

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION**

IN RE:)	
)	Case No. 17-50460
THE MILK HOUSE, L.L.C.,)	
)	Chapter 11
Debtor.)	
)	

MOTION FOR APPROVAL OF PRIVATE SALE

NOW COMES The Milk House L.L.C., the above-captioned debtor and debtor-in-possession (the “Debtor”), by and through its undersigned counsel and pursuant to Sections 363(f) of the Bankruptcy Code, and hereby moves (the “Motion”) the Court for an Order allowing the private sale of certain property free and clear of any and all liens, encumbrances, claims, rights, and other interest as set forth below. In support of the Motion, the Debtor respectfully states as follows:

1. On April 27, 2017 (the “Petition Date”), the Debtor, which was formed to develop certain real property known as Chimney Field into a residential subdivision, filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

2. The purpose of this Motion is to seek approval of the sale of Chimney Field, more specifically Lots 1 through 11 and Lots 13 through 27, and all of Chimney Field Road, as shown on that plat recorded in Plat Book 9, at Pages 836-837, Yadkin County Registry (the “Property”).

3. On or about August 18, 2017, the Debtor and Bobby Sizemore (the “Buyer”) entered into an Offer to Purchase and Contract – Vacant Lot/Land (the “Sale Agreement”), under which the Debtor agreed to sell (the “Sale”) and the Buyer agreed to purchase the Property for a

total price of \$141,720.00 (the “Agreed Purchase Price”). A true and correct copy of the Sale Agreement is attached hereto as Exhibit A and incorporated herein by reference.

4. In the Debtor’s opinion, the Agreed Purchase Price represents the market value of the Property.

5. In an effort to satisfy Section 363(f)(2), the Debtor will be seeking the consent of Carolina Farm Credit, ACA (“Farm Credit”) and Triangle Chemical Company, the only creditors asserting a security interest in the Property, to the Sale.

6. The Debtor requests authorization under Section 363(f) of the Bankruptcy Code to sell the Property free and clear of any and all liens, claims or interests and to pay to Farm Credit all the net Sale proceeds.

7. The Debtor asserts that it and the Buyer negotiated the Sale Agreement at arms’ length and in good faith. The Buyer is not affiliated with the Debtor. Accordingly, the Debtor requests that the Court determine the Buyer to be a good faith purchaser under Section 363(m) of the Bankruptcy Code.

8. The Debtor also requests authorization to enter into any related agreements, documents, or other instruments, closing statements, or other reasonable and necessary documents as necessary to effectuate the closing of the Sale of the Property as authorized by the Court.

9. In addition, the Debtor requests that Bankruptcy Rule 6004(h) not apply and any order authorizing sale of the Property not be stayed for fourteen (14) days after the entry of such approval.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order:

1. Allowing the private sale of the Property to the Buyer for \$141,720.00 pursuant to the terms of the Sale Agreement;

2. Approving the Sale free and clear of any and all liens, encumbrances, claims, rights, and other interests, including but not limited to the security interests of Farm Credit and Triangle Chemical Company, and providing that Farm Credit will receive all the net Sale proceeds;
3. Finding that the Buyer and/or his assigns is a good faith purchaser pursuant to Section 363(m) of the Bankruptcy Code;
4. Authorizing the Debtor to enter into any related agreements, documents, or other instruments, closing statements, or other reasonable and necessary documents as necessary to effectuate the closing of the Sale of the Property as authorized by the Court;
5. Waiving the 14-day automatic stay under Bankruptcy Rule 6004(h); and
6. Providing such other and further relief as the Court deems reasonable and appropriate.

Dated: August 21, 2017

/s/ Thomas W. Waldrep, Jr.
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Counsel for Debtor The Milk House, L.L.C.

EXHIBIT A

OFFER TO PURCHASE AND CONTRACT - VACANT LOT/LAND

[Consult "Guidelines" (form 12G) for guidance in completing this form]

NOTE: THIS FORM HAS BEEN MODIFIED FROM ITS ORIGINAL AND IT IS NOT A "NORTH CAROLINA ASSOCIATION OF REALTORS" AND/OR "NORTH CAROLINA BAR ASSOCIATION" FORM.

For valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Buyer offers to purchase and Seller upon acceptance agrees to sell and convey the Property on the terms and conditions of this Offer To Purchase and Contract and any addendum or modification made in accordance with its terms (together the "Contract").

1. **TERMS AND DEFINITIONS:** The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) **"Seller"**: The Milk House, L.L.C., a North Carolina limited liability company

(b) **"Buyer"**: Bobby Sizemore

(c) **"Property"**: The Property shall include all that real estate described on **Exhibit A** attached hereto and incorporated herein by reference, together with all appurtenances thereto including the improvements located thereon.

