

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

LOCKWOOD HOLDINGS, INC., *et al.*,<sup>1</sup>

Debtors.

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Chapter 11

Case No. 18-30197 (DRJ)

Jointly Administered

**DEBTORS' MOTION TO (I) SELL CERTAIN ASSETS OF THE ESTATE FREE AND  
CLEAR OF LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS  
PURSUANT TO 11 U.S.C. § 363, (II) ASSUME AND ASSIGN AGREEMENT WITH  
NORTHWEST AIRPORT MANAGEMENT, L.P., AND (III) GRANT RELATED  
RELIEF (SPRING, TEXAS HANGAR AND RELATED EQUIPMENT)**

THIS MOTION SEEKS ENTRY OF AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS MOTION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

Lockwood Holdings, Inc. and certain of its affiliates, the above-captioned debtors and debtors in possession (the "Debtors"), for their *Motion to (I) Sell Certain Assets of the Estate Free and Clear of Liens, Claims, Encumbrances and Other Interests Pursuant to 11 U.S.C. § 363, (II) Assume and Assign Agreement with Northwest Airport Management, L.P. and (III) Grant Related Relief (Spring, Texas Hangar and Related Equipment)* (the "Motion"), respectfully represent:

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Lockwood Holdings, Inc. (9726); LH Aviation, LLC (6984); Piping Components, Inc. (0197); Lockwood International, Inc. (8597); LMG Manufacturing, Inc. (9468); Lockwood Enterprises, Inc. (6504); and 7807 Eagle Lane, LLC (7382).

### **JURISDICTION AND VENUE**

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

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

3. The basis for the relief requested herein are sections 105(a), 363(f), 365, 503 and 507 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “Bankruptcy Local Rules”).

### **PROCEDURAL HISTORY AND BACKGROUND**

4. On January 18, 2018 (the “First Petition Date”), Lockwood Holdings, Inc., LH Aviation, LLC (“Aviation”) and Piping Components, Inc. filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On January 24, 2018 (the “Second Petition Date,” and together with January 18, 2018 the “Petition Dates”), Lockwood International, Inc., LMG Manufacturing, Inc., Lockwood Enterprises, Inc., and 7807 Eagle Lane, LLC (“Eagle Lane”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

5. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors each remain in possession of their property and each is managing its business as a debtor in possession. No trustee, examiner, or official committee has been appointed

6. A detailed description of the Debtors and their businesses, and the facts and circumstances supporting the Debtors’ chapter 11 cases, are set forth in greater detail in the *Emergency Motion for Interim and Final Orders (A) Authorizing Use of Cash Collateral*

*Pursuant to Section 363(c) of the Bankruptcy Code and (B) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001 (the “Cash Collateral Motion”), filed on January 24, 2018.*

**RELIEF REQUESTED**

7. By this Motion, pursuant to sections 105 and 363 of the Bankruptcy Code and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the Debtors respectfully seek entry of an order, substantially in the form attached hereto as **Exhibit “A,”** authorizing Debtors, including Eagle Lane, to sell the real property and certain personal property located at 7807 Eagle Lane, Spring, Texas 77379 generally described as approximately 0.5510 acres of real estate including an airplane hangar and living quarters and a “tug”<sup>2</sup> and hangar charger, and more fully described in the Commercial Contract-Improved Property and addendum attached hereto as **Exhibit “B”** (the “Assets”) free and clear of all liens, claims, interests, and encumbrances (collectively, the “Liens”) with such Liens attaching to the proceeds of the sale with the same validity, extent and priority as existed immediately prior to the sale. Debtors also request authority to (a) assume and assign a certain executory contract pursuant to 11 U.S.C. § 365, and (b) pay certain professional fees, property taxes and other closing related costs at Closing (as defined in the Pearsall PSA).

**THE AGREEMENT WITH MASON PEARSALL, JR.  
(THE “PURCHASER”)**

8. After arm’s length negotiations, Eagle Lane entered into a certain Commercial Contract-Improved Property and related Addendum with the Purchaser (the “Pearsall PSA”). A true and correct copy of the Pearsall PSA is attached hereto as **Exhibit “B”**. In sum, Debtors

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<sup>2</sup> A “tug” is a vehicle used to pull an aircraft to and from one location to another. The tug is owned by Aviation. Aviation purchased the tug in November 2014 for \$7,500, and Aviation’s current net book value is \$3,571.24. The charger is also owned by Aviation. Aviation purchased the charger in December 2014 for \$10,329.00, and Aviation’s current net book value is \$5,041.70.

seek authority to sell the Assets located in Spring, Texas to the Purchaser for the sum of \$700,000.00 pursuant to the terms of the Pearsall PSA.

**ARGUMENTS AND AUTHORITIES**

**A. The Sale of the Assets is an Exercise of Debtors' Sound Business Judgment and Should Be Approved.**

9. Section 363(b)(1) of the Bankruptcy Code provides that the “[t]rustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. §363(b)(1). Such a motion may be approved if it is supported by a sound business justification. *See Institutional Creditors of Continental Airlines, Inc. v Continental Airlines, Inc. (In re Continental Airlines, Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986). A bankruptcy court is to give deference to the business judgment of the trustee or debtor-in-possession when it deems the sale to be appropriate. *See Esposito v. Title Ins. Co. of Pa. (In re Fernwood)*, 73 B.R. 616, 621 n.2 (Bankr. E.D. Pa. 1987). The Sale contemplated by this Motion free and clear of any and all liens, claims and encumbrances is authorized pursuant to section 363(f)(1), (3) and/or (5) of the Bankruptcy Code.

10. If a valid business justification exists for the sale, as it does in this case, a debtor’s decision to sell property out of the ordinary course of business enjoys a strong presumption “that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in an honest belief that the action taken was in the best interests of the company.” *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)* 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkuom*, 488 A.2d 858, 872 (Del. 1985)). Therefore, any party objecting to the debtor’s proposed asset sale must make a showing of “bad faith, self-interest or gross negligence.” *Id.* at 656.

11. Debtors have determined that selling the Assets will realize the greatest possible recovery for their creditors and other parties-in-interest. Prior to the Petition Date, Debtors retained a real estate broker to market the Assets. Debtors believe based upon the marketing efforts of the Debtors and its brokers prior to the Petition Date, and Debtors marketing efforts subsequent to the Petition Date, no further marketing of the Assets is necessary or would realistically increase the potential sales price for the benefit of Debtors and their estates. Thus, sound business justifications exist for granting this Motion. Debtors believe that approval of this Motion is in the best interest of Debtors, Debtors' bankruptcy estates, and their creditors.

12. Debtors shall not be deemed to have accepted any offer unless and until such offer has been subsequently authorized by separate order of this Court.

**B. The Court Should Approve the Sale of the Assets Free and Clear of Liens.**

13. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of liens, claims and encumbrances in property of an entity other than the estate if:

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price in which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest;

11 U.S.C. § 363(f). Because section 363(f) is stated in the disjunctive, satisfaction of any one of its five requirements is sufficient to warrant approval of a proposed sale.

14. Debtors shall retain any claims that may be available pursuant to 11 U.S.C. § 506(c) and creditors reserve any defenses thereto.

15. On information and belief, the only creditors to assert a lien on the real estate proposed to be sold are (a) Brenda E. Cooper and H.A. Cooper (the "Coopers") (who provided

seller financing when Eagle Lane acquired the subject real estate assets in October 2014), (b) the local property taxing authorities believed to assert unpaid *pro rata* property taxes for the year 2018 in an amount of less than \$5,000.00. On information and belief, no creditor asserts a lien on the “tug” and the hangar charger. Wells Fargo does not hold a pre-petition lien on the real property Assets proposed to be sold herein. TCoopers do not oppose selling the assets. Accordingly, the Debtors believe that the proposed sale of the Assets, free and clear of liens will meet the standards set forth in Section 363(f)(2).

16. Debtors contemplate paying at closing (a) all accrued and unpaid property taxes secured by the Assets to the appropriate taxing authorities, (b) all normal and customary closing related expenses, and other amounts owing pursuant to the terms of the Pearsall PSA, not to exceed the aggregate sum of \$15,000.00, (c) a broker’s commission to the buyer’s broker of \$17,500.00 (a 2.5% commission), (d) the amount of \$523,286.58 plus specified per diem interest after October 11, 2018 to the Coopers in full and final satisfaction of their liens against the Assets and claims in these bankruptcy cases (or such other amount as approved by the Court), (e) the sum of \$30,885.18 to Wells Fargo as more fully discussed below, and (f) the remaining net sale proceeds to be held by Debtors at a financial institution of Debtors’ choosing pending further order of this Court. To the extent that the Debtors seek to sell assets on which any other party holds a lien or interest, such party will receive notice and be given the opportunity to object. Thus, the Debtors believe any other such lienholders will either expressly consent to the sale or will be deemed to have consented absent an objection. Additionally, applicable non-bankruptcy law permits sale of the Assets free and clear of any such interests. Thus, the Debtors may sell the Assets free and clear of an interest of a non-debtor entity in such property.

17. Further, any party who holds a lien against the assets to be sold, will be adequately protected by having its valid and unavoidable liens, if any, attach to the net sale proceeds received by Debtor upon the closing of the Sale. These liens will attach to such proceeds in the same order of priority, validity, force and effect that such creditor/lienholder had prior to such Sale, subject to any claims and defenses that Debtors and their estates possess with respect thereto. Accordingly, Section 363(f) authorizes the proposed sale free and clear of any Liens. Notwithstanding the above, and the terms of the Pearsall PSA, with the exception of the liens of the Coopers and the local property taxing authorities on the Assets, Purchaser is purchasing the Assets subject to the easements, rights of first refusal, rights of way and other documents of record filed in the official records of Harris County, Texas.

