

EXHIBIT 1

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("**Agreement**") is made and entered into this 13th day of August, 2020 ("**Effective Date**"), by and between CARIBOU INDUSTRIES, INC., a Nevada corporation ("**Buyer**"), and the CITY OF SANTA ANA, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("**Seller**" or "**City**"). As used herein, Buyer and Seller may be referred to collectively as the "**Parties**," and each individually as a "**Party**."

RECITALS

A. Seller is the fee simple owner of that certain real property consisting of approximately 1.01 acres, located at 205 West Civic Center Drive, Santa Ana, California legally described in Exhibit "A" attached to this Agreement and incorporated into this Agreement in its entirety by this reference, as well as the driveway lot at the corner of Sycamore and Civic Center Drive, depicted in the map attached hereto as Exhibit "A-1" ("**Driveway Lot**") and incorporated herein by reference (collectively, the "**Property**"). As of the Effective Date, the Driveway Lot is not a separately conveyable legal parcel and the Seller shall take all necessary actions to make the Property a separately conveyable legal parcel prior to the Closing.

B. On March 3, 2020, the Santa Ana City Council adopted Resolution No. 2020-014 declaring the Property as surplus land and directed the City Manager to comply with the requirements of Government Code Section 54220 for the sale of surplus land.

C. On March 9, 2020, the City released a Notice of Availability ("**NOA**") of surplus property for the Property for a period of sixty (60) days. This NOA was sent out to all "**local public entities**," as defined in Health and Safety Code section 50079, within whose jurisdiction the surplus land is located and to "**Housing Sponsors**" that have notified the California Department of Housing and Community Development ("**HCD**") of their interest in surplus land. This NOA was also sent to local parks agencies and school districts.

D. On May 11, 2020, the City received one notification of interest to the NOA from Innovative Housing Opportunities/Western Pacific Housing ("**Innovative Housing**") to develop affordable housing at the Property. The City then entered good faith negotiations with Innovative Housing.

E. On June 22, 2020, the City received notice from Innovative Housing that due to the complexity of the project, its need for City funding, and the lack of parking, they would no longer pursue the development of the Property, and rescinded its proposal. Negotiations ended, and with no other proposals, the City has completed all Surplus Land Act requirements.

F. Seller now desires to sell the Property to Buyer, and Buyer desires to purchase the Property from Seller in accordance with the provisions of this Agreement at fair market value for the development of a hotel project and related uses ("**Project**"), subject to City approval under proper permits.

G. The Property is in need of exterior Remediation Work as more fully defined in Section 5.1 below.

H. As consideration for the sale, Buyer shall complete the Remediation Work within one-hundred and eighty (180) days of the issuance of building permits and any other permits necessary for said Remediation Work.

I. The development of the Project on the Property will be of benefit to the community by reducing blight, increasing the economic viability of the community, and providing needed commercial services to the City of Santa Ana.

J. Buyer desires to purchase and Seller desires to sell to Buyer the Property, subject to the terms of this Agreement.

AGREEMENT

NOW THEREFORE, incorporating the foregoing Recitals and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Incorporation of Recitals. The recitals of fact set forth above are true and correct and are incorporated into this Agreement in their entirety by this reference.

2. Purchase and Sale; Purchase Price.

2.1 Purchase and Sale. Seller shall sell the Property to Buyer and Buyer shall purchase the Property from Seller subject to the terms and conditions set forth in this Agreement.

2.2 Purchase Price. The purchase price of the Property is Five-Hundred Thousand Dollars (\$500,000.00), which amount was established as the fair market value.

3. Escrow.

3.1 Escrow Instructions. Within seven (7) days following the execution of this Agreement by the Parties, Buyer will open an escrow ("**Escrow**") with First American Title Insurance Company, 18500 Von Karman, Suite 600, Irvine, CA 92612, Attn: Nathan Thompson ("**Escrow Holder**") for the purchase and sale of the Property. The "**Opening of Escrow**" shall mean the date on which a fully executed copy of this Agreement has been delivered to Escrow Holder. Escrow Holder shall confirm the Opening of Escrow to the Parties in writing. This Agreement constitutes joint escrow instructions to Escrow Holder. The Parties agree to execute such additional instructions consistent with the provisions of this Agreement, which may be required by Escrow Holder. As between the Parties, Buyer and Seller agree that, if there is any conflict between the terms of this Agreement and any Escrow Instructions required by Escrow Holder, the terms of this Agreement shall control. Buyer and Seller shall each furnish Escrow Holder with their respective Federal Tax Identification Numbers and such other information as is reasonably required by Escrow Holder.