(d) **"Purchase Price"**:

\$141,720.00	paid in U.S. Dollars upon the following terms:
\$ N/A	BY DUE DILIGENCE FEE made payable and delivered to Seller by the Effective Date
\$ N/A	BY INITIAL EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by <input type="checkbox"/> cash <input type="checkbox"/> personal check <input type="checkbox"/> official bank check <input type="checkbox"/> wire transfer, <input type="checkbox"/> electronic transfer, EITHER <input type="checkbox"/> with this offer OR <input type="checkbox"/> within five (5) days of the Effective Date of this Contract.
\$ N/A	BY (ADDITIONAL) EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by cash, official bank check, wire transfer or electronic transfer no later than _____, TIME
\$ N/A	BEING OF THE ESSENCE with regard to said date.
\$ N/A	BY ASSUMPTION of the unpaid principal balance and all obligations of Seller on the existing loan(s) secured by a deed of trust on the Property in accordance with the attached Loan Assumption Addendum (Standard Form 2A6-T).
\$ N/A	BY SELLER FINANCING in accordance with the attached Seller Financing Addendum (Standard Form 2A5-T).
\$141,720.00	BALANCE of the Purchase Price in cash at Settlement (some or all of which may be paid with the proceeds of a new loan)

Should Buyer fail to deliver either the Due Diligence Fee or any Initial Earnest Money Deposit by their due dates, or should any check or other funds paid by Buyer be dishonored, for any reason, by the institution upon which the payment is drawn, Buyer shall have one (1) banking day after written notice to deliver cash, official bank check, wire transfer or electronic transfer to the payee. In the event Buyer does not timely deliver the required funds, Seller shall have the right to terminate this Contract upon written notice to Buyer.

(e) **"Earnest Money Deposit"**: The Initial Earnest Money Deposit, the Additional Earnest Money Deposit and any other earnest monies paid or required to be paid in connection with this transaction, collectively the "Earnest Money Deposit", shall be deposited and held in escrow by Escrow Agent until Closing, at which time it will be credited to Buyer, or until this Contract is otherwise terminated. In the event: (1) this offer is not accepted; or (2) a condition of any resulting contract is not satisfied, then the Earnest Money Deposit shall be refunded to Buyer. In the event of breach of this Contract by Seller, the Earnest Money Deposit shall be refunded to Buyer upon Buyer's request, but such return shall not affect any other remedies available to Buyer for such breach. In the event of breach of this Contract by Buyer, the Earnest Money Deposit shall be paid to Seller as liquidated damages and as Seller's sole and exclusive remedy for such breach, but without limiting Seller's rights under Paragraphs 2(c) and 2(d) for damage to the Property or Seller's right to retain the Due Diligence Fee. It is acknowledged by the parties that payment of the Earnest Money Deposit to Seller in the event of a breach of this Contract by Buyer is compensatory and not punitive, such amount being a reasonable estimation of the actual loss that Seller would incur as a result of such breach. The payment of the Earnest Money Deposit to Seller shall not constitute a penalty or forfeiture but actual compensation for Seller's anticipated loss, both parties acknowledging the difficulty determining Seller's actual damages for such breach. If legal proceedings are brought by Buyer or Seller against the other

to recover the Earnest Money Deposit, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

(f) “**Escrow Agent**” (insert name): _____

THE PARTIES AGREE THAT A REAL ESTATE BROKERAGE FIRM ACTING AS ESCROW AGENT MAY PLACE THE EARNEST MONEY DEPOSIT IN AN INTEREST BEARING TRUST ACCOUNT AND THAT ANY INTEREST EARNED THEREON SHALL BE DISBURSED TO THE ESCROW AGENT MONTHLY IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.

(g) “**Effective Date**”: The date that: (1) the last one of Buyer and Seller has signed or initialed this offer or the final counteroffer, if any, and (2) such signing or initialing is communicated to the party making the offer or counteroffer, as the case may be. The parties acknowledge and agree that the initials lines at the bottom of each page of this Contract are merely evidence of their having reviewed the terms of each page, and that the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement.

(h) “**Due Diligence**”: Buyer’s opportunity to investigate the Property and the transaction contemplated by this Contract, including but not necessarily limited to the matters described in Paragraph 2 below, to decide whether Buyer, in Buyer’s sole discretion, will proceed with or terminate the transaction.

(i) “**Due Diligence Fee**”: A negotiated amount, if any, paid by Buyer to Seller with this Contract for Buyer’s right to terminate the Contract for any reason or no reason during the Due Diligence Period. It shall be the property of Seller upon the Effective Date and shall be a credit to Buyer at Closing. The Due Diligence Fee shall be non-refundable except in the event of a material breach of this Contract by Seller, or if this Contract is terminated under Paragraph 6(m) or Paragraph 9, or as otherwise provided in any addendum hereto. Buyer and Seller each expressly waive any right that they may have to deny the right to conduct Due Diligence or to assert any defense as to the enforceability of this Contract based on the absence or alleged insufficiency of any Due Diligence Fee, it being the intent of the parties to create a legally binding contract for the purchase and sale of the Property without regard to the existence or amount of any Due Diligence Fee. (j) “**Due Diligence Period**”: The period beginning on the Approval Date and extending through 5:00 p.m. on the fourteenth (14th) day after the Approval Date. ***TIME BEING OF THE ESSENCE*** with regard to said date.

