt 2011, motor SN# NA, generator SN# MX-154541, Booster pump SN# 2692845R  
 S well 50 hp sub, 454 chev, 60 kw generator, new long block motor 2013, motor SN# S00656746, generator SN# LM-348592  
 NE well, 855 cummins, motor rebuilt 2010, new bowls 600gpm 2013, motor SN# 10433051, gearhead SN# G040AB1980789
- 373 K10 18 tower Reinke, 1997 model, Serial # 0897-15405, renozzled without regulators 2011  
 NW well changed to 262 chev 2011, motor SN# NA, gearhead SN# 94369  
 W well, 855 cummins, new heads 2011, motor SN# 10375876, gearhead SN# 96468  
 SE well changed to 262 chev 2011, motor SN# S00655184, gearhead SN# B709011  
 S well, rebuilt 855 cummins 2013, motor SN# 537115, gearhead SN# 192905  
 pivot motor 454 chev, 30 kw generator, booster pump, motor SN# NA, booster pump SN# 19915A, Generator SN# LM-359297

- 337 K11 18 tower Zimmatic, late 90s model, Serial # L-58242, new drop hoses 2010, hooked to 3-phase and pushed in pond 2012  
 S well new 2010 850' deep, Cat 3306 TA, 900 gpm pump, 10" 80 psi pipe direct to pivot, motor SN# G6X06053, gearhead SN# G901267  
 W well new sub 50 hp, hooked to 3-phase 2012, SN# NA  
 N well, 454 chev, 300 gpm pump, motor rebuilt 2011, motor SN# S00658772, gearhead SN# 306922  
 NW well, changed to 40hp sub with 60kw genset with 454 motor all new 2013, motor SN# S00659447, generator SN# LM-394552
- 338 K12 8 tower Valmont, Serial # NA, new weights, removed regulators 2011, rebuilt tower boxes 2012  
 SW well, 855 cummins with 15 kw generator for K12 and K13, new heads 2013, motor SN# 10449666, generator SN# 133050TE, gearhead SN# 98818
- K13 7 tower Valmont, Serial # NA, new drop hoses, pivot bearing, collector ring, rebuilt tower boxes 2012
- 339 K14 18 tower Reinke, 2002 model, Serial # 0102-22244, pond pushed in plumbed direct 2012  
 New well 2012, 955' deep, 700 gpm pump, 30 kw generator for pivot, 3406 TA cat, motor SN# 4FD00315, generator SN# LM309951, gearhead SN# D206066  
 NW 30 hp sub with 4/0 wire to SW well, new 2012  
 SW well, 50 hp sub, 3306 TA with 125 kw generator new 2012, motor SN# 68D25, generator SN# LC-441904  
 added 10" line along side existing 6" line to SW k8 new fall 2012
- 340 K15 18 tower Reinke, 1997 model, Serial # 0797-15328. New drop hoses renozzled 2011, updated reverser 2013  
 pivot motor 454 chev with booster pump and 30 kw generator, motor SN# NA, booster pump SN# 14543C, generator SN# LM-368953  
 N well 30 hp sub new 2011, chev 350 40 kw generator, motor SN# NA, Generator SN# LM-393904  
 NW well 50 hp sub with wire to SW well  
 SW well, 855 cummins with 60 kw generator for NW well, new heads 2011, motor SN# 646484, gearhead SN# C706066, generator SN# LM-368953
- 341 K16 19 tower Reinke early 90s model, Serial # 0391-7301, new drop hoses 2011, rebuilt tower boxes 2012  
 pond pushed in plumbed direct 2012, 262 chev 30 kw generator new 2013 motor SN# NA, generator SN# LM-319704  
 E well, 800 moline turbo, gearhead and engine rebuilt 2011, Motor SN# NA, gearhead SN# 71742  
 S well, 855 cummins, gearhead rebuilt 2011, engine new 2013, motor SN# 216813, gearhead SN# B908087

- 335 K17 10 tower Reinke "alumagitor" new drop hoses, renozzled, updated tower boxes, collector ring, panel, and adjustment linkage 2011  
 replaced all remaining old tires 2012  
 middle well 3306 TA cat, new turbo 2011, rebuilt gearhead 2012, new heads 2013, motor SN# 68D1672, gearhead SN# 57397
  
- 334 K18 new 8-tower reinke, 2012 model, Serial # 0512-52067  
 well 855 cummins, rebuilt gearhead 2010, motor SN# 733550, gearhead SN# 98819  
 well was bailed and a new 600 gpm pump set 20' lower 2011
  
- K19 8 tower T&L early 90s model, Serial # 10017, new tires 2012  
 well 3406 Cat motor, new cooling coil 2011, motor 2012, motor SN# 38, gearhead SN# R1005177
  
