

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

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| In re: ROBERT THOMAS LAMPE, Debtor. | Case No. 16-10621 Chapter 11 |
| In re: MARIAH FARMS, INC., Debtor. | Case No. 16-10622 Chapter 11 |
| In re: WHIRLWIND FARMS, INC., Debtor. | Case No. 16-10623 Chapter 11 |

**MOTION FOR AUTHORITY AND APPROVAL TO SELL REAL ESTATE OF THE
BANKRUPTCY ESTATES IN BANKRUPTCY CASE NOS. 16-10621 AND 16-10623
UNDER PRIVATE CONTRACT, FREE AND CLEAR OF ALL SECURITY INTERESTS,
MORTGAGES, LIENS, ENCUMBRANCES, AND ADVERSE
INTERESTS WHATSOEVER EXCEPT AS HEREIN PROVIDED**

(Sale No. 2)

COME NOW Robert Thomas Lampe, the debtor in possession in Bankruptcy Case No. 16-10621, (herein referred to as "**Lampe**"), and Whirlwind Farms, Inc., the debtor in possession in Bankruptcy Case No. 16-10623, (herein referred to as "**Whirlwind**"), by and through their attorney, David R. Klaassen, and move the Court for an order:

- (A) Authorizing and approving the sale by Lampe and Whirlwind of the real estate hereinafter described under the terms and conditions set forth in the *Agreement for Sale and Purchase of Real Estate*, a copy of which is attached to this motion as Exhibit "1" and incorporated herein by this reference, (herein referred to as the "**Sale Contract**"), free and clear of all security interests, mortgages, liens, encumbrances, and adverse interests whatsoever, EXCEPT AND SUBJECT TO any and all prior mineral leases and mineral reservations of record, if any, and FURTHER EXCEPT AND SUBJECT TO any and all prior highway deeds, easements, rights-of-way, reservations, and restrictions of record, if any, and in accordance with the terms and conditions set forth in the *Sale Contract*; and,

- (B) Authorizing and approving the manner of closing such private sale as hereinafter set forth; and,
- (C) Waiving the stay provided for by FED. R. BANKR. P. 6004(h) so that such private sale can close as soon as possible after the Court enters its order herein on this motion.

In support of this motion, Lampe and Whirlwind state and allege as follows:

1. On April 12, 2016, Lampe filed a voluntary petition for relief pursuant to Chapter 11 of the Bankruptcy Code, thereby commencing Bankruptcy Case No. 16-10621 before the United States Bankruptcy Court for the District of Kansas, located in Wichita, Kansas.

(a) At the time of the filing of Bankruptcy Case No. 16-10621, Lampe was the owner of the following real estate, (herein referred to as the “*Lampe Real Estate*”):

The North Half (N/2) and the Southwest Quarter (SW/4) of Section Six (6), Township Twenty-six (26) South, Range Thirty-nine (39) West of the Sixth Principal Meridian, Hamilton County, Kansas; and,

The Southeast Quarter of Section Thirteen (13), Township Twenty-six (26) South, Range Forty-one (41) West of the Sixth Principal Meridian, Hamilton County, Kansas.

(b) Upon the commencement of Bankruptcy Case No. 16-10621, the Lampe Real Estate became property of the bankruptcy estate in Bankruptcy Case No. 16-10621.

(c) None of the Lampe Real Estate has been claimed as exempt by Lampe, or by any other person entitled to assert any of Lampe’s exemptions under federal or state law.

(d) No trustee other than the United States Trustee has been appointed in Bankruptcy Case No. 16-10621 and Lampe has continued in possession of his property and

is operating his business as the debtor in possession in Bankruptcy Case No. 16-10621 in accordance with Sections 1107 and 1108 of the Bankruptcy Code.

2. On April 12, 2016, Whirlwind filed a voluntary petition for relief pursuant to Chapter 11 of the Bankruptcy Code, thereby commencing Bankruptcy Case No. 16-10623 before the United States Bankruptcy Court for the District of Kansas, located in Wichita, Kansas.

(a) At the time of the filing of Bankruptcy Case No. 16-10623, Whirlwind was the owner of the following real estate, (herein referred to as the “*Whirlwind Real Estate*”):

All of Section (7), Township Twenty-six (26) South, Range Forty (40) West of the Sixth Principal Meridian, Hamilton County, Kansas; and,

Lot Five (5) and the East Half of the Southwest Quarter (E/2 SW/4) of Section Six (6), Township Twenty-six (26) South, Range Forty (40) West of the Sixth Principal Meridian, Hamilton County, Kansas.

(b) Upon the commencement of Bankruptcy Case No. 16-10623, the Whirlwind Real Estate became property of the bankruptcy estate in Bankruptcy Case No. 16-10623.

(c) None of the Whirlwind Real Estate can be claimed as exempt by Whirlwind or by any other person under federal or state law.

(d) No trustee other than the United States Trustee has been appointed in Bankruptcy Case No. 16-10623 and Whirlwind has continued in possession of its property and is operating its business as the debtor in possession in Bankruptcy Case No. 16-10623 in accordance with Sections 1107 and 1108 of the Bankruptcy Code.