**C. The Sale Will Be Entitled to the Protections of Section 363(m) of the Bankruptcy Code.**

18. Section 363(m) of the Bankruptcy Code provides in relevant part that the reversal or modification on appeal of an authorization under section 363 of a sale or lease of property does not affect the validity of such sale or lease when the purchaser bought in good faith. *See* 11 U.S.C. § 363(m). “Although the Bankruptcy Code does not define the meaning of ‘good-faith purchaser,’ most courts have adopted a traditional equitable definition: one who purchases the assets for value, in good faith and without notice of adverse claims.” *Licensing by Paolo, Inc. v. Sinatra (In re Gucci)*, 126 F.3d 380, 390 (2d Cir. 1997) (internal citations omitted). The Third Circuit has held that “[t]he requirement that a purchaser act in good faith . . . speaks to the integrity of [purchaser’s] conduct in the course of the sale proceedings. *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 147 (3d Cir. 1986) (internal citations omitted). The Debtors represent that any agreements that result in the sale of assets in this case will be the result of an arm’s-length transaction entitled to the protections of section 363(m). And, in support of such

representation, the Debtors intend to produce evidence at the sale hearing that the Pearsall PSA was negotiated in good faith and at arms' length. Neither the Purchaser nor the Purchaser's principals, are in any way affiliated with or an insider of Debtors or Debtors' principals.

### **ASSUMPTION AND ASSIGNMENT OF AIRPORT AGREEMENT**

19. Eagle Lane entered into that certain David Wayne Hooks Memorial Airport Access and Maintenance Agreement a/k/a License Agreement (the "Airport Agreement") with Northwest Airport Management, L.P. (the "Airport") on or about October 10, 2014. Among other duties, rights and obligations between the parties thereto, the Airport Agreement grants the owner of the real property Asset certain benefits and rights regarding the Airport (as defined in the Airport Agreement).

20. Section 365(a) of the Bankruptcy Code provides that, subject to court approval, a debtor in possession may assume or reject any of its executory contracts or unexpired leases. 11 U.S.C. §365(a). Most courts, including the Fifth Circuit, apply the "business judgment" test to decisions to assume or reject contracts and leases. See *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1312 (5th Cir. 1985); *Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1099 (2nd Cir. 1993). In this regard, the Court is to focus upon the business judgment of the trustee or the debtor-in-possession, not on its own business judgment. *In re Mirant Corp.*, 378 F. 3d 511,524, n.5 (5th Cir. 2004). The review of the assumption of leases is a summary proceeding, intended to efficiently review the debtor's decision to assume in the course of the "swift administration" of the bankruptcy estate. *In re Orion*, 4 F.3d at 1098. Here, assumption and assignment is desirable because it allows the Debtors to complete the sale of the Assets which will provide proceeds to pay creditors, and will eliminate claims against the estate arising out of the rejection of the Airport Agreement.



21. Debtors request entry of an order assuming the Airport Agreement pursuant to 11 U.S.C. § 365 and an assignment of the Airport Agreement to the Purchaser at the Closing pursuant to 11 U.S.C. § 365. The Debtors assert (and request a finding from this Court) that there are no defaults by Debtors in the Airport Agreement other than the sum of \$1,024.00 for certain unpaid invoices; and therefore the only cure payment required is the sum of \$1,024.00. At Closing, Debtors and Debtors' bankruptcy estates shall be relieved of any further liability under the Airport Agreement.

22. Section 365(b)(1) of the Bankruptcy Code provides that, if a default in an executory contract or unexpired lease exists, the debtor in possession may not assume a contract or lease unless, at the time of assumption, the trustee (a) cures, or provides adequate assurance that the trustee will promptly cure, the default; (b) compensates, or provides adequate assurance that the trustee will promptly compensate for any actual pecuniary loss to that party resulting from the default; and (c) provides adequate assurance of future performance under the contract. 11 U.S.C. §365(b)(1).

23. For any objection to the cure amount proposed by Debtors, Debtors will request the Court to determine the merits of that objection at the sale hearing or such later time as scheduled by the Court. If the Bankruptcy Court determines that any cure amount is in excess of Debtors' proposed cure amount, Debtors reserve the right to reject the Airport Agreement.

24. To the extent necessary, the Purchaser will also provide evidence of its financial ability, experience in the industry, and willingness and ability to perform under the Airport Agreement to be assumed and assigned to him. At the sale hearing, Debtors will additionally request that the Court find that, other than the cure amounts proposed by Debtors, Debtors have compensated the Airport for any actual pecuniary loss. Debtors will additionally request that the

Court find that the Purchaser has provided adequate assurance of future performance as required pursuant to 11 U.S.C. §365(b)(1)(C).

### **DISTRIBUTION OF THE SALE PROCEEDS**

25. From the proceeds of the sale of the Assets, Debtors request authority to pay up to the following amounts at Closing.

#### Property Taxes on the Assets –

Based upon information available to date, less than \$5,000.00 is owing to personal property and real property taxing authorities for the *pro rata* tax year 2018 on the Assets. The Debtors' portion of the *pro rata* 2018 taxes will also be paid at Closing from the sale proceeds. Therefore, in an effort to avoid the cost and expense of seeking further court order to pay the Debtors' *pro rata* portion of due and owing property taxes on the Assets at Closing, Debtors request authority to pay up to the sum of \$5,000.00 for real and/or personal property taxes secured by the Assets from the sales proceeds at Closing. The Harris County property taxing authorities filed an amended proof of claim on July 11, 2018 (Claim No. 1-2) asserting a claim in the amount of \$3,728.38 secured by the real property Asset for the year 2018 taxes on the Assets.

#### Miscellaneous Other Closing Costs –

Debtors also anticipate incurring additional normal and customary closing costs at the Closing of the sale of the Assets, including, but not limited to, attorneys' fees to the title company, wire transfer fees, title insurance, other title company fees and expenses and other amounts owing pursuant to the Pearsall PSA. In an effort to avoid further application and order of this Court, Debtors request authority to pay up to an additional \$15,000.00 from the sale proceeds for these types of costs and expenses.

#### Payment to the Coopers –

Debtors shall pay the total allowed secured indebtedness owing to the Coopers is as follows:

<b><u>DESCRIPTION</u></b>	<b><u>AMOUNT</u></b>
Principal	\$509,215.43
Accrued and unpaid interest through October 11, 2018	\$8,101.33
Attorneys' fees	\$5,969.82
<b>TOTAL AS OF OCTOBER 11, 2018</b>	<b>\$523,286.58</b>
Per diem interest accrual after October 11, 2018 through payoff	\$83.70

Debtors request authority to pay the Coopers the amounts set forth above (or such other amount as allowed by the Court) from the sale proceeds at closing in full and final satisfaction of the Coopers' liens against the Assets, and any claims in these bankruptcy cases.

Payment to the Airport-

At Closing from the sale proceeds, the Airport shall be paid the sum of \$1,024.00 for the cure amount as set forth above.

Reimbursement to Wells Fargo –

Subsequent to the Petition Dates, Debtors mistakenly paid to the Coopers the sums of \$5,147.53 per month from February 2018 through July 2018 (for a total of \$30,885.18) for the normal monthly principal and interest payments to the Coopers. The Debtors mistakenly treated the monthly note payments to the Coopers as lease payments that were required to be paid post-petition. The total post-petition payment amounts to the Coopers were included within the Debtors' budget(s) previously approved by the Court, but were mistakenly lumped into a lease category. Therefore, Debtors request authority to pay to Wells Fargo the sum of \$30,885.18 from the sale proceeds at closing to be applied against any allowed secured claim held by Wells Fargo, with Debtors reserving the right to seek to use such sums paid to Wells Fargo as part of budget(s) previously approved by the Court, or hereafter.

Wells Fargo DIP –

Wells Fargo previously asserted a post-petition lien and claim against the Assets, junior to the liens of the property taxing authorities and the Coopers, pursuant to the terms of the *Agreed Final Order (I) Authorizing the Debtors to (A) Obtain PostPetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to PrePetition Secured Parties, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* (Dkt. No. 359) entered on April 30, 2018 (the "Final DIP Order"). The entire indebtedness owing by Debtors and Debtors' estates to Wells Fargo under the Final DIP Order has been paid in full; thus, Wells Fargo will not be paid any of the net sale proceeds from the Assets, absent further order of the Court.

Net Sales Proceeds to Debtors –

The net sale proceeds after paying the debts, fees and expenses set forth above will be retained by Debtors at a financial institution of its choosing pending further order of the Bankruptcy Court.

**REQUEST FOR WAIVER OF STAY**

26. The Debtors seek a waiver of any stay of any order approving this Motion.

Pursuant to Bankruptcy Rule 6004(h), "[an] order authorizing the use, sale, or lease of property

other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” FED. R. BANKR. P. 6004(h). The Debtors submit that cause exists to justify a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h).

### **NOTICE**

27. The Debtors will provide notice of this Motion to: (a) the Office of the United States Trustee for the Southern District of Texas; (b) counsel to Wells Fargo as administrative agent under the Debtors’ credit agreement; (c) taxing authorities asserting a lien on the Assets; (d) the Coopers, (e) the Airport, and (f) any party that has requested notice pursuant to Bankruptcy Rule 2002.

### **NO PRIOR REQUEST**

28. No prior request for the relief sought in this Motion has been made to this or any other court.

### **CONCLUSION**

**WHEREFORE**, the Debtors pray for an order (i) allowing the sale of the Assets free and clear of all Liens on the terms and conditions described in the Motion, (ii) approving the assumption and assignment of the Airport Agreement as requested herein, (iii) approving the payments outlined herein at Closing, and (iv) for such other and further relief to which the Debtors may be justly entitled.

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Respectfully submitted this 12th day of October, 2018.

