

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

In re:	§	
	§	
PATTY JOANNE DeWITT	§	CASE NO. 17-BK-00120
dba T&S Rentals, et al.	§	
	§	
Debtor.	§	Chapter 11

**MOTION OF THE DEBTOR FOR:**

- (1) ENTRY OF AN ORDER AUTHORIZING THE SALE OF REAL AND PERSONAL PROPERTY AND ASSIGNMENT OF EXECUTORY CONTRACTS AND LEASE ASSIGNMENTS PURSUANT TO 11 U.S.C. SECTION 363(d), (f) AND (m), SECTION 365 AND SECTION 105, FREE AND CLEAR OF LIENS AND ENCUMBRANCES**
- (2) ENCUMBRANCES AND LIENS, EXCLUSIVE OF TRANSFER TAXES TO ATTACH TO PROCEEDS FOR DISTRIBUTION UNDER THE APPROVED PLAN OF REORGANIZATION**

Patty DeWitt [“debtor in possession” or “DIP”] respectfully submits this motion for entry of an order of sale pursuant 11 U.S.C. Section 105(a), 363, 365, 704 and Federal Rules of Bankruptcy Procedure No.s 202 and 6004, to approve the sale of the DIP’s interest in property and assignment of any executive contracts and unexpired leases. In support of the motion the debtor in possession states:

**A: BACKGROUND**

1. The DIP filed a petition under Chapter 11 of the Bankruptcy Code on a former date together with all Schedules thereto, and amendments thereof incorporated by reference (“petition” and “petition date”).

2. Assets of the bankruptcy estate include real property in Monongalia County, West Virginia, two other (Preston County) lots, and a (Monongalia County) commercial lot, among other matters, all real estate being situate in the Northern District of West Virginia, together with tangible or intangible personal property which may be upon any of the premises rented at this time, with residential leases, which was to be purchased upon a former Order of this Court, which contract is now cancelled for lack of approved financing by prior Notice to this Court.
3. The same said real estate, consisting of a rental complex, convenience store and otherwise, being 1425, 1428, 1443, 1445, 1447, and 1449 Van Voohris Road, Morgantown WV 26505, and as set forth upon the attached document to be 0.770 ac West Run, 3.586 ac sur. West Run, 1.36ac. West Run (3 apt. bldgs.), and 0.617 ac sur. And fe coal, West Run, Monongalia County West Virginia, to be purchased by Robert B Hadox and Bonita Sue Hadox and/or their assigns attached as Exhibit A attached and incorporated by reference [the “purchase agreement”] which includes without limitation land, any buildings, contents, equipment, furniture, fixtures, lease contracts, any disposal systems and applicable permits and licenses [the “property”].
4. The Debtor is the sole owner of the property.
5. As of the petition day, the debtor value, the debtor’s interest in property and lien interests and encumbrances in various property as then estimated by DIP are set forth in the prior contract of sale thereon, upon which financing has now failed:

#### **B: THE SALE**

6. The DIP proposes sale of the property for the just and full sum of \$2.375 Million as set forth in the purchase agreement to the buyer pursuant to 11 U.S.C Section 365, with executory contracts and unexpired leases as to remain valid and binding and in full force in effect according to respective terms to the benefit of purchasers, and owner financing in the sum of \$440,000 amortized over 20 years at 4.5% interest with a Balloon Payment in 60 months, otherwise secured by a 2<sup>nd</sup> lien and otherwise as the Court may approve.

7. The buyer is not an insider of debtor and the sale represents an arms-length transaction between the parties, made without fraud, or collusion and no attempt has been made by either party to take unfair advantage of the other. Buyer is purchasing the property in good faith pursuant to 11 U.S.C. Section 362(m). The negotiation of sales price was non-collusive, fair and reasonable and conducted in good faith, resulting in Debtor obtaining the highest value for the assets including real estate, improvements, equipment, inventory, and any executory contracts and leases.
8. From sales proceeds the debtor in possession proposes to pay the cost of sale including any commissions, attorney fees of sale, and real estate taxes NOT INCLUDING TRANSFER TAXES. In addition the debtor in possession proposes to pay the primary secured creditor United Bank, with an undisputed secured interest in property in their priority as of the date of closing. The Debtor believes that the only creditors other than the real estate taxes and sales commissions to be paid in this case are IRS and State of West Virginia as to the terms of their tax liens as secured by the real estate and personal property sold. No subordinate lien holder will receive distribution.
9. The sales of the property is made free and clear of any other interest in property held by any entity other than State property taxes pursuant to 11 U.S.C Section 363(f), because: (a) applicable non-bankruptcy law permits the sale of the property free and clear of such interests; (b) the entity consents to the sale; (c) such interest is a lien and the price at which the property is to be sold is greater than the aggregate value of all liens on such property; (d) such interest is in a bona fide dispute; or (e) such entity could be compelled in a legal or equitable proceeding to accept money in satisfaction of the interest.
10. United Bank has consented to the sale for less than entitled. Any other matters concerning prior authorizations to the use of cash collateral or adequate protection are also conceded by this order and the deeds of trust of banks above, according to the land records of this county, securing the promissory notes from debtor, constitute and are protected first priority liens attached to the property not subject to avoidance, disallowance, or subordination pursuant to the bankruptcy code or non-bankruptcy law and granting to the banks have additional adequate protection, security interest in to all of Debtors equipment, furniture, fixtures and other tangible personal property located therein and thereon.