3. On April 12, 2016, Mariah Farms, Inc., (herein referred to as “*Mariah*”), filed a

voluntary petition for relief pursuant to Chapter 11 of the Bankruptcy Code, thereby commencing Bankruptcy Case No. 16-10622 before the United States Bankruptcy Court for the District of Kansas, located in Wichita, Kansas.

(a) Mariah neither holds nor claims any interest in, to, or upon any of the Lampe Real Estate or any of the Whirlwind Real Estate.

4. At the time of the filing of Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623, and each of such bankruptcy cases:

- (a) Lampe owned all of the issued and outstanding stock of Mariah; and,
- (b) Lampe also owned all of the issued and outstanding stock of Whirlwind.

Accordingly, Lampe, Mariah, and Whirlwind are “affiliates” within the meaning of section 101(2) of the Bankruptcy Code.

5. On June 9, 2016, proper orders were entered in Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623:

- (a) Providing for the joint administration of Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623 for procedural purposes only;
- (b) Designating Bankruptcy Case No. 16-10621 as the lead case;
- (c) Ordering that all pleadings relating to Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and/or Bankruptcy Case No. 16-10623 be filed in

Bankruptcy Case No. 16-10621;

(d) Directing the use of a single docket in Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623; and,

(e) Combining all notices, hearings, financial reporting, and the joint handling of all other administrative matters in Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623.

6. On November 29, 2016, Lampe, Mariah, and Whirlwind filed in Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623, the *First Amended Combined Chapter 11 Plan of Reorganization Dated November 29, 2016*, (herein referred to as the “*First Amended Plan*”), and the *First Amended Combined Disclosure Statement dated November 29, 2016*, (herein referred to as the “*First Amended Disclosure Statement*”).

7. No plan has been confirmed in Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, or Bankruptcy Case No. 16-10623.

8. Lampe and Whirlwind desire to sell the Lampe Real Estate and the Whirlwind Real Estate free and clear of all security interests, mortgages, liens, encumbrances, and adverse interests whatsoever, EXCEPT AND SUBJECT TO any and all prior mineral leases and mineral reservations of record, if any, and FURTHER EXCEPT AND SUBJECT TO any and all prior highway deeds, easements, rights-of-way, reservations, and restrictions of record, if any, and in accordance with the terms and conditions set forth in the *Sale Contract*.

9. As part of this motion, Lampe and Whirlwind specifically request that the Court waive the stay provided for by FED. R. BANKR. P. 6004(h) so that the private sale described in this motion can close as soon as possible after the Court enters its order on this motion.

10. Lampe and Whirlwind have come to the decision that they should sell the Lampe Real Estate and the Whirlwind Real Estate under the terms and conditions of the *Sale Contract* which will reduce the amount of indebtedness which Lampe, Mariah, and Whirlwind must reorganize in Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623.

11. Subject to the approval of the Court, Lampe, Whirlwind, and The Farmers Bank of Osborne, Kansas, a creditor of Lampe, Mariah, and Whirlwind, and each of them, in Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623, (herein referred to as “*Farmers Bank*”), have entered into the *Sales Contract* which contains all of the terms and conditions of the proposed private sale of the Lampe Real Estate and the Whirlwind Real Estate. The *Sales Contract* specifically provides that the *Sales Contract* and the sale and purchase evidenced thereby shall be subject to the final approval of the Bankruptcy Court which, under the joint administration of Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623 ordered by the Bankruptcy Court, shall be evidenced by the Bankruptcy Court’s order entered in Bankruptcy Case No. 16-10621, before it shall become finally binding.

12. The abstract company and the closing agent for the sale of the Lampe Real Estate and

the Whirlwind Real Estate under the *Sales Contract* is Frazee Abstract & Title, Inc., 301 North Main Street, Syracuse, Kansas 67878, (herein referred to as the “*Closing Agent*”).

13. Based upon the proofs of claim filed in Bankruptcy Case No. 16-10621, Bankruptcy Case No. 16-10622, and Bankruptcy Case No. 16-10623; the *First Amended Plan*; and, the commitments for title insurance, copies of which are attached to this motion collectively as Exhibit “2,” and incorporated herein by this reference, (herein referred to as the “*Title Insurance Commitments*”):

(a) It appears that the only creditors or interested parties which hold or may claim any security interests, mortgages, liens, encumbrances, and adverse interests whatsoever in, to, or upon any or all of the Lampe Real Estate which are not excepted from the transfer requirements set forth in the *Sale Contract* are as follows:

(i) Hamilton County Treasurer, PO Box 1167, Syracuse KS 67878-1167, (herein referred to as “*HCT*”), holds first and prior liens in the Lampe Real Estate securing the claims of HCT for any and all real estate taxes and assessments for the year of 2016 which have been levied and assessed against the Lampe Real Estate, or any part thereof, and which have not yet been paid plus any and all real estate taxes and assessments for the year of 2017 which have not yet been levied, assessed, or paid with regard to the Lampe Real Estate, or any part thereof. Under this motion and under the *Sales Contract*, Lampe intends that such unpaid real estate taxes and

assessments for the year of 2016 are to be paid as part of the Closing Costs under this motion and Lampe intends that such real estate taxes and assessments for the year of 2017 which have not yet been levied, assessed, or paid are to be prorated between Lampe and Farmers Bank, as of the Closing Date specified in the *Sales Contract* and paid as part of the Closing Costs under this motion.