(k) “**Settlement**”: The proper execution and delivery to the closing attorney of all documents necessary to complete the transaction contemplated by this Contract, including the deed, settlement statement, deed of trust and other loan or conveyance documents, and the closing attorney’s receipt of all funds necessary to complete such transaction.

(l) “**Settlement Date**”: The parties agree that Settlement will take place no later than 30 days after the Approval Date (the “Settlement Date”), unless otherwise agreed in writing, at a time and place designated by Buyer.

(m) “**Closing**”: The completion of the legal process which results in the transfer of title to the Property from Seller to Buyer, which includes the following steps: (1) the Settlement (defined above); (2) the completion of a satisfactory title update to the Property following the Settlement; (3) the closing attorney’s receipt of authorization to disburse all necessary funds; and (4) recordation in the appropriate county registry of the deed(s) and deed(s) of trust, if any, which shall take place as soon as reasonably possible for the closing attorney after Settlement. Upon Closing, the proceeds of sale shall be disbursed by the closing attorney in accordance with the settlement statement and the provisions of Chapter 45A of the North Carolina General Statutes. If the title update should reveal unexpected liens, encumbrances or other title defects, or if the closing attorney is not authorized to disburse all necessary funds, then the Closing shall be suspended and the Settlement deemed delayed under Paragraph 10 (Delay in Settlement/Closing).

(n) “**Special Assessments**”: A charge against the Property by a governmental authority in addition to ad valorem taxes and recurring governmental service fees levied with such taxes, or by an owners’ association in addition to any regular assessment (dues), either of which may be a lien against the Property. A Special Assessment may be either proposed or confirmed.

“**Proposed Special Assessment**”: A Special Assessment that is under formal consideration but which has not been approved prior to Settlement.

“**Confirmed Special Assessment**”: A Special Assessment that has been approved prior to Settlement whether or not it is fully payable at time of Settlement.

2. BUYER’S DUE DILIGENCE PROCESS:

(a) **Loan**: Buyer, at Buyer’s expense, shall be entitled to pursue qualification for and approval of the Loan if any.

(b) **Property Investigation:** Buyer or Buyer's agents or representatives, at Buyer's expense, shall be entitled to conduct all desired tests, surveys, appraisals, investigations, examinations and inspections of the Property as Buyer deems appropriate, including but NOT limited to the following:

- (i) **Soil And Environmental:** Reports to determine whether the soil is suitable for Buyer's intended use and whether there is any environmental contamination, law, rule or regulation that may prohibit, restrict or limit Buyer's intended use.
- (ii) **Septic/Sewer System:** Any applicable investigation(s) to determine: (1) the condition of an existing sewage system, (2) the costs and expenses to install a sewage system approved by an existing Improvement Permit, (3) the availability and expense to connect to a public or community sewer system, and/or (4) whether an Improvement Permit or written evaluation may be obtained from the County Health Department for a suitable ground absorption sewage system.
- (iii) **Water:** Any applicable investigation(s) to determine: (1) the condition of an existing private drinking water well, (2) the costs and expenses to install a private drinking water well approved by an existing Construction Permit, (3) the availability, costs and expenses to connect to a public or community water system, or a shared private well, and/or (4) whether a Construction Permit may be obtained from the County Health Department for a private drinking water well.
- (iv) **Review of Documents:** Review of the Declaration of Restrictive Covenants, Bylaws, Articles of Incorporation, Rules and Regulations, and other governing documents of any applicable owners' association and/or subdivision. If the Property is subject to regulation by an owners' association, it is recommended that Buyer review the completed Owners' Association And Addendum (Standard Form 2A12-T) provided by Seller prior to signing this offer. It is also recommended that the Buyer determine if the owners' association or its management company charges fees for providing information required by Buyer's lender or confirming restrictive covenant compliance.
- (v) **Appraisals:** An appraisal of the Property
- (vi) **Survey:** A survey to determine whether the property is suitable for Buyer's intended use and the location of easements, setbacks, property boundaries and other issues which may or may not constitute title defects.
- (vii) **Zoning and Governmental Regulation:** Investigation of current or proposed zoning or other governmental regulation that may affect Buyer's intended use of the Property, adjacent land uses, planned or proposed road construction, and school attendance zones.
- (viii) **Flood Hazard:** Investigation of potential flood hazards on the Property, and/or any requirement to purchase flood insurance in order to obtain the Loan.
- (ix) **Utilities and Access:** Availability, quality, and obligations for maintenance of utilities including electric, gas, communication services, storm water management, and means of access to the Property and amenities.
- (x) **Streets/Roads:** Investigation of the status of the street/road upon which the Property fronts as well as any other street/road used to access the Property, including: (1) whether any street(s)/road(s) are public or private, (2) whether any street(s)/road(s) designated as public are accepted for maintenance by the State of NC or any municipality, or (3) if private or not accepted for public maintenance, the consequences and responsibility for maintenance and the existence, terms and funding of any maintenance agreements.