**GRAY REED & McGRAW LLP**

By: /s/ Jason S. Brookner

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**COUNSEL TO THE DEBTORS**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 12, 2018, a true and correct copy of the foregoing pleading was served via CM/ECF to all parties authorized to receive electronic notice in this case and via first class U.S. mail, postage prepaid (or as otherwise indicated) on the parties set forth below:

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20803 Stuebner Airline Road  
Spring, Texas 77379

/s/ Jason S. Brookner  
Jason S. Brookner

# EXHIBIT “A”

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	§	
	§	
	§	Chapter 11
LOCKWOOD HOLDINGS, INC., <i>et al.</i> , <sup>1</sup>	§	
	§	Case No. 18-30197 (DRJ)
Debtors.	§	
	§	Jointly Administered
	§	
	§	

**ORDER AUTHORIZING (I) THE SALE OF CERTAIN ASSETS OF THE ESTATE  
FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER  
INTERESTS (SPRING, TEXAS HANGAR AND RELATED EQUIPMENT); (II) THE  
DEBTOR TO ASSUME AND ASSIGN AGREEMENT WITH NORTHWEST AIRPORT  
MANAGEMENT, LP, AND (III) GRANTING RELATED RELIEF**

(Docket No. \_\_\_\_\_)

Upon the motion (the “Motion”)<sup>2</sup> of Lockwood Holdings, Inc. and certain of its affiliates, the above-captioned debtors and debtors in possession (collectively the “Debtors”), for entry of an order, pursuant to sections 105(a), 363, 365, 503 and 507 of the United States Bankruptcy Code (the “Bankruptcy Code”) and Rules 2002, 6004, 9007 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), authorizing and approving the following:

- (i) the sale of the Assets (as defined below);
- (ii) the entry into, performance under and terms and conditions of the Commercial Contract – Improved Property and addendum (collectively the “Pearsall PSA”), whereby the Debtors have agreed to sell, and Mason Pearsall, Jr. (the “Purchaser”) has agreed to buy, certain of the Debtors’ assets (specifically as set forth and defined in the Pearsall PSA, and described on Exhibit “A” attached hereto, the “Assets”), free and clear of all claims, liens, encumbrances and other interests;

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Lockwood Holdings, Inc. (9726); LH Aviation, LLC (6984); Piping Components, Inc. (0197); Lockwood International, Inc. (8597); LMG Manufacturing, Inc. (9468); Lockwood Enterprises, Inc. (6504); and 7807 Eagle Lane, LLC (7382).

<sup>2</sup> Unless indicated otherwise, capitalized terms used but not defined herein have the meanings ascribed to them in the Pearsall PSA and the Motion.



- (iii) payment of certain fees and expenses at Closing;
- (iv) distribution of sale proceeds as authorized below;
- (v) assumption and assignment of a certain executory contract; and
- (vi) other related relief.

and the Court having conducted a hearing on the Motion on \_\_\_\_\_, 2018 (the “Sale Hearing”) at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered the Motion, the Pearsall PSA, the record at the Sale Hearing and all objections to the proposed sale and the Pearsall PSA filed with the Court; and the appearance of all interested parties and all responses and objections to the Motion having been duly noted in the record of the Sale Hearing; and upon the record of the Sale Hearing, including the evidence presented in support of the relief requested in the Motion at the Sale Hearing; and upon all of the proceedings conducted before the Court, and all objections and responses to the relief requested in the Motion having been heard and overruled, continued or resolved on the terms set forth in this Order, and it appearing that due notice of the Motion and the Pearsall PSA having been provided; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors and all other parties in interest; and it appearing that the Court has jurisdiction over this matter; and it further appearing that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

**THE COURT EXPRESSLY FINDS AS FOLLOWS:<sup>3</sup>**

**JURISDICTION, VENUE AND FINAL ORDER**

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) (A), (N) and (O).

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<sup>3</sup> All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the Motion are hereby incorporated to the extent not inconsistent herewith.

Venue is proper in this District and in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h), 6006(d) and 7062, and to the extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Order and expressly directs entry of this Order as set forth herein.

**NOTICE OF THE PEARSALL PSA, THE SALE HEARING, AND CURE COSTS**

C. January 18, 2018 (the “First Petition Date”), Lockwood Holdings, Inc., LH Aviation, LLC and Piping Components, Inc. filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On January 24, 2018 (the “Second Petition Date,” and together with January 18, 2018 the “Petition Dates”), Lockwood International, Inc., LMG Manufacturing, Inc., Lockwood Enterprises, Inc., and 7807 Eagle Lane, LLC (“Eagle Lane”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Since the Petition Dates, the Debtors have continued in possession and management of its businesses and properties as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

D. As evidenced by the certificates of service previously filed with this Court, and based on the record at the Sale Hearing, due, proper, timely, adequate and sufficient notice of the Motion, the Sale Hearing and the Pearsall PSA has been provided in accordance with sections 102(1) and 363 of the Bankruptcy Code, and Bankruptcy Rules 2002, 6004 and 9014. The Debtors have complied with all obligations to provide notice of the Motion, the Sale Hearing and the Pearsall PSA. The aforementioned notices are good, sufficient and appropriate under the

circumstances, and no other or further notice of the Motion, the Sale Hearing or the Pearsall PSA is or shall be required.

E. A reasonable opportunity to object or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

F. As evidenced by the certificates of service filed with this Court, and based on the record at the Sale Hearing, the service and notice was good, sufficient and appropriate under the circumstances and no further notice is or shall be required in respect of assumption and assignment of the Airport Agreement to the Purchaser or establishing a cure cost for the Airport Agreement.

G. The Airport has had an adequate opportunity to object to or to be heard regarding assumption and assignment of the Airport Agreement and the cure cost (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses the non-Debtor counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code). The deadline to file an objection to the assumption and assignment to the Purchaser of the Airport Agreement has expired, and to the extent any such party timely filed an objection to the assumption and assignment of the Airport Agreement, all such objections have been resolved, withdrawn, overruled, or continued to a later hearing by agreement of the parties. To the extent that any such party did not timely file an objection to the assumption and assignment of the Airport Agreement, such party is deemed to have consented to (i) the assumption and assignment of the Airport Agreement pursuant to the terms of this Order; and (ii) the proposed cure cost set forth in the Motion.

**MARKETING PROCESS**

H. As demonstrated by the evidence proffered or adduced at the Sale Hearing, the Debtors and their professionals have, under the circumstances, adequately and appropriately marketed the Assets.

**HIGHEST OR OTHERWISE BEST OFFER; BUSINESS JUDGMENT**

I. The Pearsall PSA, including the form and total consideration to be realized by the Debtors under the Pearsall PSA, (i) constitutes the highest and best offer received by the Debtors for the Assets; (ii) is fair and reasonable; and (iii) is in the best interests of the Debtors, their estates, their creditors and all other parties in interest.

J. The Debtors' determination that the consideration provided by the Purchaser under the Pearsall PSA constitutes the highest or otherwise best offer for the Assets constitutes a valid and sound exercise of the Debtors' business judgment.

K. Consistent with their fiduciary duties, the Debtors have demonstrated good, sufficient and sound business reasons and justifications for entering into the Pearsall PSA and the performance of their obligations under the Pearsall PSA, including, but not limited to, the fact that (i) the consideration provided by the Purchaser under the Pearsall PSA will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative, including a separate liquidation of the Assets; and (ii) unless the sale is concluded expeditiously as provided for in the Motion and pursuant to the Pearsall PSA, recoveries of creditors will likely be diminished.

**GOOD FAITH; ARMS' LENGTH SALE**

L. The sales process engaged in by the Debtors' and the Purchaser, including, without limitation, the negotiation of the Pearsall PSA, was at arms' length, non-collusive, in good faith, and substantively and procedurally fair to all parties.

M. The Purchaser is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the full protection of that provision, and otherwise has proceeded in good faith in all respects in connection with this proceeding. Neither the Debtors nor the Purchaser has engaged in any conduct that would prevent the application of section 363(m) of the Bankruptcy Code.

N. The Pearsall PSA was proposed, negotiated and entered into by and between the Debtors and the Purchaser without collusion, and neither the Debtors nor the Purchaser has engaged in any conduct that would cause or permit the Pearsall PSA to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

O. The form and total consideration to be realized by the Debtors under the Pearsall PSA constitutes fair value, full and adequate consideration, reasonably equivalent value and the reasonable market value for the Assets.

**CORPORATE AUTHORITY**

P. The Debtors have (i) full corporate or other power to execute, deliver and perform their obligations under the Pearsall PSA and all other transactions contemplated thereby, and entry into the Pearsall PSA has been duly and validly authorized by all necessary corporate or similar action; (ii) all of the corporate or other power and authority necessary to consummate the Pearsall PSA; and (iii) taken all actions necessary to authorize and approve the Pearsall PSA and the transactions contemplated thereby. No consents or approvals, other than those expressly

provided for herein or in the Pearsall PSA, are required for the Debtors to consummate the Pearsall PSA.

**SECTION 363 IS SATISFIED**

Q. The Assets constitute property of the Debtors' estates and exclusive title thereto is presently vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code.

R. The sale of the Assets to the Purchaser under the terms of the Pearsall PSA meets the applicable provisions of section 363(f) of the Bankruptcy Code such that the sale of the Assets will be free and clear of any and all liens, claims, encumbrances or other interests (collectively the "Liens") (including, without limitation, the Liens of the Coopers, Wells Fargo and Houston County, *et al.* property tax authorities) except for the Permitted Encumbrances; the transfer of the Assets to the Purchaser will be free and clear of all Liens and will not subject the Purchaser or any of the Purchaser's assets to any liability for any Liens, claims and encumbrances whatsoever (including, without limitation, under any theory of equitable law, antitrust, setoff, or successor or transferee liability) except for the Permitted Encumbrances. The term "Permitted Encumbrances" includes all encumbrances, restrictions or other interests filed in the deed records office of Harris County, Texas regarding or relating to the Assets, excluding the liens and claims of Coopers, Wells Fargo and the Houston County *et al.* property tax authorities. All holders of Liens who did not object, or withdrew their objections to the Motion, are deemed to have consented to the relief requested in the Motion pursuant to section 363(f)(2) of the Bankruptcy Code. All holders of Liens are adequately protected — thus satisfying section 363(e) of the Bankruptcy Code — by either receiving a portion of the cash proceeds pursuant to paragraph 13 of this Order or having their Liens, if any, attach to the remaining net cash

proceeds of the Assets ultimately attributable to the property against which they assert a Lien, in the same order of priority and with the same validity, force and effect that such Lien holder had prior to the consummation of the Pearsall PSA, subject to any rights, claims and defenses of the Debtors or their estates, as applicable, or as otherwise provided herein.