3.2 Payment of Purchase Price. The Purchase Price for the Property shall be payable at Closing. If Seller has deposited into Escrow all documents and amounts required of Seller to close Escrow, including without limitation, the "**Grant Deed**" (as defined in Section 3.10 below) and complied with all of Seller's other obligations under this Agreement, then on or before the "**Closing Date**" (as defined Section 3.3 below) so as not to delay the "**Close of Escrow**" (as defined Section 3.3 below), Buyer shall deposit into Escrow the following in Acceptable Funds: (a) the balance of the Purchase Price (Purchase Price less any credits to Buyer under this Agreement) and (b) the Escrow closing costs pursuant to the preliminary Escrow Closing statement furnished by Escrow Holder as provided below.

3.3 Close of Escrow. Subject to Sections 3.3.1 and 3.3.2, Escrow for the sale of the Property shall close on a date that is no later than thirty (30) days after the opening of Escrow ("**Closing Date**"), subject to reasonable extension as necessary in order to satisfy the conditions precedent and other requirements for the Close of Escrow. As used in this Agreement, "**Close of Escrow**" shall mean the date on-which the "**Grant Deed**" conveying fee title to the Property to Buyer is recorded in the Orange County Recorder's Office.

3.3.1 Conditions Precedent to Buyer Obligation to Close. Buyer's obligation to close Escrow and purchase the Property is expressly conditioned on the satisfaction of the conditions listed in this Section 3.3.1. If any such condition is not satisfied or waived by Buyer at or prior to the Close of Escrow, for any reason other than a default by Buyer, Buyer may, in its sole discretion and without limiting any of Buyer's legal remedies or remedies under this Agreement, terminate this Agreement by written notice to Seller.

(1) Title Policy. Escrow Holder has issued or is irrevocably committed to issue to Buyer the "**Title Policy**" (as defined in Section 3.6 below) showing fee title vested in Buyer subject only to "**Permitted Exceptions**" (as defined in Section 3.5 below).

(2) Representations and Warranties. Each of Seller's representations and warranties in this Agreement are materially true and accurate as of the Close of Escrow.

(3) Seller Obligations. Seller is not in material default under this Agreement and each material obligation of Seller to be performed prior to the Close of Escrow, has been performed as required, including, without limitation the delivery of all documents required of Seller under this Agreement.

(4) Possession. Seller is able, at the Close of Escrow to deliver exclusive possession of the Property to Buyer in accordance with this Agreement and does so.

(5) Moratoria. There shall be no action taken by any city, county or other public authority or agency ("**Governmental Authority**") or any vote of the citizens of the local jurisdiction (including without limitation any moratoria) that would preclude, prevent, or delay Buyer from obtaining building permits, sewer permits, water permits, certificates of occupancy or other development or occupancy entitlements for the Project to be constructed on the Property ("**Public Development Limitation**"); provided that the Buyer's inability to obtain

approval of entitlements for the Project prior to the Closing Date for reasons other than the occurrence of a Public Development Limitation, shall not be viewed as a failure of this condition.

(6) Legal Subdivision. The Property shall be a legal parcel or parcels under the California Subdivision Map Act that can be transferred by Seller to Buyer.

3.3.2 Conditions Precedent to Seller Obligation to Close. Seller's obligation to close Escrow and sell the Property is expressly conditioned upon the satisfaction of the conditions listed below. If any such condition is not satisfied or waived by Seller prior to the Close of Escrow for any reason other than a default by Seller, Seller may, in its sole discretion and without limiting any of Seller's legal remedies or remedies under this Agreement, terminate this Agreement by written notice to Buyer.

(1) Representations and Warranties. Each of Buyer's representations and warranties set forth in this Agreement are materially true and accurate as of the Close of Escrow.

(2) Buyer's Obligations. Buyer is not in material default under this Agreement, and each material obligation of Buyer to be performed prior to the Close of Escrow hereunder has been performed as required.

(3) [Intentionally Omitted]

3.4 Escrow Cancellation.

3.4.1 Charges.

(1) Seller's Default. If Escrow fails to close due to Seller's default, Seller shall pay all Escrow cancellation charges. "**Escrow cancellation charges**" means all fees, charges and expenses charged or passed on to the Parties by Escrow Holder, including all title expenses. Buyer shall be entitled to terminate this Agreement or bring an action against Seller for specific performance as its sole and exclusive remedies.