(c) **Buyer's Obligation to Repair Damage:** Buyer shall, at Buyer's expense, promptly repair any damage to the Property resulting from any activities of Buyer and Buyer's agents and contractors, but Buyer shall not be responsible for any damage caused by accepted practices applicable to any N.C. licensed professional performing reasonable appraisals, tests, surveys, examinations and inspections of the Property. This repair obligation shall survive any termination of this Contract.

(d) **Indemnity:** Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property except for any loss, damage, claim, suit or cost arising out of pre-existing conditions of the Property and/or out of Seller's negligence or willful acts or omissions. This indemnity shall survive this Contract and any termination hereof.

(e) **Buyer's Right to Terminate:** Buyer shall have the right to terminate this Contract for any reason or no reason, by delivering to Seller written notice of termination (the "Termination Notice") during the Due Diligence Period (or any agreed-upon written extension of the Due Diligence Period), **TIME BEING OF THE ESSENCE**. If Buyer timely delivers the Termination Notice, this Contract shall be terminated and the Earnest Money Deposit shall be refunded to Buyer.

(f) CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION UNLESS PROVISION IS OTHERWISE MADE IN WRITING.

3. BUYER REPRESENTATIONS:

(a) **Loan:** Buyer does does not intend to obtain a new loan in order to purchase the Property. If Buyer is obtaining a new loan, Buyer intends to obtain a loan as follows: Conventional Other: _____ loan at a Fixed Rate Adjustable Rate in the principal amount of _____ for a term of _____ year(s), at an initial interest rate not to exceed _____ % per annum (the "Loan").

(b) **Other Property:** Buyer does does not have to sell or lease other real property in order to qualify for a new loan or to complete purchase.

(c) **Performance of Buyer's Financial Obligations:** To the best of Buyer's knowledge, there are no other circumstances or conditions existing as of the date of this offer that would prohibit Buyer from performing Buyer's financial obligations in accordance with this Contract, except as may be specifically set forth herein.

4. **BUYER OBLIGATIONS:**

(a) **Responsibility for Proposed Special Assessments:** Buyer shall take title subject to all Proposed Special Assessments.

(b) **Responsibility for Certain Costs:** Buyer shall be responsible for all costs with respect to:

- (i) any loan obtained by Buyer, including charges by an owners association and/or management company as agent of an owners' association for providing information required by Buyer's lender;
- (ii) charges required by an owners' association declaration to be paid by Buyer for Buyer's future use and enjoyment of the Property, including, without limitation, working capital contributions, membership fees, or charges for Buyer's use of the common elements and/or services provided to Buyer, such as "move-in fees";
- (iii) determining restrictive covenant compliance;
- (iv) appraisal;
- (v) title search;
- (vi) title insurance;
- (vii) any fees charged by the closing attorney for the preparation of the Closing Disclosure, Seller Disclosure and any other settlement statement;
- (viii) recording the deed; and
- (ix) preparation and recording of all instruments required to secure the balance of the Purchase Price unpaid at Settlement.

(c) **Authorization to Disclose Information:** Buyer authorizes the Buyer's lender(s), the parties' real estate agent(s) and closing attorney: (1) to provide this Contract to any appraiser employed by Buyer or by Buyer's lender(s); and (2) to release and disclose any buyer's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

5. **SELLER REPRESENTATIONS:**

(a) **Ownership:** Seller represents that Seller:

- has owned the Property for at least one year.
- has owned the Property for less than one year.
- does not yet own the Property.

(b) **Assessments:** To the best of Seller's knowledge there are no Proposed Special Assessments except as follows (Insert "None" or the identification of such assessments, if any): NONE.

Seller warrants that there are no Confirmed Special Assessments except as follows (Insert "None" or the identification of such assessments, if any): NONE.

(c) **Owners' Association(s) and Dues:** To best of Seller's knowledge, ownership of the Property subjects does not subject Buyer to regulation by one or more owners' association(s) and governing documents, which impose various mandatory covenants, conditions and restrictions upon the Property and Buyer's enjoyment thereof, including but not limited to obligations to pay regular assessments (dues) and Special Assessments. If there is an owners' association, then an Owners' Association Disclosure and Addendum For Properties Exempt from Residential Property Disclosure Statement (Standard Form 2A12-T) shall be completed by Seller, at Seller's expense, and must be attached as an addendum to this Contract.

(d) **Sewage System Permit:** (Applicable Not Applicable) Seller warrants that the sewage system described in the Improvement Permit attached hereto has been installed, which representation survives Closing, but makes no further representations as to the system.

(e) **Private Drinking Water Well Permit:** (Applicable Not Applicable) Seller warrants that a private drinking water well has been installed, which representation survives Closing, but makes no further representations as to the well. (If well installed after July 1, 2008, attach Improvement Permit hereto.