(ii) Farmers Bank holds liens in the Lampe Real Estate as follows:

(1) A mortgage dated December 11, 2015, from Lampe, a single person, and Whirlwind in favor of Farmers Bank filed in the Office of the Register of Deeds, Hamilton County, Kansas, recorded on December 18, 2015, at 10:02 AM in Book 176 at Page 9 in the amount of \$500,000.00;

(2) A mortgage dated December 11, 2015, from Lampe, a single person, in favor of Farmers Bank filed in the Office of the Register of Deeds, Hamilton County, Kansas, recorded on December 18, 2015, at 10:00 AM in Book 176 at Page 8 in the amount of \$1,408,250.00; and,

(3) A mortgage dated July 22, 2011, from Lampe, a single person, and Whirlwind in favor of Farmers Bank filed in the Office of the Register of Deeds, Hamilton County, Kansas, recorded on July 29, 2011, at 1:00 PM in Book 156 at Page 133 in the amount of \$1,362,000.00.

Under this motion and under the *Sales Contract*, Lampe intends that all of the Net

Proceeds arising from the sale of the Lampe Real Estate shall be applied to the obligations secured by the foregoing mortgages in favor of Farmers Bank and that the sale of the Lampe Real Estate to Farmers Bank shall be free and clear of all of the foregoing mortgages in favor of Farmers Bank.

(iii) Kuhn Harvesting, L.L.C., 1993 Road 130, Lakin, Kansas 67860, (herein referred to as “*Kuhn Harvesting*”), filed the following liens:

(1) *A Lien Statement for Harvesting and Threshing Pursuant to K.S.A. 58-203 et seq.*, dated November 15, 2016, against Lampe and Mariah in favor of Kuhn Harvesting filed and recorded in the Office of the Register of Deeds, Hamilton County, Kansas, on November 15, 2016, at 10:30 AM in UCC Book #16 at Page 16 LN in the amount of \$55,956.15 for the harvesting of milo/sorghum which has been paid in full by Lampe and Mariah; and,

(2) *A Lien Statement for Harvesting and Threshing Pursuant to K.S.A. 58-203 et seq.*, dated November 15, 2016, against Lampe in favor of Kuhn Harvesting filed and recorded in the Office of the Register of Deeds, Hamilton County, Kansas, on November 15, 2016, at 10:37 AM in UCC Book #16 at Page 17 LN in the amount of \$4,175.32 for the harvesting of milo/sorghum which has been paid in full by Lampe.

Under this motion and under the *Sales Contract*, Lampe intends that *none* of the Net Proceeds arising from the sale of the Lampe Real Estate shall be applied to the foregoing harvesting/threshing liens in favor of Kuhn Harvesting because the obligations arising thereunder have been paid in full and that the sale of the Lampe Real Estate to Farmers Bank shall be free and clear of all of the harvesting/threshing liens in favor of Kuhn Harvesting.

(b) It appears that the only creditors or interested parties which hold or may claim any security interests, mortgages, liens, encumbrances, and adverse interests whatsoever in, to, or upon any or all of the Whirlwind Real Estate which are not excepted from the transfer requirements set forth in the *Sale Contract* are as follows:

(i) HCT holds first and prior liens in the Whirlwind Real Estate securing the claims of HCT for any and all real estate taxes and assessments for the year of 2016 which have been levied and assessed against the Whirlwind Real Estate, or any part thereof, and which have not yet been paid plus any and all real estate taxes and assessments for the year of 2017 which have not yet been levied, assessed, or paid with regard to the Whirlwind Real Estate, or any part thereof. Under this motion and under the *Sales Contract*, Whirlwind intends that such unpaid real estate taxes and assessments for the year of 2016 are to be paid as part of the Closing Costs under this motion and Whirlwind intends that such real estate taxes and assessments for the

year of 2017 which have not yet been levied, assessed, or paid are to be prorated between Whirlwind and Farmers Bank, as of the Closing Date specified in the *Sales Contract* and paid as part of the Closing Costs under this motion.

(ii) Farmers Bank holds liens in the Whirlwind Real Estate as follows:

(1) A mortgage dated December 11, 2015, from Lampe, a single person, and Whirlwind in favor of Farmers Bank filed in the Office of the Register of Deeds, Hamilton County, Kansas, recorded on December 18, 2015, at 10:02 AM in Book 176 at Page 9 in the amount of \$500,000.00;

(2) A mortgage dated December 11, 2015, from Lampe, a single person, in favor of Farmers Bank filed in the Office of the Register of Deeds, Hamilton County, Kansas, recorded on December 18, 2015, at 10:00 AM in Book 176 at Page 8 in the amount of \$1,408,250.00; and,

(3) A mortgage dated July 22, 2011, from Lampe, a single person, and Whirlwind in favor of Farmers Bank filed in the Office of the Register of Deeds, Hamilton County, Kansas, recorded on July 29, 2011, at 1:00 PM in Book 156 at Page 133 in the amount of \$1,362,000.00.