11. Before filing this motion, the DIP and the Court approved the employment of the realtor or broker in exhibit a, in order to market the property and the Court is asked to approve the appointment of the realtor for purposes of this sale's proceeds only. The property has been actively marketed for sales to the general public for a time frame in excess of the period of this bankruptcy by the realtor.
12. Therefore, the DIP asks this Honorable Court that: (1) The matter be set forth on notice to all parties and interest and creditors for **hearing** on or about **June 14<sup>th</sup> at 1:30 pm in Bankruptcy Court, 324 West Main Street, Clarksburg WV 26301**; (2) That the Court share and make reference to by notice a date for approval of the sale and negative notice of a date by which any objection thereto must be made. (3) Approving the sale of the property pursuant to the purchase agreement in 11 U.S.C. Section 363 (d), (f), (h), (m) and Federal Rules of Bankruptcy Procedure 6004, and that it approve the assumption and assignment of any lease or contract in the purchase agreement affecting the property pursuant to 11 U.S.C. Section 365 (4) Further declaring buyers will acquire the property free and clear of all liens and that encumbrances attach solely to the proceed of sale. (5) Approve the payment of sale proceeds to (i) Actual attorney fees and costs of the sale including unpaid real estate taxes NOT TRANSFER TAXES, (ii) Satisfaction of the primary liens and tax liens in the order of their priority against the property. (6) Waiving the 14-day stay order approving the sale under Federal Rules of Bankruptcy Procedure 6004(h) and otherwise, and granting such other further relief as is proper and just.

**ENCUMBRANCES AND LIENS, EXCLUSIVE OF TRANSFER TAXES TO  
ATTACH TO PROCEEDS FOR DISTRIBUTION UNDER THE APPROVED  
PLAN OF REORGANIZATION**

13. The foregoing is incorporated together with all exhibits hereto.
14. The DIP moves this sale be made free and clear of liens and encumbrances, with the same to attach to proceeds of sale, except as to transfer taxes, to be waived under the Plan and this Motion.

15. Sale is to be the first of several as to remaining properties in accordance with an amended proposal Plan selling all real estate except two Big Bear lots in Preston County, exempted by DIP.
16. DIP projects sale of any and all remaining property within the next month or so after approval of the Plan.

WHEREFORE, DIP requests the release above set forth.

PATTY DeWITT  
DEBTOR BY COUNSEL:

/s/ John F Wiley

John F Wiley WV 4039  
PO Box 1381  
Morgantown, WV 26507  
(304) 906-7929

Todd B. Johnson WV 9261  
Johnson Law, PLLC  
PO Box 519  
Morgantown, WV 26507

**CERTIFICATE OF SERVICE:**

I hereby certify that on the 21st day of May, 2018, I have electronically filed a **MOTION** to accept the Hadox real estate contract, as well as an exemplar of the contract of sale, and served the same upon all petition-listed parties and interested persons by electronic transmission to all persons registered to receive notices in this case by means of the Court's CM/ECF noticing system, and by e-mail where an e-mail address is indicated, or by mail where a mailing address is indicated:

/s/ John F. Wiley



# REAL ESTATE PURCHASE AGREEMENT

Date Purchase Agreement Written: 04/25/2018



**Listing Brokerage** Howard Hanna Premier Properties by Barbara Alexander, LLC 304-594-0115  
Phone/Email Address

**Listing Agent** Rob Young and Kay Alexander 304-282-0077 / 304-680-5471  
Phone/Email Address

**Brokerage Lic. #** 003925-00 **Agent Lic. #** WV0017400 / WV0027789

**Selling Brokerage** Howard Hanna/ Premier properties by Barbara Alexander 304-594-0115  
Phone/Email Address

**Selling Agent** Rob Young and Kay Alexander 304-680-5471  
Phone/Email Address

**Brokerage Lic. #** 003925-00 **Agent Lic. #** WV0017400/ WV0027789

**Property Address** 1425,1428,1443,1445,1447,1448,1449 Van Voorhis Rd. Morgantown, WV 26505

**MLS #** 10113114

The **SELLER** hereby agrees to sell, and the **BUYER** hereby agrees to purchase, the following described real estate and its improvements, (the "Property"), on the terms and conditions set forth below:

## 1. PARTIES

**SELLER'S Name** Patty Toth DeWitt

**Current Address** Morgantown, WV 26505

**BUYER'S Name** Robert B. Hadox and Bonita Sue Hadox

**Current Address** 55 Woodline Dr. Fairmont, Wv 26554

**Property Address** 1425,1428,1443,1445,1447,1448, 1449 Van Voorhis Rd. **City** Morgantown, **WV Zip Code** 26505

**Legal Description** 0.770 AC WEST RUN & 3.586 AC SUR WEST RUN; 1.36 AC West Run (3 apt bldgs); and 0.617 ac sur & FRE C West Run

**District** Union & Morgan, **County** Monongalia, **Deed Book/Page** 1419-226, 1357-240, WB99-394, &WB99-394 **Tax Map** 21,4,21 &12

**Parcel** 2,2,1.5 &50 **t(s) No.** 0.77, 3.586,0.617 **Subdivision/Addition**  **Dimensions or Acreage**

Seller Initials

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Buyer Initials

2. PURCHASE PRICE of 12

- Price Two Million, Three Hundred Seventy-Five thousand Dollars (\$ 2,375,000)  
☐ Cash Purchase ☒ Financed
- Earnest Money Deposit Ten Thousand Dollars (\$ 10,000)  
☒ Check ☐ Cash ☐ Promissory Note
- Payable to Howard Hanna

3. EARNEST MONEY

ALL EARNEST MONEY SHALL BE DEPOSITED IN THE NON-INTEREST BEARING TRUST FUND ACCOUNT OF THE LISTING BROKER ONLY UPON ACCEPTANCE OF THIS OFFER BY THE SELLER. ALL EARNEST MONEY SHALL BE HELD IN TRUST UNTIL SUCH TIME AS FUNDS ARE AVAILABLE FOR DISBURSEMENT AND UNTIL ALL PARTIES TO THIS AGREEMENT MUTUALLY AGREE IN WRITING AND INSTRUCT THE BROKER HOLDING THE EARNEST MONEY IN TRUST TO DISBURSE SUCH FUNDS. IN THE EVENT THE PARTIES DO NOT MUTUALLY AGREE AND SO INSTRUCT, THE ESCROWED FUNDS WILL NOT BE DISBURSED UNTIL AN ORIGINAL ENTERED COURT ORDER ORDERING DISBURSEMENT OF SUCH FUNDS IS DELIVERED TO THE BROKER HOLDING SUCH EARNEST MONEY IN TRUST.

4. TIME OF PERFORMANCE AND DEFAULT

This offer expires on 05/22/2018 at 5:00 ☐ A.M. ☒ P.M.

After signature of the **BUYER** and until signed by the **SELLER**, this instrument shall constitute an offer to purchase which shall terminate and be automatically withdrawn unless accepted by the **SELLER** before the time of expiration. This offer shall be accepted by delivery to the **BUYER** of a duplicate of this instrument executed by the **SELLER**. If the offer is not accepted within said period, the earnest money remitted herewith shall be returned immediately to the **BUYER**. If the offer is accepted within said period, the **SELLER** and the **BUYER** shall consummate the sale on/or before 07/31/2018.

In the event the **BUYER** has not performed the terms of this Agreement within the time stated above, the **SELLER** shall be entitled to retain the earnest money deposit made by the **BUYER** as damages for the breach of this Agreement, and the parties shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement. However, the retention of such earnest money deposit shall not preclude the **SELLER** from pursuing any other claim for damages for breach of this Agreement.

In the event the **SELLER** fails, refuses, neglects or is unable to consummate the sale as provided for in this Agreement and through no fault or neglect of the **BUYER**, the **BUYER'S** earnest money shall be returned to the **BUYER**, and the parties shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement. However the return of the earnest money deposit shall not preclude the **BUYER** from pursuing any other claim for damages for breach of this Agreement.