6. **SELLER OBLIGATIONS:**

(a) **Evidence of Title, Payoff Statement(s) and Non Foreign Status:**

- (i) Seller agrees to use best efforts to provide to the closing attorney as soon as reasonably possible after the Effective Date, copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opinions on title, surveys, covenants, deeds, notes and deeds of trust, leases, and easements relating to the Property.
- (ii) Seller shall provide to the closing attorney all information needed to obtain a written payoff statement from any lender(s) regarding any security interest in the Property as soon as reasonably possible after the Effective Date, and Seller designates the

closing attorney as Seller's agent with express authority to request and obtain on Seller's behalf payoff statements and/or short-pay statements from any such lender(s).

(iii) If Seller is not a foreign person as defined by the Foreign Investment in Real Property Tax Act, Seller shall also provide to the closing attorney a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act). In the event Seller shall not provide a non-foreign status affidavit, Seller acknowledges that there may be withholding as provided by the Internal Revenue Code.

(b) **Authorization to Disclose Information:** Seller authorizes: (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys, and (3) the closing attorney to release and disclose any seller's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

(c) **Access to Property:** Seller shall provide reasonable access to the Property (including working, existing utilities) through the earlier of Closing or possession by Buyer, including, but not limited to, allowing the Buyer and/or Buyer's agents or representatives an opportunity to (i) conduct Due Diligence, (ii) verify the satisfactory completion of negotiated repairs/improvements, and (iii) conduct a final walk-through inspection of the Property. To the extent applicable, Seller shall also be responsible for timely clearing that portion of the Property required by the County to perform tests, inspections and/or evaluations to determine the suitability of the Property for a sewage system and/or private drinking water well.

(d) **Removal of Seller's Property:** Seller shall remove from the Property, by the date possession is delivered, (i) all personal property which is not a part of the purchase and (ii) unless otherwise agreed, all garbage and debris.

(e) **Affidavit And Indemnification Agreement:** Seller shall furnish at Settlement an affidavit(s) and indemnification agreement(s) in form satisfactory to Buyer and Buyer's title insurer, if any, executed by Seller and any person or entity who has performed or furnished labor, services, materials or rental equipment to the Property within 120 days prior to the date of Settlement and who may be entitled to claim a lien against the Property as described in N.C.G.S. §44A-8 verifying that each such person or entity has been paid in full and agreeing to indemnify Buyer, Buyer's lender(s) and Buyer's title insurer against all loss from any cause or claim arising therefrom.

(f) **Designation of Lien Agent, Payment and Satisfaction of Liens:** If required by N.C.G.S. §44A-11.1, Seller shall have designated a Lien Agent, and Seller shall deliver to Buyer as soon as reasonably possible a copy of the appointment of Lien Agent. All deeds of trust, deferred ad valorem taxes, liens and other charges against the Property, not assumed by Buyer, must be paid and satisfied by Seller prior to or at Settlement such that cancellation may be promptly obtained following Closing. Seller shall remain obligated to obtain any such cancellations following Closing.

(g) **Good Title, Legal Access:** Seller shall execute and deliver a GENERAL WARRANTY DEED for the Property in recordable form no later than Settlement, which shall convey fee simple marketable and insurable title, without exception for mechanics' liens, and free of any other liens, encumbrances or defects, including those which would be revealed by a current and accurate survey of the Property, except: ad valorem taxes for the current year (prorated through the date of Settlement); utility easements and unviolated covenants, conditions or restrictions that do not materially affect the value of the Property; and such other liens, encumbrances or defects as may be assumed or specifically approved by Buyer in writing. The Property must have legal access to a public right of way.

(h) **Deed, Taxes, and Fees:** Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Contract, and for state and county excise taxes, and any deferred, discounted or rollback taxes, and local conveyance fees required by law. The deed is to be made to: Bobby Sizemore and wife, Ruby Sizemore.

(i) **Agreement to Pay Buyer Expenses:** Seller shall pay at Settlement \$_____ toward any of Buyer's expenses associated with the purchase of the Property, at the discretion of Buyer and/or lender, if any, including any FHA/VA lender and inspection costs that Buyer is not permitted to pay.

(j) **Owners' Association Fees/Charges:** Seller shall pay: (i) any fees required for confirming Seller's account payment information on owners' association dues or assessments for payment or proration; (ii) any fees imposed by an owners' association and/or a management company as agent of the owners' association in connection with the transaction contemplated by this Contract other than those fees required to be paid by Buyer under paragraph 4(b) above; and (iii) fees incurred by Seller in completing the Residential Property and Owners' Association Disclosure Statement, and resale or other certificates related to a proposed sale of the Property.

(k) **Payment of Confirmed Special Assessments:** Seller shall pay all Confirmed Special Assessments, if any, provided that the amount thereof can be reasonably determined or estimated. The payment of such estimated amount shall be the final payment between

the Parties.

(l) **Late Listing Penalties:** All property tax late listing penalties, if any, shall be paid by Seller.