Under this motion and under the *Sales Contract*, Whirlwind intends that all of the Net Proceeds arising from the sale of the Whirlwind Real Estate shall be applied to the obligations secured by the foregoing mortgages in favor of Farmers Bank and that

the sale of the Whirlwind Real Estate to Farmers Bank shall be free and clear of all of the foregoing mortgages in favor of Farmers Bank.

14. Other than the security interests, mortgages, liens, encumbrances, and adverse interests hereinbefore specifically described in this motion, Lampe and Whirlwind are aware of no other creditors or interested parties which hold or may claim any security interests, mortgages, liens, encumbrances, and adverse interests whatsoever in, to, or upon any or all of the Lampe Real Estate and/or the Whirlwind Real Estate which are not excepted from the transfer requirements set forth in the *Sale Contract*.

15. The closing of the sale described in this motion shall be handled in the following manner:

(a) The sale of the Lampe Real Estate and of the Whirlwind Real Estate to Farmers Bank must be free and clear of all security interests, mortgages, liens, encumbrances, and adverse interests whatsoever, EXCEPT AND SUBJECT TO any and all prior mineral leases and mineral reservations of record, if any, and FURTHER EXCEPT AND SUBJECT TO any and all prior highway deeds, easements, rights-of-way, reservations, and restrictions of record, if any;

(b) All Closing Costs shall be paid to the Closing Agent by Farmers Bank as part of the total purchase price under the *Sale Contract*;

(c) All of the Closing Costs for which Lampe and Whirlwind, or either of them,

are responsible under the *Sale Contract* shall be deducted from the total purchase price under the *Sale Contract* and treated as part of Lampe and Whirlwind’s Closing Costs under the *Sale Contract*; and,

(d) All of the Net Proceeds arising from the sale of the Lampe Real Estate and from the sale of the Whirlwind Real Estate shall be applied or credited by Farmers Bank to the obligations secured by the mortgages in favor of Farmers Bank described and referred to in Paragraph 13 of this motion and the sales of the Lampe Real Estate and of the Whirlwind Real Estate to Farmers Bank shall be free and clear of all of such mortgages in favor of Farmers Bank.

16. For purposes of this motion, the following terms shall have the following meanings:

(a) “**Closing costs**” shall mean the costs and expenses of the closing of the private sale of the Lampe Real Estate and of the Whirlwind Real Estate described herein including the following: (i) The Closing Agent’s settlement or closing fee; (ii) The title insurance premium; (iii) The cost of filing any documents with the Office of the Hamilton County Register of Deeds; (iv) The claims of HCT for any and all real estate taxes and assessments for the year of 2016 which have been levied and assessed against the Lampe Real Estate and the Whirlwind Real Estate, or any part thereof, and which have not yet been paid; and, (v) The pro-rata share of the estimated real estate taxes and assessments for the year of 2017 associated with the Lampe Real Estate and the Whirlwind Real Estate, or any

part thereof, for the period commencing on January 1, 2017, and ending on the date of the closing of the sale of the Lampe Real Estate and the Whirlwind Real Estate under the *Sale Contract*. Specifically excluded from the definition of “Closing Costs” are any of the attorney fees and expenses of Lampe, Mariah, and Whirlwind associated with the above-captioned bankruptcy cases.

(b) “**Net proceeds**” shall mean that portion of the gross proceeds remaining after the deduction of Lampe and Whirlwind’s shares of all Closing Costs of such private sale.

17. Upon the Court’s entry of the order upon this motion, and without the need to obtain any further orders from the Court, Lampe, Whirlwind, Farmers Bank, and the Closing Agent, and each of them, shall be immediately proceed with the closing of such private sale of the Lampe Real Estate and of the Whirlwind Real Estate as described in this motion.

18. The Closing Agent for such private sale shall give to Lampe, Whirlwind, Farmers Bank, and the United States Trustee a full accounting of the gross proceeds arising from the private sale of the Lampe Real Estate and the Whirlwind Real Estate described in this motion and of all Closing Costs paid therefrom as soon as is reasonably possible after the closing of such private sale has been completed.

WHEREFORE, Lampe and Whirlwind, and each of them, respectfully request that the Court enter an order:

(A) Authorizing and approving the sale by Lampe and Whirlwind of the Lampe Real

Estate and the Whirlwind Real Estate under the terms and conditions set forth in this motion and in the *Sale Contract*, free and clear of all security interests, mortgages, liens, encumbrances, and adverse interests whatsoever, EXCEPT AND SUBJECT TO any and all prior mineral leases and mineral reservations of record, if any, and FURTHER EXCEPT AND SUBJECT TO any and all prior highway deeds, easements, rights-of-way, reservations, and restrictions of record, if any, and in accordance with the terms and conditions set forth in the *Sale Contract*;

(B) Authorizing and approving the manner of closing such private sale as hereinbefore set forth;

(C) Waiving the stay provided for by FED. R. BANKR. P. 6004(h) so that such private sale can close as soon as possible after the Court enters its order herein on this motion;

(D) Directing the Closing Agent for such private sale to give to Lampe, Whirlwind, Farmers Bank, and the United States Trustee a full accounting of the gross proceeds arising from the private sale of the Lampe Real Estate and the Whirlwind Real Estate described in this motion and of all Closing Costs paid therefrom as soon as is reasonably possible after the closing of such private sale has been completed; and,

(E) Granting Lampe and Whirlwind, or either of them, such further and additional relief as the Court deems just and equitable.