- K20 8 tower Reinke, 97 model, Serial # 0797-15314, new hoses 2011, rebuilt tower boxes 2012  
 well 3306 TA cat, new head 2010, new gearhead 2012, motor SN# 68D1370, gearhead SN# B20B072
  
- K21 8 tower Reinke, 97 model, Serial # 0797-15315, new hoses 2011, rebuilt tower boxes 2012  
 well G333 TA cat, purchased as rebuilt 2013, motor SN# 68D1231, gearhead SN# 105073
  
- 333 K22 18 tower Reinke, 1997 model, 0797-15318. New hoses 2011, rebuilt tower boxes 2012, updated reverser 2013  
 pivot motor 454 chev, booster pump, 30 kw generator. Generator new 2011, motor new long block 2013, motor SN# S00658112, generator LM-187315, booster pump SN# 12543  
 S well 40hp sub, 454 motor with 60kw generator. All new 2013, motor SN# S00658135, generator SN# LC-442596

Microwave oven

Refrigerator

Not including any of the items listed in the Excluded Tangible Personal Property below

**EXCLUDED TANGIBLE PERSONAL PROPERTY**

<b>qty</b>	
	11.2 x 38 pivot tires
	14.9 x 24 pivot tires

<b>qty</b>	
	11.2 x 24 pivot tires
	gearboxes

qty	
	centerdrives
	fertilizer injection pumps
	spare 30 kW generators
	spare 60 kw generators
	spare 40 kw generators
	drivelines
	Assorted plumbing and hardware
	G333 TA cat new overhaul
	855 NA cummins core
	855 NA cummins
	Moline turbo new over haul
	Moline NA new over haul
	454 chevy new long block
	454 chevy new heads/cam
	454 chevy core
	460 Ford new valves
	262 chevy new long block
	262 chevy new w/radiator
1	8360r JD tractor w/ RTK
1	9530 JD tractor w/ 18' grouser, SF1
1	7950 JD chopper w/770 corn head
1	310J Deere backhoe
1	2100 JD RTK guidance on 8345r
1	1,000 gallon diesel trailer
1	20' utility trailer
2	10' utility trailer
1	sage oil vac trailer
1	1600 gallon wylie allsteer wagon w/pump
1	60' 24 row roll-a-cone sidedresser
1	20' landpride mower
1	blujet track closer
1	15' krause dominator 4850
1	33' Landoll VT disc
1	30' 12 row Krause striptiller

qty	
1	12' Garfield angle blade
3	36' Mas silage trailers
1	11 GMC 2500HD w/utility bed
1	13 GMC 3500HD w/utility bed
1	94 toyota pickups
3	Honda 420 Ranchers
1	1770 JD 24 row planter
1	640B JD hay head
1	Kaeser 210 cfm air compressor
1	crustbuster probox tender
1	1,000 gallon diesel tank
2	05 KW t800 trucks
1	Sunflower fallowmaster 35'
1	roll-a-cone coil packer 35'





**Schedule 1.1(e)(ii)**

**LEASE AGREEMENT**

This **LEASE AGREEMENT** (this "Lease") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014 (the "Effective Date"), by and between **OLD MACS GHOST, LLC**, having a street address of 206 New Bern Place, Raleigh, NC 27601 ("Landlord"), and **KASPER FARMS JV**, a Texas joint venture, having a street address of \_\_\_\_\_ ("Tenant").

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises described in Exhibit A attached hereto in Hartley and Moore Counties, State of Texas, (the "Premises"), upon the following terms and conditions:

1. Term and Termination. Landlord demises the Premises for a term (the "Term") commencing on the Effective Date, and ending on December 31, 2014.
2. Rent. The Tenant will have no obligation for rent, the consideration for this Lease being the sale of the Premises by Kasper Land & Cattle Texas, LLC to Landlord.
3. Use. Tenant will use and occupy the Premises for the purpose of tending to, cultivating, irrigating and harvesting the sunflower and milo crops belonging to Tenant and presently growing on the Property and for no other purpose without the prior written consent of Landlord.
4. Indemnification of Landlord. Landlord will not be liable for any damage or injury (including, without limitation, death) to Tenant, its members, partners, shareholders, directors, officers, agents, employees, contractors or invitees, or to any property, occurring on the Premises or any part thereof or arising out of the use or occupancy of the Premises by Tenant or its members, partners, shareholders, directors, officers, agents, employees, contractors or invitees, and Tenant will indemnify and hold Landlord and its members, partners, shareholders, directors, officers, agents and employees harmless from any action, cause of action, loss, cost, claim or expense, including, without limitation, reasonable attorneys' fees, arising out of the same, except to the extent caused by the gross negligence or willful misconduct of Landlord.
5. Maintenance. Tenant will, throughout the Term, at its sole cost and expense, keep the Land in a good, safe and sanitary condition. Tenant at all times will keep all wells and well and irrigation equipment, including, without limitation, all underground and above-ground water lines, pivots, motors, gearheads and drivelines in good condition and repair, except that Landlord, at its sole cost and expense, will repair and replace all underground well pumps except to the extent such repair or replacement is the result of damage cause by Tenant or any of its agents, employees, contractors or invitees and not covered by insurance carried by Landlord.
6. Tenant Default. A "Default by Tenant" will occur if Tenant defaults in the performance of any of the other covenants or conditions of this Lease, and Tenant does not cure such default within ten (10) days after the giving of such notice or if such other default is of such