(m) **Owners' Association Disclosure and Condominium Resale Statement Addendum** (Standard Form 2A12-T): If applicable, Seller shall provide the completed Owners' Association Disclosure and Condominium Resale Statement Addendum to Buyer on or before the Effective Date.

(n) **Seller's Failure to Comply or Breach:** If Seller fails to materially comply with any of Seller's obligations under this Paragraph 6 or Seller materially breaches this Contract, and Buyer elects to terminate this Contract as a result of such failure or breach, then the Earnest Money Deposit and the Due Diligence Fee shall be refunded to Buyer and Seller shall reimburse to Buyer the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence without affecting any other remedies. If legal proceedings are brought by Buyer against the Seller to recover the Earnest Money Deposit, the Due Diligence Fee and/or the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

7. **PRORATIONS AND ADJUSTMENTS:** Unless otherwise provided, the following items shall be prorated through the date of Settlement and either adjusted between the parties or paid at Settlement:

(a) **Taxes on Real Property:** Ad valorem taxes and recurring governmental service fees levied with such taxes on real property shall be prorated on a calendar year basis;

(b) **Rents:** Rents, if any, for the Property;

(c) **Dues:** Owners' association regular assessments (dues) and other like charges.

8. **CONDITION OF PROPERTY AT CLOSING:** Buyer's obligation to complete the transaction contemplated by this Contract shall be contingent upon the Property being in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted.

9. **RISK OF LOSS:** The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller. If the improvements on the Property are destroyed or materially damaged prior to Closing, Buyer may terminate this Contract by written notice delivered to Seller or Seller's agent and the Earnest Money Deposit and any Due Diligence Fee shall be refunded to Buyer. In the event Buyer does NOT elect to terminate this Contract, Buyer shall be entitled to receive, in addition to the Property, any of Seller's insurance proceeds payable on account of the damage or destruction applicable to the Property being purchased. Seller is advised not to cancel existing insurance on the Property until after confirming recordation of the deed.

10. **DELAY IN SETTLEMENT/CLOSING:** Absent agreement to the contrary in this Contract or any subsequent modification thereto, if a party is unable to complete Settlement by the Settlement Date but intends to complete the transaction and is acting in good faith and with reasonable diligence to proceed to Settlement ("Delaying Party"), and if the other party is ready, willing and able to complete Settlement on the Settlement Date ("Non-Delaying Party") then the Delaying Party shall give as much notice as possible to the Non-Delaying Party and closing attorney and shall be entitled to a delay in Settlement. If the parties fail to complete Settlement and Closing within fourteen (14) days of the Settlement Date (including any amended Settlement Date agreed to in writing by the parties) or to otherwise extend the Settlement Date by written agreement, then the Delaying Party shall be in breach and the Non-Delaying Party may terminate this Contract and shall be entitled to enforce any remedies available to such party under this Contract for the breach.

11. **POSSESSION:** Unless otherwise provided herein, possession, including all means of access to the Property (keys, codes, including security codes, gate openers, electronic devices, etc.) shall be delivered at Closing as defined in Paragraph 1(m). No alterations, excavations, tree or vegetation removal or other such activities may be done before possession is delivered

12. **ADDENDA:** CHECK ALL STANDARD ADDENDA THAT MAY BE A PART OF THIS CONTRACT, IF ANY, AND ATTACH HERETO. ITEMIZE ALL OTHER ADDENDA TO THIS CONTRACT, IF ANY, AND ATTACH HERETO.

Additional Provisions Addendum (Form 2A11-T)

Additional Signatures Addendum (Form 3-T)

Back-Up Contract Addendum (Form 2A1-T)

Contingent Sale Addendum (Form 2A2-T)

Loan Assumption Addendum (Form 2A6-T)

Owners' Association Disclosure And Condominium Resale Statement Addendum (Form 2A12-T)

Seller Financing Addendum (Form 2A5-T)

Short Sale Addendum (Form 2A14-T)

Identify other attorney or party drafted addenda: _____

13. **ASSIGNMENTS:** This Contract may not be assigned without the written consent of all parties except in connection with a tax-deferred exchange, but if assigned by agreement, then this Contract shall be binding on the assignee and assignee's heirs and successors.

14. **TAX-DEFERRED EXCHANGE:** In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Buyer and Seller shall execute such additional documents, including assignment of this Contract in connection therewith, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

15. **PARTIES:** This Contract shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

16. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

17. **ENTIRE AGREEMENT:** This Contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties. Nothing contained herein shall alter any agreement between a REALTOR® or broker and Seller or Buyer as contained in any listing agreement, buyer agency agreement, or any other agency agreement between them.

18. **CONDUCT OF TRANSACTION:** The parties agree that any action between them relating to the transaction contemplated by this Contract may be conducted by electronic means, including the signing of this Contract by one or more of them and any notice or communication given in connection with this Contract. Any written notice or communication may be transmitted to any mailing address, e-mail address or fax number set forth in the "Notice Information" section below. Any notice or communication to be given to a party herein, any any fee, deposit of other payment to be delivered to a party herein, may be given to the party or to such party's agent. Seller and Buyer agree that the "Notice Information" and "Acknowledgment of Receipt of Monies" sections below shall not constitute a material part of this Contract, and that the addition or modification of any information therein shall not constitute a rejection of an offer or the creation of a counteroffer.