United States Bankruptcy Court for the District of Kansas

Robert Thomas Lampe, Debtor Case No. 16-10621-11

Mariah Farms, Inc., Debtor Case No. 16-10622-11

Whirlwind Farms, Inc., Debtor Case No. 16-10623-11

MOTION FOR AUTHORITY AND APPROVAL TO SELL REAL ESTATE OF THE BANKRUPTCY ESTATES IN BANKRUPTCY CASE NOS. 16-10621 AND 16-10623 UNDER PRIVATE CONTRACT, FREE AND CLEAR OF ALL SECURITY INTERESTS, MORTGAGES, LIENS, ENCUMBRANCES, AND ADVERSE INTERESTS WHATSOEVER EXCEPT AS HEREIN PROVIDED (Sale

No. 2)

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Dated this 28th day of March, 2017.

s/ David R. Klaassen

David R. Klaassen

Kansas Supreme Court #11738

Attorney at Law

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Marquette, Kansas 67464

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Attorney for Robert Thomas Lampe and

Whirlwind Farms, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2017, I electronically filed the following document(s) with the Clerk of the United States Bankruptcy Court:

1. *Motion for Authority and Approval to Sell Real Estate of the Bankruptcy Estates in Bankruptcy Case Nos. 16-10621 and 16-10623 under Private Contract, Free and Clear of All Security Interests, Mortgages, Liens, Encumbrances, and Adverse Interests Whatsoever Except as Herein Provided (Sale No. 2).*

The CM/ECF system will send a notice of electronic filing of the foregoing document(s) to all parties registered to receive CM/ECF notification from the Court, and a true and correct copy of such pleading was mailed by United States mail, first class postage prepaid, addressed to the following person(s):

None.

s/ David R. Klaassen

David R. Klaassen

AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

| | Name of Sellers | Address of Sellers |
|-----------------|---|---|
| SELLERS: | <p>Robert Thomas Lampe, individually and as the debtor and the debtor in possession for the bankruptcy estate of the Chapter 11 bankruptcy proceedings filed in Bankruptcy Case No. 16-10621, (herein referred to as "<i>Bankruptcy Case No. 16-10621</i>"), captioned <i>In re: Robert Thomas Lampe, Debtor</i>, currently pending in the United States Bankruptcy Court for the District of Kansas, located in Wichita, Kansas, (sometimes separately herein referred to as "<i>Lampe</i>"); and,</p> <p>Whirlwind Farms, Inc., as a Kansas corporation and as the debtor and the debtor in possession for the bankruptcy estate of the Chapter 11 bankruptcy proceedings filed in Bankruptcy Case No. 16-10623, (herein referred to as "<i>Bankruptcy Case No. 16-10623</i>"), captioned <i>In re: Whirlwind Farms, Inc., Debtor</i>, currently pending in the United States Bankruptcy Court for the District of Kansas, located in Wichita, Kansas, (sometimes separately herein referred to as "<i>Whirlwind</i>").</p> | <p>6301 SE CR 31 Kendall, Kansas 67857</p> |
| | Name of Buyer | Address of Buyer |
| BUYER: | The Farmers Bank of Osborne, Kansas | <p>102 W. Main Street Osborne, Kansas 67473</p> |

REAL ESTATE SUBJECT TO THIS AGREEMENT:

The description of the specific real estate covered by this agreement is set forth in Exhibit "A" which is attached hereto and incorporated herein by this reference, (herein referred to as the "*Subject Real Estate*").

1. **SALE, PURCHASE AND PRICE.** Sellers, and each of them, agree to sell to Buyer and Buyer agrees to purchase from Sellers the Subject Real Estate for a total purchase price of \$1,260,000.00, which shall be paid in full by Buyer to Sellers on the Closing Date hereinafter specified by the means of Buyer making one or more credits, the sum of which shall total said \$1,260,000.00, to the principal and interest then owed by Sellers to Buyer under one or more loans which are secured by one or more mortgage liens upon the Subject Real Estate, or any part thereof.

2. **DEED.** Sellers, and each of them, shall convey title to the Subject Real Estate to Buyer by means of the following deeds to be delivered by Sellers, and each of them, to Buyer on the date upon which Buyer has completed paying to Sellers the total purchase price described and referred to in Paragraph 1 of this agreement:
 - (a) A duly executed and acknowledged *Deed of Debtor in Possession* from Lampe, as the debtor in possession in Bankruptcy Case No. 16-10621, to Buyer covering that portion of the Subject Real Estate which is the property of the bankruptcy estate in Bankruptcy Case No. 16-10621 which deed shall be in a form acceptable to Buyer; and,