Seller Initials

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Buyer Initials

5. DEED/TITLE/FEEs

of 12

A. DEED

After the fulfillment of all conditions stipulated herein to be performed by the **BUYER**, the **SELLER** shall by proper deed containing covenants of GENERAL WARRANTY, free and clear of all liens and financial encumbrances, except real estate taxes not yet due and payable, convey the Property to

Robert B & Bonita Sue Hadox

☒ jointly with the right of survivorship or ☐ as tenants in common

The **SELLER** shall pay for the preparation of the deed and all required documentary and transfer stamps.

B. TITLE

In the event the **BUYER'S** attorney finds title to the Property to be unmarketable, the **BUYER** shall promptly notify the **SELLER** of the specific defect in title and the **SELLER** shall have 30 days thereafter to correct the defect and, if corrected, this sale shall thereafter be consummated. In the event the title defect cannot be or is not corrected within said 30 days, the **BUYER**, at the **BUYER'S** option, may declare this Agreement void and the parties shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement.

C. TAXES AND PRORATIONS

- **Real Property Taxes** will be prorated on a calendar year basis as of the date of closing. If the amount of taxes assessed for the current year cannot be ascertained, the taxes will be estimated from the taxes assessed the preceding year. For the purpose of this Agreement, taxes for the current calendar year will be those taxes which were assessed as of July 1 of the preceding calendar year.
- **Rent**, if any, will be prorated as of the date of closing and any security deposits will be transferred to the **BUYER** from the **SELLER** at closing.
- **Public Assessments** for improvements to street, sidewalk, sewer, etc., completed as of the date of closing will be paid by the **SELLER**.
- **Fire fees**, if any, will be prorated as of the date of closing.
- **Mandatory Home Owner Association Dues**, if any, will be prorated as of the date of closing.

6. LOAN CONTINGENCY ☒ Yes ☐ No

- A. This Agreement is contingent upon the **BUYER** obtaining financing. Type: ☒ Conventional, ☐ FHA, ☐ VA, ☐ West Virginia Housing Fund, ☐ USDA, ☒ owner financing, or ☐ to be determined. The loan will be at least 80 percent of the Purchase Price, at an interest rate not to exceed        percent for 25 years, and amortized over a period of 25 years, to be secured by a first lien deed of trust on the Property. The **BUYER** agrees to apply for such loan within 5 days of the acceptance of this Agreement and to continue with due diligence and in good faith to make every reasonable effort to secure such loan from a financial institution. The **BUYER**

Seller Initials

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Buyer Initials



agrees to provide the **SELLER** with a "loan pre-approval letter" from a financial institution within 10 days from the date of acceptance of this Agreement stating **BUYER** can obtain the financing as indicated above. A "loan pre-approval letter" shall mean a letter from a lender verifying the **BUYER'S** ability to obtain such loan based upon the **BUYER'S** employment, income and satisfactory credit report. If, after making reasonable effort to secure a loan and such loan is not approved, the **BUYER** shall provide to the **SELLER** written confirmation of loan denial and this Agreement may be terminated by either party. Upon receipt of such written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement.



- B. In the Event Buyer is obtaining a loan for this purchase, Buyer agrees to promptly deliver to the Selling Agent a copy of the Buyer's Closing Disclosure upon receipt. Likewise, Seller agrees to promptly deliver to the Listing Agent a copy of the Seller's Closing Disclosure upon receipt.

**7. APPRAISAL CONTINGENCY** ☒ Yes ☐ No



This Agreement is contingent upon the **BUYER** obtaining a current appraisal of the Property indicating an appraised value equal to or greater than the Purchase Price and if the appraised market value of the Property is not equal to or greater than the Purchase Price, the **BUYER** agrees to provide a copy of such appraisal to the **SELLER**, and this Agreement is then open for renegotiation. (The **BUYER** does not have to purchase and the **SELLER** does not have to sell). If an agreement on a new Purchase Price is not reached after 5 days of renegotiation, either party may terminate this Agreement. Upon receipt of such written termination notice, the parties shall be obligated to authorize the release of earnest money deposit as provided for in paragraph #3 of this Agreement.