(2) Buyer's Default. If Escrow fails to close due to Buyer's default, Buyer shall pay all Escrow cancellation charges and Seller shall be entitled to terminate this Agreement as its sole and exclusive remedy.

(3) No Default. If Escrow fails to close and this Agreement is terminated for any reason other than a default by one of the Parties, Buyer and Seller shall split any Escrow cancellation charges.

3.5 Permitted Exceptions to Title. As soon reasonably possible after the Opening of Escrow, Escrow Holder shall cause First American Title Insurance Company, in its capacity as title insurer ("**Title Company**"), to deliver to Buyer and Seller a current preliminary title report ("**Title Report**") together with legible copies of all underlying documents referenced therein (together with the Title Report, the "**Title Documents**"). The term "**Permitted Exceptions**" as used in this Agreement shall mean all of the following: (a) the Grant Deed; (b) the Hotel Covenant; (c) non-delinquent real property taxes and assessments; (d) items and exceptions

created by or with the written consent of Buyer, including documents to be recorded pursuant to this Agreement, and (e) the title exceptions shown on the Title Report but excluding any (i) "**Disapproved Exceptions**" as defined below that Seller, in its sole discretion, agrees to remove prior to the Close of Escrow as provided below and (ii) all monetary liens and monetary encumbrances on the Property, other than non-delinquent real property taxes and assessments which will be removed (meaning removal from title and not the issuance of an endorsement in connection therewith by the Title Company) from title by Seller at its sole cost and expense prior to the Close of Escrow. If Buyer objects to any title exceptions in its sole and absolute discretion ("**Disapproved Exceptions**") Buyer shall deliver written notice ("**Objection Notice**") of same to Seller within ten (10) business days of delivery of the initial Title Report to Buyer. Seller shall act in good faith and reasonably to resolve any title exception in the Objection Notice. If Buyer fails to deliver an Objection Notice but delivers a "**Notice of Approval**" Buyer shall be deemed to have approved title to the Property subject to the Permitted Exceptions. If Buyer delivers an Objection Notice regarding a title exception and Seller, by delivery of written notice to Buyer within five (5) business days following receipt of the Objection Notice elects not to remove a material Disapproved Exception (Seller's failure to respond to a Buyer Objection Notice shall be deemed such an election) Buyer's sole remedies shall be with respect to the delivery of a Notice of Approval or delivery or deemed delivery of a Notice of Termination.

3.6 Title Insurance. Seller shall cause the Title Company to commit to issue to Buyer at the Close of Escrow a standard coverage ALTA Owner ' s policy of title insurance with mechanics lien endorsement (Seller shall provide, any indemnity or other agreement required by the Title Company as a condition to the issuance of the mechanics lien endorsement) ("**Title Policy**") insuring fee title to the Property vested in Buyer subject only to the Permitted Exceptions, with coverage in an amount equal to the Purchase Price. If Buyer requires an extended coverage ALTA Owners policy of title insurance Buyer shall pay the difference in cost between the standard and extended coverage and the cost of any endorsements (other than a mechanics lien endorsement issued in connection with the standard coverage Title Policy which shall be at the cost of Seller) ("**Buyer Title Costs**"). Seller shall only be responsible for that portion of the cost of the Title Policy equal to the cost of a standard coverage title policy ("**Seller Title Costs**").

3.7 Possession. Seller shall deliver possession of the Property to Buyer at the Close of Escrow subject only to the Permitted Exceptions and free of any tenancies and/or third party claims of use or ownership.

3.8 Taxes, Assessments and Prorations.

3.8.1 Taxes. Only to the extent the Seller pays any property taxes or assessments on the Property, all current general and special taxes and assessments on the Property shall be prorated by Escrow Holder based upon the latest available information as shown in the tax statements provided to Escrow Holder by Seller, using customary escrow procedures in Orange County. Seller shall provide Buyer with written evidence of the payment or satisfaction of such taxes. Should the Property be part of a larger tax parcel ("**Assessment Parcel**") which as of the Close of Escrow remains unsegregated on the County Tax Assessor's Roll for the ensuing fiscal year, Escrow Holder shall charge Buyer and credit Seller for taxes and assessments allocated to the Property (based on unimproved value) based on the percentage of the total acreage of the Assessment Parcel located on the Property, which acreage figures for allocation purposes shall be

fairly and equitably determined and supplied to Escrow Holder by Buyer and Seller. Buyer and Seller shall cooperate in good faith to cause the Property to be separately assessed and segregated in Buyer's name on the current tax roll. Any real property taxes or assessments levied under the Supplemental Tax Roll as a result of the sale of the Property to Buyer, shall be the responsibility of Buyer. Any real property taxes or assessments levied under the Supplemental Tax Roll as a result of transfers, improvements or other occurrences before the Close of Escrow shall be the responsibility of Seller.