S. The Purchaser would not have entered into the Pearsall PSA and would not consummate the transactions under the Pearsall PSA, thus adversely affecting the Debtors, their estates, creditors, employees and other parties in interest, if the sale of the Assets was not free and clear of all Liens or if the Purchaser would, or in the future could, be liable for any Liens, including, without limitation and as applicable, certain liabilities that expressly are not assumed by the Purchaser as set forth in the Pearsall PSA or in this Order. The Purchaser asserts that it will not consummate the transactions unless the Pearsall PSA specifically provides, and this Court specifically orders, that none of the Purchaser, its assets or the Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, whether by payment, setoff or otherwise, directly or indirectly, any (i) Lien; or (ii) any successor or transferee liability for any of the Debtors other than the Permitted Encumbrances.

T. The Purchaser is not a successor to the Debtors or their respective estates by reason of any theory of law or equity, and neither the Purchaser nor any of its affiliates shall assume or in any way be responsible for any liability or obligation of the Debtors or their respective estates, except as otherwise expressly provided in the Pearsall PSA or this Order. The Purchaser is not a continuation of the Debtors or their respective estates and there is no continuity between the Purchaser and the Debtors. The Purchaser is not holding itself out to the public as a continuation of the Debtors or their respective estates and the transactions

contemplated by the Pearsall PSA do not amount to a consolidation, merger or *de facto* merger of the Purchaser and the Debtors.

U. The transfer of the Assets to the Purchaser under the Pearsall PSA will be a legal, valid and effective transfer of all of the legal, equitable and beneficial right, title and interest in and to the Assets free and clear of all Liens (other than Permitted Encumbrances).

V. There is no legal or equitable reason to delay the consummation of the transactions. The Transactions must be approved and consummated promptly in order to preserve the value of the Debtors' assets. All factual predicates to the waiver of any stay of this Order under Bankruptcy Rules 6004(h) and 6006(d) have been satisfied.

W. The Debtors have demonstrated both (i) good, sufficient and sound business judgment, purposes and justifications; and (ii) compelling circumstances for the transactions pursuant to section 363(b) of the Bankruptcy Code prior to, and outside of, a plan of reorganization in that, among other things, absent the immediate consummation of the transactions, the value of the Debtors' assets will be harmed.

#### **ASSUMPTION AND ASSIGNMENT OF THE AIRPORT AGREEMENT**

X. The assumption and assignment of the Airport Agreement (as defined in the Motion) is integral to the Pearsall PSA, does not constitute unfair discrimination, is in the best interests of the Debtors, their estates, creditors and all other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

Y. The Debtors have met all requirements of section 365(b) of the Bankruptcy Code for the Airport Agreement. No monetary or non-monetary defaults exist in the Debtors' performance under the Airport Agreement as of the date of this Order other than (a) defaults that are not required to be cured as contemplated in section 365(b)(1)(A) of the Bankruptcy



Code, and (b) the amount to cure all defaults of \$1,024.00. The Purchaser has provided compensation or adequate assurance of compensation to any counterparty for actual pecuniary loss to such party resulting from a default prior to the Closing under the Airport Agreement, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code.

Z. The Purchaser has demonstrated adequate assurance of its future performance under the Airport Agreement within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code. Pursuant to section 365(f) of the Bankruptcy Code, the Airport Agreement shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Purchaser at Closing notwithstanding any provision in the Airport Agreement or other restrictions prohibiting its assignment or transfer.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

**GENERAL PROVISIONS**

1. The Motion is granted to the extent provided herein.
2. Any objections to the Motion or the relief requested therein that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby overruled on the merits and denied with prejudice.
3. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

**APPROVAL OF THE PEARSALL PSA**

4. The Pearsall PSA, all the terms and conditions thereof, and consummation of all of the transactions contemplated therein, are authorized and approved in all respects pursuant to section 363(b) of the Bankruptcy Code.

5. The Debtors and their officers, employees and agents are authorized and directed to (a) take any and all actions necessary, appropriate or reasonably requested by the Purchaser to perform, consummate, implement and close the Pearsall PSA and related transactions, including, without limitation, (i) the sale of all Assets to the Purchaser in accordance with the terms and conditions set forth in the Pearsall PSA and this Order; (ii) the performance of its obligations under the Pearsall PSA and related agreements; and (iii) executing, acknowledging and delivering such deeds, assignments, conveyances and other assurance, documents and instruments of transfer and taking any action for purposes of assigning, transferring, granting, conveying and confirming to the Purchaser, or reducing to possession, the Assets.

**SALE AND TRANSFER FREE AND CLEAR OF LIENS**

6. Except as otherwise expressly provided in the Pearsall PSA and the terms of this Order with respect to the Permitted Encumbrances, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Assets shall be sold free and clear of all Liens, whether arising prior to or subsequent to the commencement of the Debtors' chapter 11 cases, and whether imposed by agreement, law, equity or otherwise. To the extent Harris County has a tax lien on the Assets securing payment of any 2018 taxes not paid at Closing, the sale shall not be free and clear of such 2018 tax lien. All such Liens shall attach to the remaining cash proceeds of the transactions following the payments to the parties pursuant to paragraph 13 of this Order, with the same

validity, force, priority and effect which they now have as against the Assets, subject to any claims and defenses the Debtors may possess with respect thereto.

7. At Closing, all of the Debtors' right, title and interest in and to, and possession of, the Assets shall be immediately vested in the Purchaser, pursuant to sections 105(a), 363(b), and 363(f) of the Bankruptcy Code free and clear of any and all Liens, except for Permitted Encumbrances. Such transfer shall constitute a legal, valid, binding and effective transfer of, and shall vest the Purchaser with good and marketable title to, the Assets. All persons or entities, presently or on or after the Closing, in possession of some or all of the Assets are directed to surrender possession of the Assets to the Purchaser or its designees on the Closing or at such time thereafter as the Purchaser may request.

8. This Order is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments; and each of the foregoing persons and entities is hereby authorized and directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Pearsall PSA.

9. Except as otherwise expressly provided in the Pearsall PSA and this Order with respect to Permitted Encumbrances, all persons and entities (and their respective successors and assigns), including, but not limited to, all debt security holders, equity security holders, affiliates, governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade

creditors, litigation claimants and other creditors holding Liens against the Debtors or the Assets arising under or out of, in connection with, or in any way relating to, the Debtors, the Debtors' predecessors or affiliates, the Assets, the ownership, sale or operation of the Assets and the Debtors' business prior to Closing or the transfer of the Assets to the Purchaser, are hereby forever barred, estopped and permanently enjoined from asserting such Liens against the Purchaser, its successors or assigns, its property or the Assets. Following the Closing, no holder of any Lien shall interfere with the Purchaser's title to or use and enjoyment of the Assets based on or related to any such Lien, or based on any action the Debtors may take in their chapter 11 cases.

10. If any person or entity that has filed financing statements, mortgages, deeds of trust, mechanic's Liens, *lis pendens* or other documents or agreements evidencing Liens against or in the Assets shall not have delivered to the Debtor prior to the Closing of the transactions contemplated by the Pearsall PSA, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Liens (other than the Permitted Encumbrances) that the person or entity has with respect to the Assets, (a) the Purchaser is hereby authorized to file, register or otherwise record a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all such Liens against the Purchaser and the Assets; and (b) the Purchaser may seek in this Court or any other court to compel appropriate parties to execute termination statements, instruments of satisfaction and releases of all such Liens with respect to the Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department or office. Notwithstanding the foregoing, the provisions of this Order authorizing the sale and assignment of the Assets free and

clear of Liens shall be self-executing, and none of the Debtors nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents or other instruments in order to effectuate, consummate and implement the provisions of this Order.

**GOOD FAITH; ARMS' LENGTH SALE**

11. The Pearsall PSA has been negotiated and executed, and the transactions contemplated by the Pearsall PSA are and have been undertaken, by Debtors, the Purchaser and their respective representatives at arms' length, without collusion and in "good faith," as that term is used in section 363(m) of the Bankruptcy Code. Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the sale shall not affect the validity of the transactions (including the assumption and assignment of the Airport Agreement), unless such authorization and consummation of the sale are duly and properly stayed pending such appeal. The Purchaser is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, are entitled to the full protections of section 363(m) of the Bankruptcy Code.

12. None of the Debtors or the Purchaser have engaged in any conduct that would cause or permit the Pearsall PSA or the transactions to be avoided, or damages or costs, to be imposed, under section 363(n) of the Bankruptcy Code. The consideration provided by the Purchaser for the Assets under the Pearsall PSA is fair and reasonable, and the transactions may not be avoided under section 363(n) of the Bankruptcy Code.

**DISTRIBUTION OF SALE PROCEEDS**

13. From the cash proceeds at the Closing of the transactions contemplated by the Pearsall PSA, the Debtors are authorized to pay up to (but not exceeding) the amounts set forth below in this paragraph 13 free and clear of Liens.