nature that it cannot be completely cured within such ten (10)-day period, if Tenant does not commence such curing within such ten (10) days or thereafter fails to proceed with reasonable diligence and in good faith to cure such default but in any event within thirty (30) days after the giving of such notice.

7. Remedies. Upon a Default By Tenant, Landlord will have the following remedies:

(a) Landlord may recover from Tenant all damages Landlord may incur by reason of such default.

(b) Should Tenant at any time fail to do the acts required to be done by Tenant under this Lease, Landlord, at its option and in addition to any other rights and remedies which Landlord may have, may (but will not be required to) do such act or cause the same to be done, and all sums expended by Landlord in connection with the performance thereof will be due and payable from Tenant to Landlord upon demand. The remedies of Landlord hereunder are cumulative and in addition to all other remedies Landlord may have in law or equity on account of any breach of this Lease; provided, however, in no event, shall Landlord have the right to terminate this Lease or deprive Tenant the right to complete the cultivation and harvesting of its crops.

8. Insurance. Tenant, at its expense, will maintain:

a. Commercial General Liability Insurance in the amount of at least \$1,000,000 per occurrence and \$1,000,000 in the aggregate

b. Worker's Compensation Insurance in the amount of at least \$1,000,000.00 per occurrence and \$1,000,000.00 in the aggregate.

9. Assignment. Tenant shall not assign its interest in this Lease and shall not to sublet the Premises to any person, entity or business association. Any such assignment or sublet shall be null and void.

10. Holdover. If Tenant shall remain in possession of the Premises or any part hereof after the expiration of the term of this Lease, either with or without Landlord's acquiescence, Tenant shall be deemed a tenant at will, and such holding over shall in no way constitute a renewal of this Lease.

11. Entire Agreement. This Lease constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

The parties have executed this Lease as of the day and year first written above:

**Landlord:**  
**OLD MACS GHOST, LLC,**  
a Texas limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Tenant:**  
**KASPER FARMS JV,**  
a Texas joint venture

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**to**  
**LEASE AGREEMENT**

**LEGAL DESCRIPTION OF THE PROPERTY**

[DESCRIPTION OF FARMED LAND TO BE ADDED]

**Schedule 1.1(f)**

**PERMITS**

1. One Conservation Reserve Program (CRP) parcel that has been extended through 2015. Seller has provided the contract to Purchaser. To be transferred to Purchaser. Purchaser to file appropriate paperwork with cooperation from Seller as needed

2. Concentrated Animal Feeding Operations (CAFO) permit on the Property. To be transferred to Purchaser to the extent transferable. Purchaser to file appropriate paperwork with cooperation from Seller as needed. It will run out in January if a Notice of Intent is not filed by the Purchaser before January 16, 2015.

**Schedule 4.2(a)**

**FORM OF DEED**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**General Warranty Deed**

**Date:** \_\_\_\_\_, 2014

**Grantor:** Kasper Land & Cattle Texas, LLC, a Texas limited liability company

**Grantor's Mailing Address:** 3349 Hill Road, Melba, ID 83641

**Grantee:** OLD MACS GHOST, LLC, a Texas limited liability company

**Grantee's Mailing Address:** 206 New Bern Place, Raleigh, NC 27601

Attention: David Chatleton

**Consideration:**

Cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

**Property (including any improvements):**

**Tract 1:**

Sections 297, 333, 334, 335, 337, 338, 339, 340, 341, 374, 375, 376, 377, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas (Sections 341 and 374 are also in Moore County, Texas), and Section 373, Block 44, H. & T. C. Ry. Co. Survey, Moore County, Texas.