3.8.2 General. All pro rations provided for herein shall be on an "**actual day**" basis and a three hundred sixty-five (365) day year. The provisions of this Section shall survive Close of Escrow. If either Party fails to pay its pro rata share of taxes or other expenses by the times herein provided, interest shall accrue on all unpaid amounts from when owing until paid at the maximum rate allowed by law. Any errors or omissions made in calculating adjustments and prorations shall be corrected promptly upon the discovery thereof. If any estimations are made at the Close of Escrow regarding adjustments or prorations, the Parties shall make the appropriate collection promptly when accurate information becomes available. Any corrected adjustment or proration shall be paid to the Party entitled thereto within thirty (30) days after written request therefor and if not so paid interest shall accrue and be payable on same at the maximum rate allowed by law.


3.9 Closing Costs. Buyer shall pay the cost of the Title Policy, the Escrow Fees and any applicable documentary transfer fees (considering Seller is a City) and recording fees, and all other costs and expenses incurred related to the purchase of the Property by Buyer. If required by Buyer's lender, Buyer shall also pay for the appraisal cost of the Property (collectively, "**Closing Costs**"). As soon as reasonably possible following the Close of Escrow, Escrow Holder shall deliver a copy of the final Escrow closing statement to Buyer and Seller.

3.10 Grant Deed. The transfer of ownership of the Property shall be documented through a Grant Deed in the form attached hereto as Exhibit "B" and incorporated herein by reference, conveying the Property to Buyer ("**Grant Deed**").

3.10.1 Hotel Covenant. The Parties shall execute and acknowledge a Hotel Covenant in the form set forth on Exhibit "C" attached hereto ("**Hotel Covenant**") that shall be recorded immediately after the Grant Deed. The Hotel Covenant shall contain a commitment that (subject to Unavoidable Delay) Buyer will construct the Project and the hotel will be operational within five (5) years of the date that all entitlements, governmental approvals, building permits and all other permits and approvals for the Project have been issued by the City and all necessary governmental agencies (collectively, "**Project Entitlements**"), and all time periods and statutes of limitation for filing or adopting any action, lawsuit, challenge, appeal, moratorium or referendum have expired without any action, lawsuit, challenge, appeal, moratorium or referendum having been filed or adopted that would have any impact on the Entitlements ("**Project Entitlement Date**"). If the Project is not constructed and the hotel operational within five (5) years of the Project Entitlement Date, Buyer shall be in default under this Agreement. Additionally, if Buyer does not submit the required applications for Project Entitlements within one (1) year of the Close of Escrow, then the five (5) year timeline to complete construction and commence operation of the hotel shall start on the date that is one (1) year and one (1) day after the Close of Escrow. **THE PARTIES HAVE AGREED THAT IF THE HOTEL IS NOT**

TIMELY CONSTRUCTED AS REQUIRED ABOVE, THE CITY SHALL LOSE TRANSIENT OCCUPANCY TAXES AND THE PARTIES ACKNOWLEDGE THAT IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN WITH ANY DEGREE OF CERTAINTY THE AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY SELLER IN THE EVENT OF THE FAILURE OF BUYER TO TIMELY COMPLETE THE HOTEL PROJECT. THEREFORE THE PARTIES HAVE AGREED THAT THE REASONABLE ESTIMATE OF SAID DAMAGES IF BUYER FAILS TO TIMELY COMPLETE THE HOTEL PROJECT SHALL BE AN AMOUNT EQUAL TO THE FOLLOWING: (I) A SIXTY PERCENT (60%) ROOM OCCUPANCY FOR A TWENTY (20) ROOM HOTEL; (II) MULTIPLIED AT A ROOM RATE EQUAL TO ONE HUNDRED FIFTEEN DOLLARS (\$115) PER NIGHT; (III) MULTIPLIED BY A THREE (3) YEAR PERIOD (1,095 DAYS); (IV) MULTIPLIED BY A TRANSIENT OCCUPANCY TAX OF ELEVEN PERCENT (11.0%) (“LIQUIDATED DAMAGES”). BUYER’S PAYMENT OF LIQUIDATED DAMAGES SHALL BE SELLER’S SOLE AND EXCLUSIVE REMEDY FOR BUYER’S DEFAULT. THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369.