<b>Description</b>	<b>Up to, but not exceeding the following amounts:</b>
Debtors' pro rata portion of year 2018 Property Taxes on the Assets owing to Harris County	\$5,000.00
Miscellaneous Other Closing Costs	\$15,000.00
Coopers (as of October 11, 2018)	\$523,286.58
Coopers (per diem interest accrual after October 11, 2018 through payoff of \$83.70)	
Sky Real Estate Professionals (buyer's broker)	\$17,500.00
The Airport (cure costs)	\$1,024.00
Wells Fargo (as partial payment reducing any allowed secured claim of Wells Fargo subject to Debtors' right to request usage of these funds)	\$30,885.18
Debtors	Balance of the sale proceeds to be held by Debtors at a financial institution of Debtors' choosing pending further order of this Court.

#### **ASSUMPTION AND ASSIGNMENT OF THE AIRPORT AGREEMENT**

14. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, the Debtors are authorized and directed to assume and assign the Airport Agreement to the Purchaser upon the Closing of the transactions, free and clear of all Liens (other than the Permitted Encumbrances). The total cure cost to the Airport is \$1,024.00 that will be paid at Closing from the sale proceeds. Since there are no other cure costs owing by the Purchaser to the Airport under the Airport Agreement and this Order (a) Purchaser has cured all monetary defaults existing thereunder as of the Closing Date; (b) compensated the Airport for any actual pecuniary loss resulting from such default; and (c) together with the assumption of the Airport Agreement by the Debtors and the assignment of the Airport Agreement to the Purchaser, constitutes adequate assurance of future performance thereof.

15. To the extent that the Airport did not timely file an objection to the assumption and assignment of the Airport Agreement, the Airport is deemed to have consented to (i) the assumption and assignment of the Airport Agreement pursuant to the terms of this Order; and (ii) the \$1,024.00 cure cost pursuant to 11 U.S.C. § 365(b)(1).

16. Any provision in the Airport Agreement that purports to prohibit or condition the assignment of the Airport Agreement or the sale of the Assets or allows the Airport to impose any penalty, fee, rent increase, profit sharing arrangement or other condition on renewal or extension, or to modify any term or condition upon the assignment of the Airport Agreement, constitutes an unenforceable anti-assignment provision that is void and of no force and effect in connection with the transactions. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Purchaser of the Airport Agreement have been satisfied. Upon the Closing, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtors under the Airport Agreement, and the Airport Agreement shall remain in full force and effect for the benefit of the Purchaser.

17. Upon the Closing, the Purchaser shall be deemed to be substituted for the Debtors as a party to the Airport Agreement, and the Debtors and their estates shall be released, pursuant to section 365(k) of the Bankruptcy Code, from any liability under the Airport Agreement occurring after such assignment.

18. The Airport is forever barred, estopped, and permanently enjoined from asserting against the Debtors or the Purchaser or their respective property (including, without limitation, the Assets) in connection with this transaction (i) any assignment fee, acceleration, default,

breach or claim or pecuniary loss, or condition to assignment existing, arising or accruing as of the Closing Date or arising by reason of the Closing, including any breach related to or arising out of change-in-control in the Airport Agreement, or any purported written or oral modification to the Airport Agreement; or (ii) any claim, counterclaim, defense, breach, default, condition, setoff or other claim asserted or capable of being asserted against the Debtors existing as of the Closing Date or arising by reason of the Closing, except for the Permitted Encumbrances.

19. Other than the Airport Agreement or as otherwise expressly set forth in the Pearsall PSA, the Purchaser assumed none of the Debtors' other contracts or leases and shall have no liability whatsoever thereunder.

20. Nothing in the Motion or this Order shall be deemed or construed as a waiver of any claims or causes of action that the Debtors or the Purchaser have or may have against Airport, whether or not such claims arise under, are related to the assumption of or are independent of the Airport Agreement.

#### **OTHER PROVISIONS**

21. The requirements set forth in Bankruptcy Rules 6003(b), 6004 and 6006 have been satisfied or otherwise deemed waived.

22. The Purchaser shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to give any notice permitted by the Pearsall PSA or to enforce any of its remedies under the Pearsall PSA or any other sale-related document. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence; provided however, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.



23. The provisions of this Order and the Pearsall PSA are non-severable and mutually dependent.

24. The Pearsall PSA and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court; provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

25. The Court shall retain exclusive jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the Pearsall PSA, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtor is a party or which has been assigned by the Debtors to the Purchaser, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the transactions. This Court retains jurisdiction to compel delivery of the Assets, to protect the Purchaser and its assets, including the Assets, against any Liens and successor and transferee liability and to enter orders, as appropriate, pursuant to sections 105(a) and 363 (or other applicable provisions) of the Bankruptcy Code necessary to transfer the Assets to the Purchaser.

26. As provided by Bankruptcy Rules 7062 and 9014, the terms and conditions of this Order shall be effective immediately upon entry and shall not be subject to the stay provisions contained in Bankruptcy Rules 6004(h) and 6006(d) or any similar rule that would delay the effectiveness of this Order. Time is of the essence in closing the sale and the Debtors and Purchaser intend to close the sale and consummate the Transactions as soon as possible.

27. This Order and the Pearsall PSA shall be binding in all respects upon all creditors of (whether known or unknown), and holders of equity interests in, any Debtor, any holders of

Liens in, against or on all or any portion of the Assets, all successors and assigns of the Purchaser, the Debtors and their affiliates and subsidiaries and any subsequent trustee appointed in these chapter 11 cases or upon a conversion to chapter 7 under the Bankruptcy Code, and shall not be subject to rejection. Nothing contained in any chapter 11 plan confirmed in these chapter 11 cases, any order confirming any such chapter 11 plan or any order approving wind-down or dismissal of these chapter 11 cases or any subsequent chapter 7 cases shall conflict with or derogate from the provisions of the Pearsall PSA or this Order, and to the extent of any conflict or derogation between this Order or the Pearsall PSA and such future plan or order, the terms of this Order and the Pearsall PSA shall control.

28. To the extent any provisions of this Order conflict with, or are otherwise inconsistent with, the terms and conditions of the Pearsall PSA, this Order shall govern and control.

Dated: \_\_\_\_\_, 2018  
Houston, Texas

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DAVID R. JONES  
CHIEF UNITED STATES BANKRUPTCY JUDGE

# EXHIBIT “B”



TEXAS ASSOCIATION OF REALTORS®  
**COMMERCIAL CONTRACT - IMPROVED PROPERTY**

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.  
 ©Texas Association of REALTORS®, Inc. 2018

1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: **7807 Eagle Ln LLC** ,

Address: **10060 Windfern Rd, Houston, TX 77064**

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Fax: \_\_\_\_\_ Other: \_\_\_\_\_

Buyer: **Mason Pearsall, Jr.**,

Address: **12507 Telge Rd, Houston, TX 77429**

Phone: \_\_\_\_\_ E-mail: **mason.pearsall@powerlp.com**

Fax: \_\_\_\_\_ Other: \_\_\_\_\_

2. **PROPERTY:**

- A. "Property" means that real property situated in **Harris** County, Texas at **7807 Eagle Lane, Spring, TX 77379** (address) and that is legally described on the attached Exhibit \_\_\_\_\_ or as follows:  
**TR 17 D W HOOKS MEMORIAL AIRPORT ABST 552 T MARTIN**

- B. Seller will sell and convey the Property together with:

- (1) all buildings, improvements, and fixtures;
- (2) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (3) Seller's interest in all leases, rents, and security deposits for all or part of the Property;
- (4) Seller's interest in all licenses and permits related to the Property;
- (5) Seller's interest in all third party warranties or guaranties, if transferable, relating to the Property or any fixtures;
- (6) Seller's interest in any trade names, if transferable, used in connection with the Property; and
- (7) all Seller's tangible personal property located on the Property that is used in connection with the Property's operations except: \_\_\_\_\_.

Any personal property not included in the sale must be removed by Seller prior to closing.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)

(If mineral rights are to be reserved an appropriate addendum should be attached.)

(If the Property is a condominium, attach Commercial Contract Condominium Addendum (TAR-1930) or (TAR-1946).)

3. **SALES PRICE:** At or before closing, Buyer will pay the following sales price for the Property:

A. Cash portion payable by Buyer at closing ..... \$ **500,000.00**

B. Sum of all financing described in Paragraph 4 ..... \$ **200,000.00**

C. Sales price (sum of 3A and 3B) ..... \$ **700,000.00**

(TAR-1801) 4-1-18

Initialed for Identification by Seller \_\_\_\_\_, \_\_\_\_\_ and Buyer ,

Page 1 of 14

7807 Eagle Lane, Spring, TX 77379

Commercial Contract - Improved Property concerning \_\_\_\_\_

**4. FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3B as follows:

- ☒ A. **Third Party Financing:** One or more third party loans in the total amount of \$ 200,000.00 . This contract:
- ☒ (1) is not contingent upon Buyer obtaining third party financing.
- ☐ (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TAR-1931).
- ☐ B. **Assumption:** In accordance with the attached Commercial Contract Financing Addendum (TAR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ \_\_\_\_\_ .
- ☐ C. **Seller Financing:** The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum (TAR-1931) in the amount of \$ \_\_\_\_\_ .

**5. EARNEST MONEY:**

- A. Not later than 3 days after the effective date, Buyer must deposit \$ \$25,000.00 as earnest money with First American Title (title company) at 8201 Cypresswood Dr. #101 Spring TX 77379 (address) Lou Neesley (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.
- B. Buyer will deposit an additional amount of \$ \_\_\_\_\_ with the title company to be made part of the earnest money on or before:
- ☐ (i) \_\_\_\_\_ days after Buyer's right to terminate under Paragraph 7B expires; or
- ☐ (ii) \_\_\_\_\_ .
- Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
- C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

**6. TITLE POLICY, SURVEY, AND UCC SEARCH:**

- A. **Title Policy:**
- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
- (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
- (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
- ☒ (a) will not be amended or deleted from the title policy.
- ☐ (b) will be amended to read "shortages in areas" at the expense of ☐ Buyer ☐ Seller.
- (3) Within 10 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

Commercial Contract - Improved Property concerning 7807 Eagle Lane, Spring, TX 77379B. Survey: Within 10 days after the effective date:

- ☒ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer 3,500.00 (insert amount) of the cost of the survey at closing, if closing occurs.
- ☐ (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- ☐ (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, ☐ Seller ☐ Buyer (updating party), will, at the updating party's expense, obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to the other party and the title company within 30 days after the title company notifies the parties that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 30 days if necessary for the updating party to deliver an acceptable survey within the time required. The other party will reimburse the updating party \_\_\_\_\_ (insert amount or percentage) of the cost of the new or updated survey at closing, if closing occurs.