**Tract 2:**

Sections 418 and 423, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas

**Tract 3**

Section 382 and the East one-half of Section 381, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas

**Reservations from Conveyance:**

None

**Exceptions to Conveyance and Warranty:**

Standby fees, taxes, and assessments by any taxing authority for the year 2014 and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership; any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements; and

[INSERT PERMITTED EXCEPTIONS]

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

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

**KASPER LAND & CATTLE TEXAS, LLC,**  
a Texas limited liability company

By: \_\_\_\_\_

Print: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

Before me, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that \_\_\_\_\_ executed the same as the act of Kasper Land & Cattle Texas, LLC, a Texas limited liability company, as its \_\_\_\_\_(title), for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_

Notary Public, State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

PREPARED IN THE OFFICE OF:

\_\_\_\_\_

AFTER RECORDING RETURN TO:

\_\_\_\_\_



**Schedule 4.2(b)**

**FORM OF BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT**

**BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT**

**KASPER LAND & CATTLE TEXAS, LLC**, a Texas limited liability company (“**Grantor**”), whose address is 3349 Hill Road, Melba, ID 83641, for Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby assigns, transfers, sells and conveys to **OLD MACS GHOST, LLC**, a Texas limited liability company, whose street address is 206 New Bern Place, Raleigh, NC 27601 Attention: David Chatleton (“**Grantee**”), the following personal property located on or used in connection with the real property located in in Hartley and Moore Counties, Texas, more particularly described on Exhibit A attached hereto and made a part hereof (the “**Land**”):

(a) All of Grantor’s right, title and interest in, to and under all tangible personal property upon the Land or within the improvements located thereon (the “**Improvements**”), including specifically, without limitation, equipment, irrigation, pivots, and other items of tangible personal property owned by Grantor and used exclusively in connection with the ownership, use, maintenance or operation of the Land and the Improvements, and including those items of tangible personal property identified on Exhibit B attached hereto and incorporated herein by this reference (the property described in this clause (a) being herein referred to collectively as the “**Tangible Personal Property**”); provided, however, that Tangible Personal Property shall not include (i) the rolling stock and other tangible personal property identified as “**Excluded Tangible Personal Property**” on Exhibit C attached hereto and incorporated herein by this reference, which Grantor and/or Kasper Farms JV shall have the right to keep on the Land until it is removed by Grantor and/or Kasper Farms JV, which shall occur on or before December 31, 2014 and (ii) the milo and sunflower crops presently growing on or in the Land, which is the subject of that certain lease agreement whereby Grantee has leased a portion of the Land to Kasper Farms JV for the purpose of growing and harvesting those crops; and

(b) All of Grantor’s right, title and interest in, to and under (i) all assignable existing warranties and guaranties issued to or inuring to the benefit of Grantor in connection with the Improvements or the Tangible Personal Property, (ii) all assignable governmental permits, licenses and approvals, if any, belonging to or inuring to the benefit of Grantor and pertaining to the Land, the Improvements or the Tangible Personal Property, including ,without limitation, the permits listed on Exhibit D attached hereto and incorporated herein by this reference; (iii) all plans, drawings, specifications, surveys, water reports, soil reports, appraisals, environmental studies, engineering reports, and other technical information in the possession of Grantor pertaining to the development and construction of the Improvements, (“**Plans and Specifications**”), (iv) other non-confidential and non-proprietary records owned by Grantor and used in connection with the operation of the Land or any part thereof; (the property described in this clause (b) being sometimes herein referred to collectively as the “**Intangible Property**”).

Grantee assumes and agrees to fully and faithfully perform all of Grantor's obligations arising under the “**Designated Service Contracts**” listed on Exhibit E attached hereto and incorporated herein by reference.

Grantor indemnifies and holds Grantee harmless from any action, cause of action, loss, cost, claim or expense, including, without limitation attorneys' fees, arising out of or related to the Designated Service Contracts prior to the date hereof.

Grantee indemnifies and holds the Grantor harmless from any action, cause of action, loss, cost, claim or expense, including, without limitation attorneys' fees, arising out of or related to any of the Designated Service Contracts after the date hereof.

Grantee accepts the Tangible Personal Property and the Intangible Personal Property "AS IS" and "WITH ALL ITS FAULTS." This conveyance is made without any representations and warranties whatsoever, express or implied, including, without limitation, any representations of title or implied representations of merchantability or fitness for any particular purpose, except as may be set forth in that certain Purchase and Sale Agreement, dated \_\_\_\_\_, 2014, by and between Grantor and Grantee.

Signed as of this \_\_\_\_ day of \_\_\_\_\_, 2014.

<p><b>ASSIGNOR:</b></p> <p><b>KASPER LAND &amp; CATTLE TEXAS, LLC,</b> a Texas limited liability company</p> <p>By: _____</p> <p>Print: _____</p> <p>Its: _____</p>	<p><b>ASSIGNEE:</b></p> <p><b>OLD MACS GHOST, LLC,</b> a Texas limited liability company</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p>
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**Exhibit A**  
**to**  
**Bill of Sale, Assignment and Assumption Agreement**

Legal Description of the Land

**Tract 1:**

Sections 297, 333, 334, 335, 337, 338, 339, 340, 341, 374, 375, 376, 377, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas (Sections 341 and 374 are also in Moore County, Texas), and Section 373, Block 44, H. & T. C. Ry. Co. Survey, Moore County, Texas.