**8. INSPECTION CONTINGENCIES**

- If the **BUYER** chooses not to have a property inspection, the **BUYER** accepts the Property in its present existing state and condition and is not to rely upon any representation made by the **SELLER** or the **SELLER'S** or the **BUYER'S** agent(s), except for those made in any written disclosure statement provided to the **BUYER**.
- The **BUYER** agrees that the **SELLER'S** and the **BUYER'S** real estate agent(s) and broker(s) shall not be responsible or liable for any agreements, conditions or stipulations not set forth herein relating to or affecting the physical condition of the Property or any fixture or personal property situate thereon or any appurtenances thereto.
- The **SELLER** agrees to provide access to the Property for the **BUYER'S** appraisers, inspectors, surveyors, or any other agents to satisfy any agreed-upon contingencies or to make repairs which have been agreed to by the parties.
- The **SELLER** agrees to have water, fuel and electric utilities on at the time of inspections or be responsible to reimburse the **BUYER** for the costs to connect such utilities and for all utility expenses incurred prior to closing.

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Buyer Initials

- The **BUYER** hereby agrees to promptly pay for any inspection fees ordered by the **BUYER** or the **BUYER'S** agent(s), and to indemnify and hold harmless the **SELLER** and the real estate broker(s) and agent(s) from the costs of such inspections.
- The **BUYER'S** obligation to purchase the Property is contingent upon the following contingencies:

**A. PROPERTY INSPECTION** ☒ Yes ☐ No

The **BUYER** shall have the right at the **BUYER'S** expense to have inspection(s) of the Property for structural, physical and mechanical components, environmental and geological issues and for such other purposes as determined by the **BUYER**. Written notice of the findings will be reported to the **SELLER** on/or before 05/31/2018. Failure to inspect and report to the **SELLER** within the specified time shall be deemed a waiver of the **BUYER'S** rights to inspection and to request repairs, and the **BUYER** agrees to accept the Property in its present condition. In the event any defects are discovered and repairs are required as a result of such inspection(s), the **BUYER** shall have the option of notifying the **SELLER** in writing on or before the date set forth above in this paragraph and providing the **SELLER** with a copy of the complete written report from the **BUYER'S** inspection company, that:

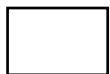
1. The **BUYER** is terminating this Agreement because the **BUYER** is not satisfied with the results of such inspection(s) and indicating to the **SELLER** in writing that the findings were not satisfactory; or
2. The **BUYER** requires certain unsatisfactory findings identified in such report(s) to be repaired by the **SELLER**, and the **SELLER** shall have the option of:
  - a. Making such repairs at the **SELLER'S** expense, by the closing date, or
  - b. Negotiating the repairs to be made by the **SELLER**, or
  - c. Refusing to make such repairs, thereby permitting the **BUYER** to terminate this Agreement or accept the Property in its present condition.

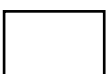
The **SELLER** shall respond in writing to the **BUYER** on/or before 06/05/2018 of the **BUYER'S** request indicating which option is selected. If option "b" is selected by the **SELLER**, the parties must enter into a written agreement regarding the repairs on or before 06/08/2018, or either party may terminate this Agreement. Upon receipt of a written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement.

**B. MOLD INSPECTION CONTINGENCY** ☒ Yes ☐ No

The **BUYER** shall have the right at the **BUYER'S** expense to have the Property inspected by a licensed mold inspector. Test and results must be provided to the **SELLER** or this contingency removed on/or before 05/31/2018. In the event mold is found on the Property the **SELLER** shall have the option of:

- a. Taking remedial action to correct the problem. The **BUYER** may agree to accept this remedial action or may elect to terminate this Agreement and all earnest money deposits returned, or,
- b. Negotiating the remedial action/expense with the **BUYER**





  
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If no written agreement regarding remedial action/expense is entered into on/or before 06/08/2018 either party may terminate this Agreement. Upon receipt of such written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement.

**C. RADON INSPECTION CONTINGENCY** ☐ Yes ☒ No

The **BUYER** reserves the right to have a Radon Test to be conducted at the **BUYER'S** expense. Test results of the air within envelope space when closed to outside environment (normal entry & exit) must be below the EPA Action Level of 4.0 Pico Curies per liter. Test must be conducted and results provided to the **SELLER** or this contingency removed on/or before \_\_\_\_\_. In the event test results indicate levels equal to or higher than the EPA Action Level, the **SELLER** shall have the option of:

- a. Taking remedial action to reduce levels to below the EPA Action Level. The **BUYER** may agree to accept this remedial action or may elect to terminate this Agreement and all earnest money deposits returned, or,
- b. Negotiating the remedial action/expense with the **BUYER**.

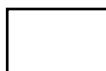
If no written agreement regarding remedial action/expense is entered into on/or before \_\_\_\_\_ either party may terminate this Agreement. Upon receipt of such written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement.