- (b) A duly executed and acknowledged *Deed of Debtor in Possession* from Whirlwind, as the debtor in possession in Bankruptcy Case No. 16-10623, to Buyer covering that portion of the Subject Real Estate which is the property of the bankruptcy estate in Bankruptcy Case No. 16-10623 which deed shall be in a form acceptable to Buyer; and,
 - (c) A duly executed and acknowledged *Quitclaim Deed* from Lampe personally to Buyer covering that portion of the Subject Real Estate which was owned by Lampe immediately prior to the filing of Bankruptcy Case No. 16-10621 which deed shall be in a form acceptable to Buyer; and,
 - (d) A duly executed and acknowledged *Quitclaim Deed* from Whirlwind corporately to Buyer covering that portion of the Subject Real Estate which was owned by Whirlwind immediately prior to the filing of Bankruptcy Case No. 16-10623 which deed shall be in a form acceptable to Buyer.
3. **MARKETABLE TITLE.** Sellers, and each of them, shall provide Buyer with good and marketable title to the Subject Real Estate, free and clear of all security interests, mortgages, liens, encumbrances, and adverse interests whatsoever, EXCEPT AND SUBJECT TO any and all prior mineral leases and mineral reservations of record, if any, and FURTHER EXCEPT AND SUBJECT TO any and all prior highway deeds, easements, rights-of-way, reservations, and restrictions of record, if any. Buyer agrees that Buyer shall obtain its own commitment for the issuance of an owner's policy of title insurance covering the Subject Real Estate, showing marketable fee simple title vested in Sellers, or either of them, as of the date of such commitment, free and clear of all security interests, mortgages, liens, encumbrances, and adverse interests whatsoever, EXCEPT AND SUBJECT TO any and all prior mineral leases and mineral reservations of record, if any, and FURTHER EXCEPT AND SUBJECT TO any and all prior highway deeds, easements, rights-of-way, reservations, and restrictions of record, if any, and shall provide Sellers with a copy of said commitment. Buyer shall have a reasonable time after obtaining said commitment in which to cause the same to be examined by its attorneys and shall immediately notify Sellers of any defects rendering title to the Subject Real Estate, or any part thereof, not to be in accordance with the terms of this agreement. Such defects, if any, shall be remedied by Sellers at their sole cost and expense within a reasonable time.
- The cost of any such commitment and of such title insurance policy shall be paid totally by Buyer.
4. **TAXES.** All real estate taxes and assessments levied and assessed against the Subject Real Estate, or any part thereof, for the year of 2016 and all years prior to 2016 shall be paid by Sellers. All real estate taxes and assessments levied and assessed against the Subject Real Estate, or any part thereof, for the year of 2017 shall be pro-rated between Sellers and Buyer through the Closing Date hereinafter specified. All real estate taxes and assessments levied and assessed against the Subject Real Estate, or any part thereof, for the year of 2018 and all years thereafter shall be paid by Buyer.
5. **SELLERS' EXPENSES OF SALE.** All of the costs and expenses for which the Sellers are

responsible under this agreement shall be deducted from the total purchase price described and referred to in Paragraph 1 of this agreement and treated as part of the Sellers' closing costs hereunder.

6. **POSSESSION.** Possession of the Subject Real Estate shall be transferred from Sellers to Buyer on the Closing Date hereinafter specified subject to the following:

- (a) Sellers and Buyer, and each of them, agree that Sellers, and each of them, shall have until May 1, 2017, to remove from the Subject Real Estate, or any part thereof, the bales of alfalfa hay owned by Sellers, or either of them, which are presently located and/or stacked thereon: PROVIDED THAT in the event Sellers fail to remove all or part of such bales of alfalfa hay from the Subject Real Estate by no later than such date, the bales of alfalfa hay which have not been removed shall be deemed to have been abandoned by Sellers.
- (b) Sellers and Buyer, and each of them, agree that ownership of the alfalfa presently growing on part of the Subject Real Estate shall pass to Buyer with the title to that part of the Subject Real Estate upon which such alfalfa is growing.
- (c) It is understood and agreed by and between Sellers and Buyer that there are no other growing crops presently located on the Subject Real Estate, or any part thereof.

7. **INCOME FROM SUBJECT REAL ESTATE.** Sellers and Buyer further agree as follows:

- (a) Sellers shall receive and retain as their sole and absolute property any and all crops which Sellers, or either of them, produced and harvested from the Subject Real Estate, or any part thereof, in the year of 2016 and all years prior thereto, together with any and all government benefits, payments, and/or entitlements relating to such crops regardless when such government benefits, payments, and/or entitlements are actually paid or received, and all right, title, and interest in and to any crop insurance contracts relating to any and all of such crops; and,
- (b) After the transfer of possession of the Subject Real Estate from Sellers to Buyer, all other income thereafter arising from the Subject Real Estate, or any part thereof, to which Sellers would have been entitled and which is received on or after the transfer of possession of the Subject Real Estate from Sellers to Buyer shall be the sole and absolute property of Buyer.

8. **RISK OF LOSS.** Sellers shall bear all risks of loss with regard to the Subject Real Estate, or any part thereof, until possession of the Subject Real Estate has been transferred from Sellers to Buyer as provided herein. Thereafter all risks of loss with regard to the Subject Real Estate, or any part thereof, shall be borne by Buyer.