**Tract 2:**

Sections 418 and 423, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas

**Tract 3**

Section 382 and the East one-half of Section 381, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas

**Exhibit B**  
**to**  
**Bill of Sale, Assignment and Assumption Agreement**

Tangible Personal Property Inventory

- 423 K1 18 tower Valley, 1999 model, Serial # 2223995, rebuilt tower boxes 2012  
Drop hoses, regulators, nozzles new 2009  
NW 50 hp sub with 454, 60kw genset new 2011, motor SN# NA, generator SN# 3498-0886  
middle well Cat 333 exchange for used motor 2011, motor SN# 68D691, gearhead randolph  
SN# NA  
SE well, Cat 333 motor, new 600 gpm pump 2012, motor SN# 68D220, gearhead SN#  
R0705174  
new 6" line to K2 N well in 2012
- 418 K2 18 tower Valley, new in late 90s, Serial # 66160  
N sub 50 hp, SN# NA  
NE sub new 300 gpm pump 2010, 50 hp, again in 2013 SN# NA  
SE sub, 40 or 50 hp, SN# NA  
middle sub, 40 or 50 hp, SN# NA  
S redrilled in 2012 to 840' 650gpm pump 150hp hollowshaft electric motor, motor SN#  
GE82064224  
SW sub, 40 or 50 hp
- 381 West well new 2009 830' deep, 600 gpm pump, Cat 3406 NA, new bowls 2013, motor SN#  
NA, gearhead SN# G040AB1951076  
well at K4 center new 2009 880' deep, 1100 gpm pump, Cat 3406 TA, engine rebuilt 2013,  
motor SN#4FD1037, gearhead SN# C805175  
pipelines from new wells to K5 center new in 2009. 12" 80 psi pipe to section line and 15" 80  
psi to K5 pivot center  
SW well, 30 Hp sub, chev 350 40 kw generator. New long block 2012, motor SN# NA,  
generator SN# LM413815  
E well, 30 hp sub, hooked to grid 2012, SN# NA
- K3 7 tower Zimmatic, late 90s, SN# L-47313
- K4 8 tower Zimattic, early 90s, SN# A-11744
- 382 K5 17 tower Zimmattic, late 90, SN# L-47290  
west sub 40 hp, new motor 2011, SN# NA  
SW well, 30 Hp sub, chev 350 40 kw generator. Motor SN# SP7L-438H, generator SN# NA

- 377 K6 18 tower Reinke, 1997 model, Serial # 0897-15390, regulators removed renozzled 2011  
 N well, 262 chev new 2013 and new bowls 300gpm 2013, motor SN#27507456, gearhead SN# R0801022  
 NW 50 hp sub new with new chev 454, 60kw genset 2011, motor SN# S00654714, generator SN# LC-441522  
 W well, 262 chev, new gearhead 2011, motor SN# NA, gearhead B612019  
 SW motor rebuilt 2013, 454 chev, motor SN# S00658174, gearhead SN# R0801044  
 Pivot motor new well 2012 555' 450 gpm pump, rebuilt 30kw generator, 333 CAT, motor SN# 68D620, gearhead SN# R0803280, generator SN# AD153021  
 SE well, 262 chev, new long block, gearhead 2012, motor SN# NA, gearhead SN# NA
- 376 NE well, 855 cummins 150 kw generator to run 2nd well in K8 and 50hp sub at motor new 2012, motor SN# 10296344, generator SN# LC-441905  
 replaced all old lines with 6" to K8 nw well in 2012
- 375 K8 18 tower T&L, 90s model, Serial # 9209, removed regulators renozzled 2011, pushed in pond plumbed direct 2012  
 NW sub, 50 hp, SN# NA  
 SW sub, 30 hp, 350 chev with 40 kw generator, sub new in 2011, new long block motor 2013, motor SN# S00653755, generator SN# LM340525  
 middle sub, 30 hp, replaced 2012, SN# NA  
 pivot pond removed, new chev 350 and 40 kw generator 2012, motor SN# 13210772, generator SN# MX-151742
- 374 K9 18 tower Reinke, 1999 model, Serial # 1299-18885, New drop hoses renozzled 2011, updated reverser 2013  
 SW well changed to 30 HP sub, chev 350 40 kw generator 2012, new generator 2013, motor SN# NA, generator SN# MX-184274  
 pivot motor 454 chev, 30 kw generator, motor and generator booster pump rebuilt 2011, motor SN# NA, generator SN# MX-154541, Booster pump SN# 2692845R  
 S well 50 hp sub, 454 chev, 60 kw generator, new long block motor 2013, motor SN# S00656746, generator SN# LM-348592  
 NE well, 855 cummins, motor rebuilt 2010, new bowls 600gpm 2013, motor SN# 10433051, gearhead SN# G040AB1980789
- 373 K10 18 tower Reinke, 1997 model, Serial # 0897-15405, renozzled without regulators 2011  
 NW well changed to 262 chev 2011, motor SN# NA, gearhead SN# 94369  
 W well, 855 cummins, new heads 2011, motor SN# 10375876, gearhead SN# 96468  
 SE well changed to 262 chev 2011, motor SN# S00655184, gearhead SN# B709011  
 S well, rebuilt 855 cummins 2013, motor SN# 537115, gearhead SN# 192905  
 pivot motor 454 chev, 30 kw generator, booster pump, motor SN# NA, booster pump SN# 19915A, Generator SN# LM-359297