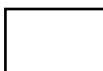
**D. WOOD DESTROYING INSECT INSPECTION CONTINGENCY** ☒ Yes ☐ No

The Property is to be conveyed free and clear of all wood destroying organisms. Prior to closing, the **BUYER** may procure at the **BUYER'S** expense a wood destroying insect infestation report from a licensed exterminating company. If evidence of infestation and/or damage caused by such infestation is discovered, the **BUYER** may choose to terminate this Agreement or request that the **SELLER** correct the same at the **SELLER'S** expense. If the **SELLER** does not correct the problem, then the **BUYER** may terminate this Agreement. If the Property is new construction (i.e., never lived in), the **SELLER** agrees to provide the **BUYER** with wood destroying organisms pre-treatment documentation. If the **SELLER** cannot provide pre-treatment documentation for new construction, the **BUYER** may terminate this Agreement. Upon receipt of such written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement.

**E. SURVEY CONTINGENCY** ☒ Yes ☐ No

The **BUYER'S** obligation to purchase under this Agreement is contingent upon the ☒ **BUYER** ☐ **SELLER** obtaining and the ☒ **BUYER** ☐ **SELLER** paying for a survey of the Property on/or before 05/31/2018 to determine (1) there are no unsatisfactory rights of way or encroachments affecting the anticipated use of the Property, (2) the size of the Property is not materially different from that which has been represented, and (3) that the Property boundaries









and corners are where they were represented to the **BUYER** prior to entering into this Agreement. If a discrepancy is determined, the **SELLER** shall have the right to cure said defect. If the **SELLER** is unable/or unwilling to cure the discrepancy and an agreement cannot be reached on/or before 06/08/2018, this Agreement may, at the option of either party be terminated and the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided in paragraph #3 of this Agreement.

**F. PRIVATE SEWERAGE AND/OR PRIVATE WATER SYSTEM INSPECTION CONTINGENCY** ☐ Yes ☒ No

The **BUYER'S** obligation to purchase under this Agreement is contingent upon approval and/or certification of any on-site or other private sewage disposal system and/or private water system, with such inspection being at the ☐ **BUYER'S** ☐ **SELLER'S** expense on/or before \_\_\_\_\_. Any septic tank pumping fee, if required, will be at the **SELLER'S** expense. If approval cannot be obtained, and the **SELLER** refuses or is unable to do what is necessary for approval of the private sewage disposal system and/or private water system, the **BUYER** shall have the option of waiving the defect. In the event the **BUYER** refuses to waive the defect, then either party may terminate this Agreement in writing. Upon receipt of such written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement. In the event the Property is vacant and the necessary inspections cannot be completed until after the Closing on the Property and the **BUYER** has taken occupancy, the parties agree to make a good-faith effort to enter into an escrow agreement on or before the closing date, which escrow agreement shall control the terms under which money will be set aside to obtain approval. In the event that an escrow agreement is not entered into, then either party may terminate this Agreement in writing. Upon receipt of such written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit, as provided in paragraph #3 of this Agreement.

**G. PROPERTY, CASUALTY & LIABILITY INSURANCE CONTINGENCY**

The **BUYER'S** obligation to purchase under this Agreement is contingent upon the **BUYER'S** ability to obtain Property, Casualty, & Liability Insurance for the Property. The **BUYER** agrees to provide the **SELLER**, on/or before 06/30/2018, a binder or letter from an insurance company evidencing that the **BUYER** can obtain insurance for: a) not less than the amount requested by the **BUYER'S** lender; b) the amount of the Purchase Price, less the value of the land, and/or c) the insurance company's replacement cost valuation. If the **BUYER** cannot obtain an insurance binder by such date, the **BUYER** shall provide evidence of such denial and either party may terminate this Agreement in writing. Upon receipt of such termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement.



Seller Initials



Buyer Initials

**9. PROPERTY DISCLOSURES**

A. The **BUYER** ☐ has ☒ has not received a Property Disclosure Statement from the **SELLER**.

B. The **SELLER** agrees to provide the **BUYER** a Property Disclosure Statement on/or before N/A after acceptance of this Agreement. The **BUYER** shall acknowledge receipt and have until N/A to review and terminate this Agreement as a result of a disclosure made in the Property Disclosure Statement. Upon receipt of such written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of the Agreement. The **BUYER** understands that the Property Disclosure Statement is not a substitute for an inspection made by experts but is a representation of the condition of the Property to the knowledge of the **SELLER** and is not a representation by the listing or selling broker(s) or agent(s).

**C. LEAD BASED PAINT DISCLOSURE**

If the house on the Property was built before 1978, a lead based paint disclosure form is to be attached and made a part of this Agreement.