C. UCC Search:

- ☐ (1) Within \_\_\_\_\_ days after the effective date, Seller, at Seller's expense, will furnish Buyer a Uniform Commercial Code (UCC) search prepared by a reporting service and dated after the effective date. The search must identify documents that are on file with the Texas Secretary of State and the county where the Property is located that relate to all personal property on the Property and show, as debtor, Seller and all other owners of the personal property in the last 5 years.
- ☒ (2) Buyer does not require Seller to furnish a UCC search.

D. Buyer's Objections to the Commitment, Survey, and UCC Search:

- (1) Within 10 days after Buyer receives the last of the commitment, copies of the documents evidencing the title exceptions, any required survey, and any required UCC search, Buyer may object to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title to the real or personal property described in Paragraph 2 other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If the commitment or survey is revised or any new document evidencing a title exception is delivered, Buyer may object to any new matter revealed in such revision or new document. Buyer's objection must be made within the same number of days stated in this paragraph, beginning when the revision or new document is delivered to Buyer. If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date Buyer actually receives the survey; or (ii) the deadline specified in Paragraph 6B.
- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.

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(3) Buyer's failure to timely object or terminate under this Paragraph 6D is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

## 7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: as-is condition

B. Feasibility Period: Buyer may terminate this contract for any reason within 30 days after the effective date (feasibility period) by providing Seller written notice of termination.

(1) Independent Consideration. (Check only one box and insert amounts.)

☒ (a) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 150.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

☐ (b) Not later than 3 days after the effective date, Buyer must pay Seller \$ \_\_\_\_\_ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Feasibility Period Extension: Prior to the expiration of the initial feasibility period, Buyer may extend the feasibility period for a single period of an additional \_\_\_\_\_ days by depositing additional earnest money in the amount of \$ \_\_\_\_\_ with the title company. If no dollar amount is stated in this Paragraph or if Buyer fails to timely deposit the additional earnest money, the extension of the feasibility period will not be effective.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

(2) Seller, at Seller's expense, will turn on all utilities necessary for Buyer to make inspections, studies, or assessments.

(3) Buyer must:

- (a) employ only trained and qualified inspectors and assessors;
- (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
- (c) abide by any reasonable entry rules or requirements of Seller;
- (d) not interfere with existing operations or occupants of the Property; and
- (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(4) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from



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Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

**D. Property Information:**

(1) Delivery of Property Information: Within 10 days after the effective date, Seller will deliver to Buyer: *(Check all that apply.)*

- ☐ (a) a current rent roll of all leases affecting the Property certified by Seller as true and correct;
- ☐ (b) copies of all current leases, including any mineral leases, pertaining to the Property, including any modifications, supplements, or amendments to the leases;
- ☐ (c) a current inventory of all personal property to be conveyed under this contract and copies of any leases for such personal property;
- ☒ (d) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
- ☐ (e) copies of all current service, utility, maintenance, and management agreements relating to the ownership and operation of the Property;
- ☒ (f) copies of current utility capacity letters from the Property's water and sewer service provider;
- ☐ (g) copies of all current warranties and guaranties relating to all or part of the Property;
- ☐ (h) copies of fire, hazard, liability, and other insurance policies that currently relate to the Property;
- ☐ (i) copies of all leasing or commission agreements that currently relate to the tenants of all or part of the Property;
- ☐ (j) a copy of the "as-built" plans and specifications and plat of the Property;
- ☐ (k) copies of all invoices for utilities and repairs incurred by Seller for the Property in the 24 months immediately preceding the effective date;
- ☐ (l) a copy of Seller's income and expense statement for the Property from \_\_\_\_\_ to \_\_\_\_\_;
- ☒ (m) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
- ☒ (n) real and personal property tax statements for the Property for the previous 2 calendar years;
- ☐ (o) Tenant reconciliation statements including, operating expenses, insurance and taxes for the Property from \_\_\_\_\_ to \_\_\_\_\_; and
- ☐ (p) \_\_\_\_\_

(2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*

- ☐ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
- ☒ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied in any format; and
- ☐ (c) deliver to Seller copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.

This Paragraph 7D(2) survives termination of this contract.

**E. Contracts Affecting Operations**: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.



Commercial Contract - Improved Property concerning 7807 Eagle Lane, Spring, TX 77379**8. LEASES:**

- A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
- (1) any failure by Seller to comply with Seller's obligations under the leases;
  - (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
  - (3) any non-occupancy of the leased premises by a tenant;
  - (4) any advance sums paid by a tenant under any lease;
  - (5) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
  - (6) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.
- B. Estoppel Certificates: Within 10 days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than October 15, 2018 by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TAR Form 1938 - Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

**9. BROKERS:**

- A. The brokers to this sale are:

Principal Broker: N/ACooperating Broker: Realm Real Estate Professionals

Agent: \_\_\_\_\_

Agent: Johnna Key

Address: \_\_\_\_\_

Address: 22350 Tomball PkwyHouston, TX 77070

Phone &amp; Fax: \_\_\_\_\_

Phone & Fax: (713)569-6056

E-mail: \_\_\_\_\_

E-mail: info@johnnakeyrealty.com

License No.: \_\_\_\_\_

License No.: 683803

Principal Broker: (Check only one box)

- ☐ represents Seller only.  
☐ represents Buyer only.  
☐ is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

- B. Fees: (Check only (1) or (2) below.)  
 (Complete the Agreement Between Brokers on page 14 only if (1) is selected.)

- ☐ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.
- ☐ (2) At the closing of this sale, Seller will pay:

(TAR-1801) 4-1-18

Initialed for Identification by Seller \_\_\_\_\_, \_\_\_\_\_ and Buyer Johnna Key, \_\_\_\_\_

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Commercial Contract - Improved Property concerning 7807 Eagle Lane, Spring, TX 77379Principal Broker a total cash fee of:  
☐ \_\_\_\_\_ % of the sales price.  
☐ \_\_\_\_\_ .Cooperating Broker a total cash fee of:  
☒ 2.500 % of the sales price.  
☐ \_\_\_\_\_ .

The cash fees will be paid in Harris County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

*NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.*

- C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

# 10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:

(1) ☒ 30 days after the expiration of the feasibility period.  
☐ \_\_\_\_\_ (specific date).  
☐ \_\_\_\_\_ .

(2) 7 days after objections made under Paragraph 6D have been cured or waived.

- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

- C. At closing, Seller will execute and deliver to Buyer, at Seller's expense, a ☒ general ☐ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or Uniform Commercial Code or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
  - (2) without any assumed loans in default; and
  - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:

- (1) tax statements showing no delinquent taxes on the Property;
- (2) a bill of sale with warranties to title conveying title, free and clear of all liens, to any personal property defined as part of the Property in Paragraph 2 or sold under this contract;
- (3) an assignment of all leases to or on the Property;
- (4) to the extent that the following items are assignable, an assignment to Buyer of the following items as they relate to the Property or its operations:
  - (a) licenses and permits;
  - (b) service, utility, maintenance, management, and other contracts; and
  - (c) warranties and guaranties;
- (5) a rent roll current on the day of the closing certified by Seller as true and correct;
- (6) evidence that the person executing this contract is legally capable and authorized to bind Seller;
- (7) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply with applicable tax law; and (ii) deliver the amount to the Internal Revenue Service together with appropriate tax forms; and
- (8) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and the issuance of the title policy, all of which must be completed and executed by Seller as necessary.

- E. At closing, Buyer will:

(1) pay the sales price in good funds acceptable to the title company;

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- (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
- (3) sign and send to each tenant in the Property a written statement that:
  - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
  - (b) specifies the exact dollar amount of the security deposit;
- (4) sign an assumption of all leases then in effect; and
- (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

**11. POSSESSION:** Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

**12. SPECIAL PROVISIONS:** The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*

**Seller agrees to reimburse Buyer up to \$3500.00 towards the cost of the survey only if Buyer closes on property.**

**To be included in the sales: Aircraft tug and charging station.**

**\*\*See Addendum\*\***

### 13. SALES EXPENSES:

- A. Seller's Expenses: Seller will pay for the following at or before closing:
  - (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
  - (2) release of Seller's loan liability, if applicable;
  - (3) tax statements or certificates;
  - (4) preparation of the deed and any bill of sale;
  - (5) one-half of any escrow fee;
  - (6) costs to record any documents to cure title objections that Seller must cure; and
  - (7) other expenses that Seller will pay under other provisions of this contract.
- B. Buyer's Expenses: Buyer will pay for the following at or before closing:
  - (1) all loan expenses and fees;
  - (2) preparation fees of any deed of trust;
  - (3) recording fees for the deed and any deed of trust;
  - (4) premiums for flood and hazard insurance as may be required by Buyer's lender;
  - (5) one-half of any escrow fee; and
  - (6) other expenses that Buyer will pay under other provisions of this contract.

### 14. PRORATIONS:

- A. Prorations:
  - (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.

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- (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
- (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.
- B. Rollback Taxes: If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

**15. DEFAULT:**

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(4) which Seller may pursue, or  
(Check if applicable)  
☐ enforce specific performance, or seek such other relief as may be provided by law.
- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:  
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or  
(2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:  
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or  
(2) enforce specific performance, or seek such other relief as may be provided by law, or both.