- 337 K11 18 tower Zimmatic, late 90s model, Serial # L-58242, new drop hoses 2010, hooked to 3-phase and pushed in pond 2012  
 S well new 2010 850' deep, Cat 3306 TA, 900 gpm pump, 10" 80 psi pipe direct to pivot, motor SN# G6X06053, gearhead SN# G901267  
 W well new sub 50 hp, hooked to 3-phase 2012, SN# NA  
 N well, 454 chev, 300 gpm pump, motor rebuilt 2011, motor SN# S00658772, gearhead SN# 306922  
 NW well, changed to 40hp sub with 60kw genset with 454 motor all new 2013, motor SN# S00659447, generator SN# LM-394552
- 338 K12 8 tower Valmont, Serial # NA, new weights, removed regulators 2011, rebuilt tower boxes 2012  
 SW well, 855 cummins with 15 kw generator for K12 and K13, new heads 2013, motor SN# 10449666, generator SN# 133050TE, gearhead SN# 98818
- K13 7 tower Valmont, Serial # NA, new drop hoses, pivot bearing, collector ring, rebuilt tower boxes 2012
- 339 K14 18 tower Reinke, 2002 model, Serial # 0102-22244, pond pushed in plumbed direct 2012  
 New well 2012, 955' deep, 700 gpm pump, 30 kw generator for pivot, 3406 TA cat, motor SN# 4FD00315, generator SN# LM309951, gearhead SN# D206066  
 NW 30 hp sub with 4/0 wire to SW well, new 2012  
 SW well, 50 hp sub, 3306 TA with 125 kw generator new 2012, motor SN# 68D25, generator SN# LC-441904  
 added 10" line along side existing 6" line to SW k8 new fall 2012
- 340 K15 18 tower Reinke, 1997 model, Serial # 0797-15328. New drop hoses renozzled 2011, updated reverser 2013  
 pivot motor 454 chev with booster pump and 30 kw generator, motor SN# NA, booster pump SN# 14543C, generator SN# LM-368953  
 N well 30 hp sub new 2011, chev 350 40 kw generator, motor SN# NA, Generator SN# LM-393904  
 NW well 50 hp sub with wire to SW well  
 SW well, 855 cummins with 60 kw generator for NW well, new heads 2011, motor SN# 646484, gearhead SN# C706066, generator SN# LM-368953
- 341 K16 19 tower Reinke early 90s model, Serial # 0391-7301, new drop hoses 2011, rebuilt tower boxes 2012  
 pond pushed in plumbed direct 2012, 262 chev 30 kw generator new 2013 motor SN# NA, generator SN# LM-319704  
 E well, 800 moline turbo, gearhead and engine rebuilt 2011, Motor SN# NA, gearhead SN# 71742  
 S well, 855 cummins, gearhead rebuilt 2011, engine new 2013, motor SN# 216813, gearhead SN# B908087

- 335 K17 10 tower Reinke "alumagitor" new drop hoses, renozzled, updated tower boxes, collector ring, panel, and adjustment linkage 2011  
replaced all remaining old tires 2012  
middle well 3306 TA cat, new turbo 2011, rebuilt gearhead 2012, new heads 2013, motor SN# 68D1672, gearhead SN# 57397
- 334 K18 new 8-tower reinke, 2012 model, Serial # 0512-52067  
well 855 cummins, rebuilt gearhead 2010, motor SN# 733550, gearhead SN# 98819  
well was bailed and a new 600 gpm pump set 20' lower 2011
- K19 8 tower T&L early 90s model, Serial # 10017, new tires 2012  
well 3406 Cat motor, new cooling coil 2011, motor 2012, motor SN# 38, gearhead SN# R1005177
- K20 8 tower Reinke, 97 model, Serial # 0797-15314, new hoses 2011, rebuilt tower boxes 2012  
well 3306 TA cat, new head 2010, new gearhead 2012, motor SN# 68D1370, gearhead SN# B20B072
- K21 8 tower Reinke, 97 model, Serial # 0797-15315, new hoses 2011, rebuilt tower boxes 2012  
well G333 TA cat, purchased as rebuilt 2013, motor SN# 68D1231, gearhead SN# 105073
- 333 K22 18 tower Reinke, 1997 model, 0797-15318. New hoses 2011, rebuilt tower boxes 2012,  
updated reverser 2013  
pivot motor 454 chev, booster pump, 30 kw generator. Generator new 2011, motor new long  
block 2013, motor SN# S00658112, generator LM-187315, booster pump SN# 12543  
S well 40hp sub, 454 motor with 60kw generator. All new 2013, motor SN# S00658135,  
generator SN# LC-442596