**D. FLOOD INSURANCE DISCLOSURE STATEMENT**

The **BUYER'S** mortgage lender may require the **BUYER** to purchase flood insurance in connection with the purchase of the Property. The National Flood Insurance Program provides for the availability of flood insurance but also establishes flood insurance policy premiums based on the risk of flooding in the area where properties are located. Due to recent amendments to federal law governing the NFIP those premiums are increasing, and in some cases will rise by a substantial amount over the premiums previously charged for flood insurance for the Property. As a result, you should not rely on the premiums paid for flood insurance on this property previously as an indication of the premiums that will apply after you complete your purchase. In considering your purchase of this property you should consult with one or more carriers of flood insurance for a better understanding of flood insurance coverage, the premiums that are likely to be required to purchase such insurance and any available information about how those premiums may increase in the future.

**E. SEX OFFENDER DISCLOSURE**

The **BUYER** shall have the right to make an independent investigation regarding sex offender registries. The **BUYER** and the **SELLER** understand that the listing and selling brokers and their respective agents are not responsible for obtaining or disclosing any information contained in any sex offender registry encompassing the area of the Property. In considering your purchase of this property, the **BUYER** may contact any appropriate law enforcement agency such as the local city, county and/or state police departments. The WV state recognized site for sex offender searches is <http://www.wvsp.gov/>.

Seller Initials

☒ RBH 04/25/18 9:28PM EDT ☒ BSH 04/25/18 9:35PM EDT

Buyer Initials

**10. HOME WARRANTY PROGRAM** ☐ Yes ☒ No **of 12**

The **BUYER** and the **SELLER** are aware that one-year home warranty programs are available to be purchased by either the **BUYER** or the **SELLER**, and that the Real Estate Agency may receive a fee when a home warranty is purchased.

If the **SELLER** currently has a home warranty in place, then that warranty will convey to the **BUYER** at the time of settlement. **BUYER** may purchase any additional or alternative coverages above and beyond what is being provided by the **SELLER**.

If the **SELLER** currently does not have a home warranty in place, the **BUYER** ☐ elects ☒ declines coverage of a home warranty program. If the **BUYER** elects coverage, then the cost of the coverage shall not exceed \$\_\_\_\_\_ and is to be paid by the ☐ **BUYER** ☐ **SELLER** at the closing. The home warranty company is to be chosen by the ☐ **BUYER** ☐ **SELLER**.

**11. UNIT OWNER RESALE CERTIFICATE** ☐ Yes ☒ No

If applicable, the **SELLER** shall provide to the **BUYER** a Unit Owner Resale Certificate, as required by West Virginia Code 36B-4-109. The **BUYER** shall have \_\_\_\_\_ (at least five) days after receipt of the Unit Owner Resale Certificate for review and acceptance. If the Unit Owner Resale Certificate is not approved by the **BUYER**, the **BUYER** may terminate this Agreement in writing. Upon receipt of such written termination notice, the parties hereto shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph # 3 of this Agreement.

**12. RISK OF LOSS BEFORE CONSUMMATION OF SALE**

If the improvements on the Property are destroyed or damaged because of fire, flood, or an act of nature prior to the closing, the **BUYER** may terminate this Agreement by written notice to the **SELLER** and the parties shall be obligated to authorize the release of the earnest money deposit as provided for in paragraph #3 of this Agreement. In the event the **BUYER** does not elect to terminate this Agreement, the **BUYER** shall be entitled to the Property and any insurance proceeds payable on account of the damage or destruction not to exceed the purchase price agreed to in this Agreement. Risk of loss shall be on the **BUYER** after closing and delivery of deed.

**13. POSSESSION**

The **BUYER** shall be given possession of the Property on Closing.

**14. PRE-CLOSING WALK-THROUGH INSPECTION** ☒ Yes ☐ No

The **BUYER** shall have the right to re-inspect the Property prior to closing in order to ascertain that the Property is in the same physical condition as it was as of the date of this Agreement and to verify that all repairs, if any, have been performed as agreed upon by the **BUYER** and the **SELLER**. The **SELLER** shall have water, fuel and electric utilities on at the time of the final walk-through. The results of the inspection shall be made known to the **SELLER** immediately. Failure to conduct a final walk-through inspection and report results

Seller Initials

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shall be deemed a waiver of the **BUYER'S** final inspection and repair rights and the **BUYER** agrees to accept the Property in its then present condition.