**16. CASUALTY LOSS AND CONDEMNATION:**

- A. If any part of the Property is damaged or destroyed by fire or other casualty after the effective date, Seller must restore the Property to its previous condition as soon as reasonably possible and not later than the closing date. If, without fault, Seller is unable to do so, Buyer may:  
(1) terminate this contract and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer;  
(2) extend the time for performance up to 15 days and closing will be extended as necessary; or  
(3) accept at closing: (i) the Property in its damaged condition; (ii) an assignment of any insurance proceeds Seller is entitled to receive along with the insurer's consent to the assignment; and (iii) a credit to the sales price in the amount of any unpaid deductible under the policy for the loss.

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B. If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- (1) terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer; or
- (2) appear and defend the condemnation proceedings and any award will, at Buyer's election, belong to: (a) Seller and the sales price will be reduced by the same amount; or (b) Buyer and the sales price will not be reduced.

**17. ATTORNEY'S FEES:** If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

**18. ESCROW:**

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.
- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.
- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. ☐ Seller ☐ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

**19. MATERIAL FACTS:** To the best of Seller's knowledge and belief: *(Check only one box.)*

- ☒ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TAR-1408).
- ☐ B. Except as otherwise provided in this contract, Seller is not aware of:
  - (1) any subsurface: structures, pits, waste, springs, or improvements;
  - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;



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- (3) any environmental hazards or conditions that materially affect the Property;
- (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
- (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
- (6) any wetlands, as defined by federal or state law or regulation, on the Property;
- (7) any threatened or endangered species or their habitat on the Property;
- (8) any present or past infestation of wood-destroying insects in the Property's improvements;
- (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
- (10) any material physical defects in the improvements on the Property; or
- (11) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(11) in Paragraph 12 or an addendum.)

**20. NOTICES:** All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- ☐ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- ☐ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

**21. DISPUTE RESOLUTION:** The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

## 22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- D. Addenda which are part of this contract are: *(Check all that apply.)*
  - ☐ (1) Property Description Exhibit identified in Paragraph 2;
  - ☐ (2) Commercial Contract Condominium Addendum (TAR-1930) or (TAR-1946);
  - ☐ (3) Commercial Contract Financing Addendum (TAR-1931);
  - ☐ (4) Commercial Property Condition Statement (TAR-1408);
  - ☐ (5) Commercial Contract Addendum for Special Provisions (TAR-1940);
  - ☐ (6) Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (TAR-1906);
  - ☐ (7) Notice to Purchaser of Real Property in a Water District (MUD);
  - ☐ (8) Addendum for Coastal Area Property (TAR-1915);
  - ☐ (9) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916);
  - ☐ (10) Information About Brokerage Services (TAR-2501); and
  - ☐ (11) Information About Mineral Clauses in Contract Forms (TAR-2509); and
  - ☒ (12) Addendum to Commercial Contract

Commercial Contract - Improved Property concerning 7807 Eagle Lane, Spring, TX 77379

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

- E. Buyer ☒ may ☐ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all of Buyer's obligations under this contract.

**23. TIME:** Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

**24. EFFECTIVE DATE:** The effective date of this contract for the purpose of performance of all obligations is the date the title company receives this contract after all parties execute this contract.

**25. ADDITIONAL NOTICES:**

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.
- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included as part of this contract (*the Addendum for Coastal Area Property (TAR-1915) may be used*).
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract (*the Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916) may be used*).
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. If apartments or other residential units are on the Property and the units were built before 1978, federal law requires a lead-based paint and hazard disclosure statement to be made part of this contract (*the Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (TAR-1906) may be used*).

Commercial Contract - Improved Property concerning 7807 Eagle Lane, Spring, TX 77379

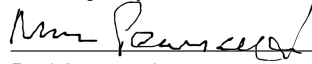
- H. Section 1958.154, Occupations Code requires Seller to provide Buyer a copy of any mold remediation certificate issued for the Property during the 5 years preceding the date the Seller sells the Property.
- I. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.
- J. NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."
- K. LICENSE HOLDER DISCLOSURE: Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: \_\_\_\_\_.

**26. CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on November 16, 2018, the offer will lapse and become null and void.

**READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.**

Seller: 7807 Eagle Ln LLC ,Buyer: Mason Pearsall, Jr.,

By: \_\_\_\_\_  
 By (signature): \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

DocuSigned by:  
 By:   
 By (signature): \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

By: \_\_\_\_\_  
 By (signature): \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

By: \_\_\_\_\_  
 By (signature): \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_



Commercial Contract - Improved Property concerning 7807 Eagle Lane, Spring, TX 77379**AGREEMENT BETWEEN BROKERS***(use only if Paragraph 9B(1) is effective)*Principal Broker agrees to pay Realm Real Estate Professionals (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:

☐ \$ \_\_\_\_\_, or

☒ 2.500 % of the sales price, or

☐ \_\_\_\_\_ % of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: \_\_\_\_\_ Cooperating Broker: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_ By: Johnna Key

**ATTORNEYS**

Seller's attorney: \_\_\_\_\_ Buyer's attorney: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

Phone & Fax: \_\_\_\_\_ Phone & Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_ E-mail: \_\_\_\_\_

Seller's attorney requests copies of documents, notices, and other information:

- ☐ the title company sends to Seller.
- ☐ Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:

- ☐ the title company sends to Buyer.
- ☐ Seller sends to Buyer.

**ESCROW RECEIPT**

The title company acknowledges receipt of:

- ☐ A. the contract on this day \_\_\_\_\_ (effective date);
- ☐ B. earnest money in the amount of \$ \_\_\_\_\_ in the form of \_\_\_\_\_ on \_\_\_\_\_.

Title company: \_\_\_\_\_ Address: \_\_\_\_\_

By: \_\_\_\_\_ Phone & Fax: \_\_\_\_\_


Assigned file number (GF#): \_\_\_\_\_ E-mail: \_\_\_\_\_

**Addendum to Commercial Contract – Improved Property**

This **Addendum** (the “**Addendum**”) is attached to and made a part of the Commercial Contract – Improved Property (the “**Contract**”) by and between **7807 EAGLE LANE, LLC** (“**Seller**”) and **MASON PEARSALL, JR.** and/or assigns (“**Buyer**”) in connection with sale of certain property located in Harris County, Texas and more fully described in the Contract (the “**Property**”). To the extent of any conflict between the terms of the Contract and this Addendum, the terms of this Addendum will control. Capitalized terms not defined in this Addendum shall have the meaning assigned to them in the Contract.

1. “**As Is, Where Is**” Condition: Notwithstanding anything contained in this Contract to the contrary, Buyer acknowledges, understands and agrees:

A. THAT EXCEPT FOR ANY REPRESENTATIONS EXPRESSLY SET FORTH IN THE CONTRACT, NEITHER SELLER NOR ANY PARTNER, AGENT, EMPLOYEE, ATTORNEY, CONTRACTOR, OR REPRESENTATIVE OF SELLER HAS MADE, NOR MAKES, ANY, AND SELLER SPECIFICALLY DISCLAIMS ANY, REPRESENTATION OR WARRANTY, STATUTORY, EXPRESS OR IMPLIED, REGARDING THE LAND AND IMPROVEMENTS OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO (I) THE DEVELOPMENT POTENTIAL OF THE LAND AND IMPROVEMENTS OR THE VALUE, NATURE, QUALITY, OR CONDITION OF THE LAND AND IMPROVEMENTS, INCLUDING, WITHOUT LIMITATION, ACCESS, SIZE, PERMITS, ZONING, LAND USE, UTILITY SERVICES OR WATER, SANITARY SEWER OR STORM SEWER CAPACITY OF THE LAND; (II) THE INCOME TO BE DERIVED FROM THE PROPERTY; (III) THE SUITABILITY OF THE LAND AND IMPROVEMENTS FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON; (IV) THE DISPOSAL OR EXISTENCE, IN OR ON THE LAND, OF ANY ASBESTOS, PCB EMISSIONS, RADON GAS, HYDROCARBONS, AND HAZARDOUS OR TOXIC MATERIALS; (V) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE LAND AND IMPROVEMENTS; (VI) THE EXISTENCE OR NON-EXISTENCE OF WETLANDS; OR (VII) THE COMPLIANCE OF THE LAND AND IMPROVEMENTS AND THEIR USE WITH ANY LAWS OR REGULATIONS PROMULGATED BY ANY GOVERNMENTAL AUTHORITY. BUYER AND ITS SUCCESSORS AND ASSIGNS HAVE, AND SHALL BE DEEMED TO HAVE, ASSUMED ALL RISK AND LIABILITY WITH RESPECT TO THE PRESENCE OF TOXIC OR HAZARDOUS SUBSTANCES OR WASTE OR OTHER ENVIRONMENTAL CONTAMINATION ON OR WITHIN OR UNDER THE SURFACE OF THE PROPERTY, WHETHER KNOWN OR UNKNOWN, APPARENT, NON APPARENT OR LATENT, AND WHETHER EXISTING BEFORE, AT, OR AFTER THE TRANSFER OF THE PROPERTY. BUYER AND ITS SUCCESSORS AND ASSIGNS HEREBY RELEASE SELLER OF AND FROM ANY AND ALL RESPONSIBILITY, LIABILITY, OBLIGATIONS, AND CLAIMS, KNOWN OR UNKNOWN, INCLUDING, WITHOUT LIMITATION, ANY OBLIGATION TO TAKE THE PROPERTY BACK OR REDUCE THE PRICE, OR ACTIONS FOR CONTRIBUTION OR INDEMNITY, THAT BUYER OR ITS SUCCESSORS AND ASSIGNS MAY HAVE AGAINST SELLER OR THAT MAY ARISE IN THE FUTURE, BASED IN WHOLE OR IN PART, UPON THE PRESENCE OF TOXIC OR HAZARDOUS SUBSTANCES OR WASTE OR OTHER ENVIRONMENTAL CONTAMINATION ON OR WITHIN OR UNDER THE SURFACE OF THE PROPERTY, INCLUDING, WITHOUT