9. **REPRESENTATIONS AND WARRANTIES.** Each person who executes this agreement hereby represents and warrants to all of the other persons executing this agreement as follows:

Agreement for Sale and Purchase of Real Estate

Parties Robert Thomas Lampe, individually and as the debtor and the debtor in possession for the bankruptcy estate in Bankruptcy Case No. 16-10621, and Whirlwind Farms, Inc., as a Kansas corporation and as the debtor and the debtor in possession for the bankruptcy estate in Bankruptcy Case No. 16-10623, as Sellers; and, The Farmers Bank of Osborne, Kansas, as Buyer

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- (a) That no real estate commission or other sales commission of any kind has been earned or shall be payable in connection with this transaction;
 - (b) That such person is competent and under no legal disability on the date upon which such person executes this agreement;
 - (c) That such person is entering into this agreement by his or her own voluntary act and not by reason of duress or any other coercion which would otherwise render this agreement legally unenforceable;
 - (d) That such person has read and fully understands all of the terms and conditions set forth in this agreement;
 - (e) That such person has consulted with his or her own legal counsel concerning the legal consequences of entering into this agreement; and,
 - (f) If such person is an agent or representative for any of the parties hereto, that such person has full power and authority to execute this agreement on behalf of such party.
10. **COOPERATION.** At any time after the execution of this agreement by all of the parties hereto and as a continuing obligation hereunder:
- (a) Sellers, and each of them, agree to execute such additional documentation as may be required by Buyer to facilitate and evidence the transactions contemplated hereunder; and,
 - (b) Buyer agrees to execute such additional documentation as may be required by Sellers, or either of them, to facilitate and evidence the transactions contemplated hereunder.
11. **CLOSING DATE.** The Closing Date for this transaction shall be the date upon which the Bankruptcy Court enters its order in Bankruptcy Case No. 16-10621 approving this agreement and the sale and purchase evidenced herein or such other date as may be mutually agreed upon by Sellers and Buyer.
12. **CLOSING AGENT.** The Closing Agent under this agreement shall be such person as is designated by Buyer in Buyer's sole discretion. Any closing fees and expenses charged by the Closing Agent shall be paid by Buyer: PROVIDED THAT Sellers and Buyer shall each be responsible for the payment of their own attorney's fees and expenses which are incurred and in any way related to the sale and purchase evidenced by this agreement.
13. **DEFAULT AND REMEDIES.** It is further agreed by the parties hereto that:
- (a) Should Sellers, or either of them, fail, neglect or refuse to perform any obligation under this agreement, Buyer may either (i) rescind this agreement, or (ii) bring an action for the specific performance of this agreement.

- (b) Should Buyer default in any payment herein provided, or otherwise fail, neglect or refuse to perform any obligation under this agreement, Sellers, or either of them, may either (i) rescind this agreement, or (ii) declare the entire amount of the unpaid purchase price immediately due and payable and bring an action on this agreement for such balance due from Buyer to Sellers.

In addition to the remedies described in this paragraph, the parties hereto shall be entitled to all other remedies provided by law upon any default under this agreement.

14. **NONWAIVER.** Waiver by any party to this agreement of any breach of any covenant or duty of any other party to this agreement shall not be construed as a waiver of a breach of any other covenant or duty also owed by such other party hereunder, nor shall it constitute a waiver of any subsequent breach of the same covenant or duty by such other party.
15. **TIME.** It is agreed that time is of the essence in this agreement.
16. **COUNTERPARTS.** This agreement may be executed in one or more counterparts, none of which need contain the signatures of all parties hereto, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. It shall not be necessary in making proof of this agreement to produce or account for more than the number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.
17. **EXECUTION OF THIS AGREEMENT.** Each of the parties to this agreement hereby agrees that such party shall be bound to the terms and conditions of this agreement immediately upon the execution of a copy of this agreement and the transmission by facsimile, e-mail, or otherwise of such executed copy to any of the other parties to this agreement, or to a representative of any of the other parties to this agreement: PROVIDED THAT this agreement and the sale and purchase evidenced herein shall be subject to the final approval of the Bankruptcy Court in Bankruptcy Case No. 16-10621 before it shall become finally binding. However, in addition thereto, any party executing a copy of this agreement and sending by facsimile, e-mail, or otherwise such executed copy to the other parties to this agreement hereby further agrees that, if any party hereto so requests, such party will also execute the necessary originals of this agreement and return such executed originals to the other party hereto as soon as is reasonably possible after such request is made.
18. **SURVIVAL.** All of the respective rights, obligations, representations, and warranties of the parties set forth in this agreement shall survive the closing of this transaction.
19. **SEVERABILITY.** If any provision of this agreement shall be held by a court of competent jurisdiction to be illegal, void, or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon and shall not impair the enforceability of any other provision hereof.
20. **ENTIRE AGREEMENT.** This written agreement constitutes the entire agreement and understanding between the parties with regard to the matters set forth herein and supersedes all prior negotiations, agreements and understandings relating to the subject matter hereof.