19. **TRANSFER OF DECLARANT RIGHTS:** Seller is the developer pursuant to that certain Declaration of Restrictive Covenants, Conditions and Restrictions of Chimney Field, Phase 1 recorded in Book 808, at Page 564, Yadkin County Registry, as revised in Book 901, at Page 901, Yadkin County Registry (the "Declaration"). Seller agrees to transfer Seller's rights under the Declaration to Buyer, and Buyer agrees to accept Seller's rights under the Declaration, with Buyer becoming the successor developer under the Declaration. Seller and Buyer will execute a transfer of the rights under the Declaration as of the Settlement Date.

20. **BANKRUPTCY COURT APPROVAL:** This Contract is contingent on the approval of the United States Bankruptcy Court for the Middle District of North Carolina (the "Bankruptcy Court") and will not become a valid, enforceable contract until such time as the Bankruptcy Court approves this Contract (the "Approval Date").

21. **EXECUTION:** This Contract may be signed in multiple originals or counterparts, all of which together constitute one and the same instrument.

22. **COMPUTATION OF DAYS/TIME OF DAY:** Unless otherwise provided, for purposes of this Contract, the term "days" shall mean consecutive calendar days, including Saturdays, Sundays, and holidays, whether federal, state, local or religious. For the purposes of calculating days, the count of "days" shall begin on the day following the day upon which any act or notice as provided in this Contract was required to be performed or made. Any reference to a date or time of day shall refer to the date and/or time of day in the State of North Carolina.

Subject to this Contract's approval by the Bankruptcy Court, this offer shall become a binding contract on the Approval Date. Unless specifically provided otherwise, Buyer's failure to timely deliver any fee, deposit or other payment provided for herein shall not prevent this offer from becoming a binding contract, provided that any such failure shall give Seller certain rights to terminate the contract as described herein or as otherwise permitted by law.

[THIS SPACE INTENTIONALLY LEFT BLANK]

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Buyer:

Bobby Sizemore

Bobby Sizemore

Date: 8/18/2017

Seller:

The Milk House, L.L.C., a North Carolina limited liability company

Walter Shore
Name: WALTER SHORE

Title: Managing member

Date: 8-19-17

By: *Wiley Shore*

Name: Wiley Shore

Title: member

Date: 8-19-17

By: *Shelby Shore*

Name: Shelby Shore

Title: member

Date: 8-19-17

By: *Franklin Shore*

Name: Franklin Shore

Title: member

Date: 8-19-17

[THIS SPACE INTENTIONALLY LEFT BLANK]

NOTICE INFORMATION

BUYER NOTICE ADDRESS:

Mailing Address: 133 Melrose Lane
Mooresville, NC 28117

SELLER NOTICE ADDRESS:

Mailing Address: The Milk House, L.L.C.
c/o Jennifer Lyday
101 S. Stratford Road, Suite 210
Winston-Salem, NC 27104

[THIS SPACE INTENTIONALLY LEFT BLANK]

ACKNOWLEDGMENT OF RECEIPT OF MONIES

Seller: _____ (“Seller”)

Buyer: _____ (“Buyer”)

Property Address: _____ (“Property”)

LISTING AGENT ACKNOWLEDGMENT OF RECEIPT OF DUE DILIGENCE FEE

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Due Diligence Fee in the amount of \$_____, receipt of which Listing Agent hereby acknowledges.

Date: _____ Firm: _____

By: _____
(Signature)

(Print name)

 SELLER ACKNOWLEDGMENT OF RECEIPT OF DUE DILIGENCE FEE

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Due Diligence Fee in the amount of \$_____, receipt of which Seller hereby acknowledges.

Date: _____ Seller: _____
(Signature)

Date: _____ Seller: _____
(Signature)

 ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF INITIAL EARNEST MONEY DEPOSIT

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Escrow Agent of an Initial Earnest Money Deposit in the amount of \$_____. Escrow Agent as identified in Paragraph 1(f) of the Offer to Purchase and Contract hereby acknowledges receipt of the Initial Earnest Money Deposit and agrees to hold and disburse the same in accordance with the terms of the Offer to Purchase and Contract.

Date: _____ Firm: _____

By: _____
(Signature)

(Print name)

 ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF (ADDITIONAL) EARNEST MONEY DEPOSIT

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Escrow Agent of an (Additional) Earnest Money Deposit in the amount of \$_____. Escrow Agent as identified in Paragraph 1(f) of the Offer to Purchase and Contract hereby acknowledges receipt of the (Additional) Earnest Money Deposit and agrees to hold and disburse the same in accordance with the terms of the Offer to Purchase and Contract.