Initials: <sup>DS</sup>  
Buyer: 

1 of 6

Seller: \_\_\_\_\_



LIMITATION, ALL RESPONSIBILITY, LIABILITY, OBLIGATIONS, AND CLAIMS THAT MAY ARISE UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED 42 U.S.C. § 9601 ET SEQ., THE RESOURCE CONSERVATION AND RECOVERY ACT, AS AMENDED, 42 U.S.C. § 6901 ET SEQ., THE OIL POLLUTION ACT, 33 U.S.C. § 2701 ET SEQ. AND THE TEXAS SOLID WASTE DISPOSAL ACT TEX. HEALTH & SAFETY CODE ANN. § 361 ET SEQ. BUYER FURTHER ACKNOWLEDGES THAT THE PROVISIONS OF THIS DISCLAIMER AND RELEASE HAVE BEEN FULLY EXPLAINED TO BUYER AND THAT BUYER FULLY UNDERSTANDS AND ACCEPTS SAME. THE PROVISIONS OF THIS DISCLAIMER AND RELEASE SHALL SURVIVE CLOSING. ;

B. THAT EXCEPT FOR THE REPRESENTATIONS EXPRESSLY SET FORTH IN THE CONTRACT, BUYER, IN EXECUTING, DELIVERING, OR PERFORMING UNDER THIS CONTRACT, IS NOT RELYING UPON ANY STATEMENT OR INFORMATION WITH RESPECT TO THE LAND AND IMPROVEMENTS TO WHOMSOEVER GIVEN, DIRECTLY OR INDIRECTLY, BY SELLER OR ANY PARTNER, AGENT, EMPLOYEE, ATTORNEY, CONTRACTOR, OR OTHER REPRESENTATIVE OF SELLER;

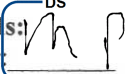
C. THAT THE FEASIBILITY PERIOD PROVIDED PURSUANT TO THE CONTRACT GIVES BUYER AMPLE OPPORTUNITY TO CONDUCT ALL INSPECTIONS (INCLUDING ENVIRONMENTAL INSPECTIONS), ENGINEERING STUDIES, REPORTS, FEASIBILITY STUDIES, REVIEWS, AND EXAMINATIONS OF THE LAND AND IMPROVEMENTS, AND OTHER MATTERS RELEVANT TO THE PROPERTY AS DEEMED NECESSARY OR DESIRABLE BY BUYER;

D. THAT EXCEPT FOR THE REPRESENTATIONS EXPRESSLY SET FORTH IN THE CONTRACT AND FOR THE LIMITED WARRANTY OF TITLE TO BE CONTAINED IN THE SPECIAL WARRANTY DEED TO BE DELIVERED AT CLOSING, BUYER WILL RELY SOLELY UPON ITS OWN INSPECTIONS, ENGINEERING STUDIES, REPORTS, FEASIBILITY STUDIES, REVIEWS, AND EXAMINATIONS OF THE LAND AND IMPROVEMENTS, AND OTHER MATTERS RELEVANT TO THE PROPERTY IN MAKING A DECISION TO PURCHASE THE PROPERTY;

E. THAT EXCEPT FOR BUYER'S RIGHT TO TERMINATE THE CONTRACT AS SET FORTH HEREIN, TO TAKE THE LAND "AS IS" AND "WHERE IS" WITH ALL FAULTS ON THE CLOSING DATE, WITHOUT ANY REPRESENTATION OR WARRANTY EXCEPT FOR THE LIMITED WARRANTY OF TITLE TO BE CONTAINED IN THE SPECIAL WARRANTY DEED TO BE DELIVERED AT CLOSING AND THE REPRESENTATIONS EXPRESSLY CONTAINED IN THIS CONTRACT;

F. THAT THE TOTAL PURCHASE PRICE OF THE PROPERTY REFLECTS ITS EXISTING CONDITION;

G. THAT NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS ADDENDUM OR THE CONTRACT, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY OR

Initials: <sup>DS</sup>  
Buyer: 

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Seller: \_\_\_\_\_


OBLIGATIONS IN CONNECTION WITH THE PROPERTY TO ANY APPLICABLE TAXING AUTHORITY;

H. THAT ANY INDEMNITIES IMPOSED ON THE SELLER IN THE CONTRACT SHALL BE NULL AND VOID AND OF NO FURTHER FORCE AND EFFECT AS OF THE DATE OF CLOSING; AND

I. THAT THE PROVISIONS OF THIS PARAGRAPH 1 OF THIS ADDENDUM SHALL SURVIVE THE CLOSING OR ANY TERMINATION OF THIS CONTRACT AND BE INCLUDED IN THE SPECIAL WARRANTY DEED TO BE DELIVERED AT CLOSING.

2. Amendment to Contract. The Contract is hereby amended as follows:

- a. The Seller entity as described in Paragraph 1 and the signature block on Page 13 is amended to be 7807 Eagle Lane, LLC.
- b. Section 2B(6) is deleted in its entirety.
- c. Section 2B(3) is deleted in its entirety.
- d. Section 2B(7) is deleted in its entirety.
- e. Paragraph 4A is modified to select option 4A(1) and not option 4A(2).
- f. Section 6B(1) is amended by deleting the last sentence in its entirety and replacing it with the following in lieu thereof:  
  
"Seller will reimburse Buyer the lesser of \$2,000 or the actual cost of the survey at closing, if closing occurs."
- g. Paragraph 7B is amended to reflect that Buyer may only terminate the Contract as provided for during the Feasibility Period (the 30-day window after the effective date) for an actual, reasonable condition affecting the use of the Property.
- h. Subsection 7B(1)(a) is amended by changing the amount of Earnest Money from \$150.00 to \$7,500.00 to be retained by Seller in the event Buyer's termination pursuant to Section 7B is not an actual, reasonable adverse condition affecting the use of the Property. Notwithstanding the foregoing, the Seller shall not be entitled to any retention of the Earnest Money if Buyer terminates pursuant to Section 6D(2), 15B or C or 16A.
- i. Section 7D(2) is amended by checking all boxes for items (a), (b), and (c).
- j. Paragraph 10C is amended to select the option for a special warranty deed and not the option for a general warranty deed.
- k. Section 10C(1) is amended by deleting the same in its entirety and replacing it with the following in lieu thereof:

Initials: <sup>DS</sup>  
Buyer: 

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Seller: \_\_\_\_\_

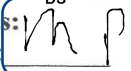


"free and clear of all liens, subject to the terms of the bankruptcy court's order approving the Contract and this Addendum;"

- l. Section 10D(4) is deleted in its entirety.
- m. Paragraph 12 is amended by deleting the sentence "Closing is subject to approval from the bankruptcy court." and replacing it with the following in lieu thereof:  
  
"The enforceability of this agreement and the Addendum is subject to approval from the bankruptcy court."
- n. Paragraph 12 is further amended by deleting the following sentence:  
  
"The effective date does not occur until any necessary approval is given from the bankruptcy court."
- o. Section 13A(2) is deleted in its entirety.
- p. Section 15C(2) is deleted in its entirety, and Buyer's remedies set forth herein shall be its sole and exclusive remedies hereunder.
- q. Paragraph 16A is amended by deleting the word "must" in the second line and replacing it with the following in lieu thereof:  
  
"may, but is not required to"
- r. Paragraph 16A is further amended by deleting the words "If, without fault, Seller is unable to do so, Buyer may:" and replacing it with the following in lieu thereof:  
  
"If Seller does not do so, Buyer may:"
- s. Paragraph 18F is deleted in its entirety.
- t. Paragraph 24 is deleted in its entirety and replaced with the following in lieu thereof:

**EFFECTIVE DATE:** The Effective Date of this contract for the purpose of performance of all obligations is the later of (a) the date the title company receipts this contract after all parties execute this contract, and (b) the date of entry of an order by the bankruptcy court in Seller's bankruptcy approving the agreement and this Addendum.

3. The Buyer hereby indemnifies Seller for any and all damages caused to Seller or the Property caused by Buyer or his contractors, agents and representatives on the Property.
4. Property Information. Seller will provide the items listed in Section 7D only to the extent such documents are readily available and in the actual possession of Seller.
5. Estoppel Certificates. Notwithstanding anything contained in Section 8B of the Contract, Seller is not required to provide any estoppel certificates.

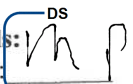
Initials:   
Buyer:

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Seller: \_\_\_\_\_

6. Remedies. In Section 15 of the Contract, if Seller fails to comply with the Contract, or is otherwise in default under the Contract, Buyer's sole and exclusive remedy shall be to receive a refund of the Earnest Money.
7. Broker's Fees. Notwithstanding anything in the Contract, this Addendum, or any other agreement to the contrary, (a) any brokers' fees related to the sale of the Property shall be earned and vest only upon the closing and funding of this transaction, and (b) Realm Real Estate Professionals will be paid any broker's fee due and owing under the Contract and this Addendum from the sale proceeds at the closing and funding of this transaction.
8. Seller shall remove all of its personal property from the Property prior to Closing.
9. Seller hereby represents that there are no written or oral leases regarding or relating to the Property, other than potential month to month oral leases.

**[Signature page follows.]**

Initials:   
Buyer:

Seller: \_\_\_\_\_

IN WITNESS WHEREOF, the undersigned have caused this Addendum to be signed effective as of the Effective Date of the Contract.

**SELLER:**

7807 EAGLE LANE, LLC

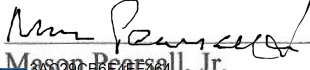
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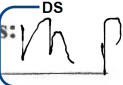
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**BUYER:**

DocuSigned by:

  
Mason Pearsall, Jr.

Initials:   
Buyer:

Seller: \_\_\_\_\_