**15. FIXTURES AND ITEMS THAT REMAIN WITH THE PROPERTY**

INCLUDED in the sale are all existing items (in AS-IS condition and free of liens) permanently installed in the Property, including: plumbing; heating; lighting fixtures (including chandeliers and ceiling fans); water treatment systems; pool and spa equipment; garage door openers and transmitters; un-potted shrubbery, plantings, and trees; any remaining heating and cooking fuels stored on the Property at the time of closing; sump pumps; storage sheds; mailboxes; wall-to-wall carpet; existing window screens; storm windows and screen/storm doors; window covering hardware, shades and blinds; built-in air conditioners; built-in appliances unless otherwise stated. Also included: All appliance and equipment for rental properties

EXCLUDED fixtures and items: \_\_\_\_\_

**16. OTHER PROVISIONS**

Regarding the Valley nart Building, All equipment, furnishings currently in the building to be included in the transaction

Regarding the Duplex & 8 Unfinished units, all building materials, appliances and supplies to be included in the transaction

Regarding the Apartment Buildings, All current leases to be transfered to the buyer on the day of closing.

All tenant security deposits will convey to the buyer on the day of closing.

Seller to finance the buyer for \$440,000 of the purchase price, amortized for 20 years at 4.5% with a 5 year balloon payment


Sale is subject to Court Approval and Court Order to Sell. See Adendum

**17. FACSIMILES, DELIVERY AND E-SIGNATURES**

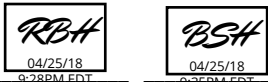
The parties agree a faxed or an electronic transmission via e-mail or use of a cloud-based or online service to the other party or such party's agent shall constitute delivery of such document to such party and shall be the equivalent and have the same effect as the signed original document. Furthermore, the parties hereby acknowledge and agree an electronic or digital signature or initial is a legally binding indication that the person adopts the intentions of the document signed and/or initialed in such manner.

**18. CHANGES TO AGREEMENT**

This Agreement shall not be amended, modified or changed in any way except by a written agreement executed by the **BUYER** and the **SELLER**.




Seller Initials



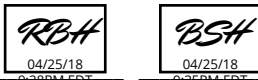
Buyer Initials



The **BUYER** acknowledges and agrees to accept full responsibility and risk for not selecting any contingencies set forth above as a contingency to this Agreement and for any matter that may result from such decisions, and that the listing and selling brokers and their respective agents are not, unless otherwise disclosed herein, qualified to make any inspections of the Property and the **BUYER** agrees to exercise due diligence using the appropriate and qualified experts selected by the **BUYER**. The **BUYER** hereby further agrees to indemnify and hold harmless the **SELLER**, and the listing and selling brokers and their respective agents, owners, officers, managers, employees, independent contractors, heirs, personal representatives, successors, and assigns from any and all liability, recourse or damages as a result thereof, and from any condition of the structural, physical or mechanical components of the Property or personal property described herein discovered after the closing.



Seller Initials



Buyer Initials



20. This is a legally binding agreement; you have the right to seek competent legal counsel before signing.

## 21. ACKNOWLEDGEMENT

The **BUYER** acknowledges that the **BUYER** has read and understands the provisions of this Agreement and agrees to purchase the Property at the price, terms and conditions set forth herein. The **BUYER** acknowledges receipt of a copy of this Agreement and authorizes the Broker(s) in this transaction to deliver a signed copy hereof to the **SELLER** and to disclose the terms of the sale to members of the Multiple Listing Service or Board/Association of REALTORS® after closing.

*Robert B. Hadox*  
dotloop verified  
04/25/18 9:28PM EDT  
3Q78-GYFA-OQ1V-ZBUR

BUYER

DATE

*Bonita Sue Hadox*  
dotloop verified  
04/25/18 9:35PM EDT  
VMU6-EQKX-EUD5-ZD1H

BUYER

DATE

## 22. ACCEPTANCE

The **SELLER** acknowledges that the **SELLER** has read and understands the provisions of this Agreement and agrees to sell the Property at the price, terms, and conditions set forth herein. The **SELLER** acknowledges receipt of a copy of this Agreement and authorizes the Broker(s) in this transaction to deliver a signed copy hereof to the **BUYER** and to disclose the terms of the sale to members of the Multiple Listing Service or Board/Association of REALTORS® after closing.

SELLER

DATE

SELLER

DATE

## NON-ACCEPTANCE

By signing here \_\_\_\_\_ the **SELLER** acknowledges

that this offer was presented to the **SELLER** on \_\_\_\_\_ at

\_\_\_\_\_ A.M. /P.M. and said offer is not acceptable and no counteroffer is being made.

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