Microwave oven

Refrigerator

Not including any of the items listed in the Excluded Tangible Personal Property Inventory in Exhibit C to this Bill of Sale, Assignment and Assumption Agreement

**Exhibit C**  
to  
**Bill of Sale, Assignment and Assumption Agreement**

Excluded Tangible Personal Property Inventory

qty	
	11.2 x 38 pivot tires
	14.9 x 24 pivot tires
	11.2 x 24 pivot tires
	gearboxes
	centerdrives
	fertilizer injection pumps
	spare 30 kW generators
	spare 60 kw generators
	spare 40 kw generators
	drivelines
	Assorted plumbing and hardware
	G333 TA cat new overhaul
	855 NA cummins core
	855 NA cummins
	Moline turbo new over haul
	Moline NA new over haul
	454 chevy new long block
	454 chevy new heads/cam
	454 chevy core
	460 Ford new valves
	262 chevy new long block
	262 chevy new w/radiator
1	8360r JD tractor w/ RTK
1	9530 JD tractor w/ 18' grouser, SF1
1	7950 JD chopper w/770 corn head
1	310J Deere backhoe

qty	
1	2100 JD RTK guidance on 8345r
1	1,000 gallon diesel trailer
1	20' utility trailer
2	10' utility trailer
1	sage oil vac trailer
1	1600 gallon wylie allsteer wagon w/pump
1	60' 24 row roll-a-cone sidedresser
1	20' landpride mower
1	blujet track closer
1	15' krause dominator 4850
1	33' Landoll VT disc
1	30' 12 row Krause striptiller
1	12' Garfield angle blade
3	36' Mas silage trailers
1	11 GMC 2500HD w/utility bed
1	13 GMC 3500HD w/utility bed
1	94 toyota pickups
3	Honda 420 Ranchers
1	1770 JD 24 row planter
1	640B JD hay head
1	Kaeser 210 cfm air compressor
1	crustbuster probox tender
1	1,000 gallon diesel tank
2	05 KW t800 trucks
1	Sunflower fallowmaster 35'
1	roll-a-cone coil packer 35'



**Exhibit D**  
**to**  
**Bill of Sale, Assignment and Assumption Agreement**

Permits

1. One Conservation Reserve Program (CRP) parcel that has been extended through 2015. Seller has provided the contract to Purchaser. To be transferred to Purchaser. Purchaser to file appropriate paperwork with cooperation from Seller as needed

2. Concentrated Animal Feeding Operations (CAFO) permit on the Property. To be transferred to Purchaser to the extent transferable. Purchaser to file appropriate paperwork with cooperation from Seller as needed. It will run out in January if a Notice of Intent is not filed by the Purchaser before January 16, 2015.

**Exhibit E**  
**to**  
**Bill of Sale, Assignment and Assumption Agreement**

Designated Service Contracts

[TO BE IDENTIFIED BY PURCHASER]

7320668\_2

Schedule 4.2(e)

**FORM OF SELLER’S INDEMNITY  
AFFIDAVIT AS TO DEBTS, LIENS,  
AND POSSESSION**

GF/ORDER NO.: **4713006856** ( the “Commitment”)

PROPERTY:

**Tract 1:**

Sections 297, 333, 334, 335, 337, 338, 339, 340, 341, 374, 375, 376, 377, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas (Sections 341 and 374 are also in Moore County, Texas), and Section 373, Block 44, H. & T. C. Ry. Co. Survey, Moore County, Texas.