Date: _____ Firm: _____

Time: _____ AM PM By: _____
(Signature)

(Print name)

EXHIBIT A

Legal Description

BEING all of Lots 1 through 11, Lots 13 through 27, and all of Chimney Field Road, as shown on that plat recorded in Plat Book 9, at Pages 836-837, Yadkin County Registry.

SUBJECT TO the restrictive covenants recorded in Book 808, at Page 564, Yadkin County Registry, as revised in Book 901, at Page 380, Yadkin County Registry.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **MOTION FOR APPROVAL OF PRIVATE SALE** by either Electronic Case Filing as indicated or depositing copies of same in the exclusive care and custody of the United States Postal service, with proper postage thereto affixed to the below listed parties this 21st day of August, 2017 (see attached Exhibit A.)

Dated: August 21, 2017

/s/ Thomas W. Waldrep, Jr.

Thomas W. Waldrep, Jr.

NC State Bar No. 11135

Jennifer B. Lyday

NC State Bar No. 39871

Waldrep LLP

101 S. Stratford Road, Suite 210

Winston-Salem, NC 27104

Telephone: (336) 717-1440

Facsimile: (336) 717-1340

Counsel for Debtor The Milk House, L.L.C.

Exhibit A

VIA ECF:

Kathryn L. Bringle, *Trustee* (office@chapter13ws.com)

William P. Miller, *Bankruptcy Administrator* (bill_miller@ncmba.uscourts.gov)

Daniel C. Bruton *on behalf of Carolina Farm Credit, ACA*
(dbruton@belldavispitt.com, cpierce@belldavispitt.com)

J. Michael Fields *on behalf of Triangle Chemical Company*
(jmf@wardandsmith.com)

Valerie Smith *on behalf of Synchrony Bank* (claims@recoverycorp.com)

Via Regular Mail:

Synchrony Bank
c/o PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541

Label Matrix for local noticing
0418-6
Case 17-50460
Middle District of North Carolina
Winston-Salem
Mon Aug 21 16:55:15 EDT 2017

Carolina Farm Credit, ACA
c/o Daniel C. Bruton
Bell, Davis & Pitt, P.A.
P.O. Box 21029
Winston-Salem, NC 27120-1029

Commercial Realty Advisors, LLC
751 West Fourth Street, Suite 310
Winston-Salem, NC 27101-2795

The Milk House, L.L.C.
2324 Shore Road
Yadkinville, NC 27055-5324

Triangle Chemical Company
c/o J. Mihcael Fields, Esq.
Ward and Smith, P.A.
Post Office Box 8088
Greenville, NC 27835-8088

Winston-Salem
226 S. Liberty Street
Winston-Salem, NC 27101-5286

Bell Davis & Pitt, PA
PO Box 21029
Winston Salem, NC 27120-1029

(p)CAROLINA FARM CREDIT
P O BOX 1827
STATESVILLE NC 28687-1827

Carolina Farm Credit, ACA
Attn: Jon Almond
PO Box 1827
Statesville, NC 28687-1827

Daniel C. Bruton
Bell Davis & Pitt, PA
PO Box 21029
Winston-Salem, NC 27120-1029

Duke Energy
PO Box 1090
Charlotte, NC 28201-1090

Employment Security Commission
PO Box 26504
Raleigh, NC 27611-6504

Franklin Shore
2402 Shore Road
Yadkinville, NC 27055-5325

IRS
PO Box 7346
Philadelphia, PA 19101-7346

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

J. Michael Fields, Esq.
Triangle Chemical Company
c/o J. Michael Fields, Esq.
Post Office Box 8088
Greenville, NC 27835-8088

J. Michael Fields, Esq.
Ward and Smith, P.A.
PO Box 8088
Greenville, NC 27835-8088

NC Dept. of Revenue
PO Box 1168
Raleigh, NC 27602-1168

North Carolina Department of Revenue
Bankruptcy Unit
PO Box 1168
Raleigh, NC 27602-1168

Priscilla Shore
2320 Shore Rd.
Yadkinville, NC 27055-5324

Shelby Shore
2324 Shore Road
Yadkinville, NC 27055-5324

Stanley Dean
844 W. Fourth St.
Suite 202
Winston Salem, NC 27101-2502

The Milk House, a General Partnership
2324 Shore Rd.
Yadkinville, NC 27055-5324

Triangle Chemical Company
PO Box 368
Kinston, NC 28502-0368

Walter Shore
2320 Shore Road
Yadkinville, NC 27055-5324

Wiley Shore
2324 Shore Road
Yadkinville, NC 27055-5324

Yadkin County Tax Collector
PO Box 1669
Yadkinville, NC 27055-1669

Thomas W. Waldrep Jr.
Waldrep LLP
101 S. Stratford Road
Suite 210
Winston-Salem, NC 27104-4224

William P. Miller
Bankruptcy Administrator
101 South Edgeworth Street
Greensboro, NC 27401-6024

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Carolina Farm Credit
PO Box 787
Yadkinville, NC 27055-0787

End of Label Matrix	
Mailable recipients	28
Bypassed recipients	0
Total	28