Agreement for Sale and Purchase of Real Estate

Parties Robert Thomas Lampe, individually and as the debtor and the debtor in possession for the bankruptcy estate in Bankruptcy Case No. 16-10621, and Whirlwind Farms, Inc., as a Kansas corporation and as the debtor and the debtor in possession for the bankruptcy estate in Bankruptcy Case No. 16-10623, as Sellers; and, The Farmers Bank of Osborne, Kansas, as Buyer

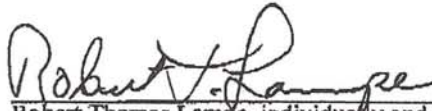
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- 21. **MODIFICATION OR AMENDMENT.** This agreement may be modified or amended only by an instrument in writing executed by all of the parties hereto.
- 22. **NON-ASSIGNMENT.** No party to this agreement may assign this agreement without obtaining the prior written consent of the other parties to this agreement.
- 23. **BINDING EFFECT.** This agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, devisees, legatees, successors, and assigns.
- 24. **GOVERNING LAW.** This agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

IN WITNESS WHEREOF, the person listed below has hereunto set his hand on the date shown below.

Lampe:

3-22-17
Date



Robert Thomas Lampe, individually and as the debtor and the debtor in possession for the bankruptcy estate in Bankruptcy Case No. 16-10621

Acknowledgment

STATE OF KANSAS)
COUNTY OF Hamilton) ss:

The above instrument of writing was acknowledged before me on this 22 day of March, 2017, by Robert Thomas Lampe, a single person, individually and as the debtor and the debtor in possession for the bankruptcy estate of the Chapter 11 bankruptcy proceedings filed in Bankruptcy Case No. 16-10621, captioned *In re: Robert Thomas Lampe, Debtor*, currently pending in the United States Bankruptcy Court for the District of Kansas, located in Wichita, Kansas.

SUSAN HOWELL
Notary Public - State of Kansas
My Appt. Expires 1-26-19


Notary Public

My Commission Expires:

IN WITNESS WHEREOF, the person listed below has hereunto set his hand on the date
shown below.

Whirlwind:

Whirlwind Farms, Inc., as a Kansas corporation and as the
debtor and the debtor in possession for the bankruptcy estate
in Bankruptcy Case No. 16-10623

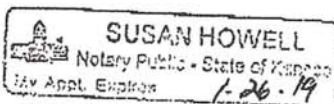
3-22-17
Date

BY: Robert Thomas Lampe
Robert Thomas Lampe, President

Acknowledgment

STATE OF KANSAS)
COUNTY OF Hamilton) ss:

The above instrument of writing was acknowledged before me on this 22 day of March, 2017, by Robert Thomas Lampe, as the President of Whirlwind Farms, Inc., as a Kansas corporation and as the debtor and the debtor in possession for the bankruptcy estate of the Chapter 11 bankruptcy proceedings filed in Bankruptcy Case No. 16-10623 captioned *In re: Whirlwind Farms, Inc., Debtor*, currently pending in the United States Bankruptcy Court for the District of Kansas, located in Wichita, Kansas.



Susan Howell
Notary Public

My Commission Expires:

Agreement for Sale and Purchase of Real Estate

Parties Robert Thomas Lampe, individually and as the debtor and the debtor in possession for the bankruptcy estate in Bankruptcy Case No. 16-10621, and Whirlwind Farms, Inc., as a Kansas corporation and as the debtor and the debtor in possession for the bankruptcy estate in Bankruptcy Case No. 16-10623, as Sellers; and, The Farmers Bank of Osborne, Kansas, as Buyer

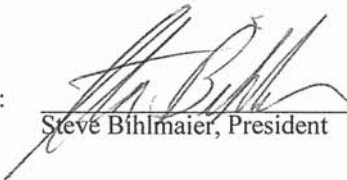
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IN WITNESS WHEREOF, the person listed below has hereunto set his hand on the date shown below.

Buyer:

The Farmers Bank of Osborne, Kansas

3/15/2017
Date

BY: 
Steve Bihlmaier, President

Acknowledgment

STATE OF KANSAS)
) ss:
COUNTY OF Osborne)

The above instrument of writing was acknowledged before me on this 15th day of March, 2017, by Steve Bihlmaier, as the President of The Farmers Bank of Osborne, Kansas.




Notary Public

My Commission Expires: 03-12-2019

EXHIBIT "A"

The real estate which is the subject of the agreement to which this Exhibit "A" is attached is the following described real estate:

All of Section (7), Township Twenty-six (26) South, Range Forty (40) West of the Sixth Principal Meridian, Hamilton County, Kansas;

Lot Five (5) and the East Half of the Southwest Quarter (E/2 SW/4) of Section Six (6), Township Twenty-six (26) South, Range Forty (40) West of the Sixth Principal Meridian, Hamilton County, Kansas;

The North Half (N/2) and the Southwest Quarter (SW/4) of Section Six (6), Township Twenty-six (26) South, Range Thirty-nine (39) West of the Sixth Principal Meridian, Hamilton County, Kansas; and,

The Southeast Quarter of Section Thirteen (13), Township Twenty-six (26) South, Range Forty-one (41) West of the Sixth Principal Meridian, Hamilton County, Kansas;

together with all improvements located thereon and appurtenances thereto, ***EXCEPT AND SUBJECT TO*** any and all prior mineral leases and mineral reservations of record, if any, and ***FURTHER EXCEPT AND SUBJECT TO*** any and all prior highway deeds, easements, rights-of-way, reservations, and restrictions of record, if any.