**Tract 2:**

Sections 418 and 423, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas

**Tract 3**

Section 382 and the East one-half of Section 381, Block 44, H. & T. C. Ry. Co. Survey, Hartley County, Texas

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority on this day personally appeared \_\_\_\_\_, as \_\_\_\_\_ of **Kasper Land & Cattle Texas, LLC**, a Texas limited liability company (“Owner”) personally known to me to be the person and officer, or authorized representative of Owner, whose name is subscribed hereto and upon oath deposes and represents to Chicago Title Insurance Company in this transaction that in the aforesaid capacity my involvement in the Property is such that I would know of the details of the matters inquired of below and, accordingly, state:

1. Owner has no unpaid debts for plumbing fixtures, water heaters, floor furnaces, air conditioners, fences, street paving, or any other fixtures that are located on the Property, and that no such items have been purchased on time payment contracts, and there are no security interests on the Property secured by a financing statement, security agreement or otherwise except the following:

**Secured Party**

**Approximate Amount**

Herring Bank (as all or a part has been assigned to Burgess Y Ranch Co. L.L.C.); Monarch Trust Company, as trustee of the Jessie Herring Johnson Estate Trust No.1; Herring Bank and Jane Slemp Burgess, as co-trustees of the Jessie Herring Johnson Estate Trust No. 2; Herring Bank and Jane Slemp Burgess, as co-trustees of the Cornelia J. Slemp Trust; Herring Bank and Jane Slemp Burgess, as

co-trustees of the Louise Johnson Thomas Trust; and Chain-C, Inc., in the approximate amount of \$ \_\_\_\_\_,

- 2. Owner has no loans or liens (including Federal or State Liens and Judgment Liens) of any kind that encumber the Property except the following:

**Creditor**

**Approximate Amount**

Herring Bank (as all or a part has been assigned to Burgess Y Ranch Co. L.L.C.); Monarch Trust Company, as trustee of the Jessie Herring Johnson Estate Trust No.1; Herring Bank and Jane Slemp Burgess, as co-trustees of the Jessie Herring Johnson Estate Trust No. 2; Herring Bank and Jane Slemp Burgess, as co-trustees of the Cornelia J. Slemp Trust; Herring Bank and Jane Slemp Burgess, as co-trustees of the Louise Johnson Thomas Trust; and Chain-C, Inc., in the approximate amount of \$ \_\_\_\_\_ .

- 3. Except for obligations incurred for routine and ordinary maintenance of the Property, during the past 150 days no materials have been delivered and no work has been performed on the Property. All labor and material used in the construction of improvements on the Property have been paid and there are no unpaid labor or material claims against the improvements or the Property upon which same are situated EXCEPT: NONE.

- 4. There are no parties in possession of the Property (other than the current owner) except as follows: Francis Lockhart under a lease and Kasper Farms JV under a lease.

None of the parties in possession have any options to purchase or rights of refusal pertaining to the Property.

- 5 There are no fees for appraisals claimed, earned or payable against the Property, (whether arising out of any prior transaction or the current transaction), except as follows: NONE.

- 5. Owner has no broker's commissions or similar fees are claimed, earned or payable with regard to the Property, (whether arising out of any lease, prior transaction or the current transaction), except as follows: NONE.

THAT there are no paving liens, mowing liens or charges or assessments made by a governmental entity of any kind or character outstanding against the Property.

THAT we have signed no petitions for the paving of the street or alley adjoining the Property and know of no petitions being circulated for the payment of the streets, alley or sidewalks adjacent to the Property.

THAT Owner is the subject of a Chapter 11 Bankruptcy case filed in the United States Bankruptcy Court for the Northern District of Texas on or about March 3, 2014 and bearing case number 14-20074-RLJ-11.

THAT we have received no notice of violations of nor are we aware of any violations of any Covenants, Conditions, Restrictions, Grants or Easements, recorded or unrecorded, which affect the Property.

THAT any assessments, fees or private charges required by an instrument referred to in Schedule B of the Title Commitment issued under the GF/Order No. are paid in full as of the date hereof.

Owner has not entered into, and Owner has no knowledge of, any unrecorded documents affecting title to the property.

I/WE FURTHER STATE:

This affidavit is made to Chicago Title Insurance Company as an inducement to them to complete the above referred to transaction, and we realize that said Chicago Title Insurance Company is relying upon the representations contained herein; and the undersigned does hereby swear under the penalties of perjury that the foregoing information is true and correct in all respects.

**KASPER LAND & CATTLE TEXAS, LLC,**  
a Texas limited liability company

By: \_\_\_\_\_

Print: \_\_\_\_\_

Its: \_\_\_\_\_

SWORN TO AND SUBSCRIBED before me under the penalties of perjury, this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by \_\_\_\_\_ as \_\_\_\_\_ of Kasper land & Cattle Texas, LLC, a Texas limited liability company.

\_\_\_\_\_  
Texas

\_\_\_\_\_  
Notary Public in and for the State of

\_\_\_\_\_  
Printed/Typed Name of Notary Public

My Commission Expires:

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Schedule 5.1(i)  
**SERVICE CONTRACTS**

[TO BE ATTACHED]

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