Initials: _____
Seller


Buyer

Seller agrees that following the Project Entitlement Date, Seller will use commercially diligent efforts to obtain a commitment for a construction loan for the Project and the required security for such construction loan is anticipated to include, without limitation, a completion guaranty executed by Seller and/or a completion bond for the Project in favor of the lender. For purposes of this Agreement, “**Unavoidable Delay**” shall mean and refer to any prevention, delay or stoppage caused by the occurrence of any of the following events: (a) rain, floods, earthquakes, fires, other casualties, or unexpected conditions; (b) acts of war; (c) acts of God; (d) insurrection, strikes, lockouts, walk-outs, riots, boycotts, or similar obstructive actions; (e) market wide shortages of labor, materials or supplies, (f) delays in the performance of other acts to be taken by governmental entities; or (g) in the case of Buyer’s obligation to perform, any other cause beyond the reasonable control of Buyer, but excluding Buyer’s financial inability to perform in favor of the Lender. For the purpose of this Agreement, an “**Unavoidable Delay**” includes, but is not limited to impacts of a public health crisis, pandemic, epidemic, actions, orders or shut-down of any kind of the government of the United States of America or of the State, County, or City where the Property is located, or any action or shut-down of their respective departments, agencies, subdivisions or officials or any civil or military authority, or any global or national financial market disruption as a result of any of the foregoing, or any other circumstance beyond the control of the parties that renders continued performance under this Agreement commercially impracticable. The Hotel Covenant shall also contain affordable housing restrictions that run with the land, as required by Government Code section 54233 of the Surplus Lands Act.

3.10.2 Project Entitlements Approvals. The Project Entitlements and the development of the Property must conform to all City, and other applicable governmental development, land use and architectural regulations and standards. Drawings, plans and specifications for the Project Entitlements shall be subject to the reasonable approval of the City

through the standard development application process for acquiring the real estate and entitlements within the Project Entitlements. Nothing in this Agreement shall be considered pre-approval of any plans or specifications for the Project Entitlements or of the Project Entitlements itself by the City.

3.11 Recordation and Delivery of Documents. No later than the business day immediately prior to the Closing Date, Buyer and Seller, as applicable, will deposit into Escrow the following documents (with the documents that are to be recorded in the following order and delivered as provided below):

3.11.1 Restrictive Covenant. One (1) fully executed and acknowledged copy of the Restrictive Covenant conveying the Property to Buyer. Conformed copies of the recorded Restrictive Covenant shall be returned to Buyer and Seller as soon as possible.

3.11.2 Grant Deed. One (1) fully executed and acknowledged copy of the Grant Deed conveying the Property to Buyer. Conformed copies of the recorded Grant Deed shall be returned to Buyer and Seller as soon as possible.

3.11.3 Withholding Exemption Certificates. One (1) completed and executed copy of the following: Non-foreign Transferor Declaration; Preliminary Change in Ownership Report, Internal Revenue Service Form 1099-S, and California Franchise Tax Board Form 593 and any other applicable state tax withholding forms, as applicable.

3.11.4 Disbursement of Closing Documents. As soon as reasonably possible following the Close of Escrow, Escrow Holder shall deliver copies of all closing documents, including, without limitation, those listed above, the Title Policy, any additional escrow instructions and the final Escrow closing statement, to Seller's counsel and Buyer's counsel.

3.12 Seller's Proceeds. At the Close of Escrow, subject to Section 3.13 below, Escrow Holder is directed to wire funds representing Seller's cash proceeds through Escrow to Seller's account as directed in separate written instructions to be provided by Seller.

3.13 Cal-FIRPTA Withholding. Unless this transaction is exempt under California Revenue and Taxation Code Sections 18805 and 26131, Escrow Holder shall be the "**withholding agent**" and withhold from proceeds due Seller any amounts required under the above code sections to be withheld by Buyer and pay same to the California Franchise Tax Board or Internal Revenue Service in accordance with applicable law.

3.14 Additional Documents. Seller and Buyer shall execute and deliver to Escrow any other documents reasonably required by Escrow Holder including, without limitation, Seller's affidavits or statements regarding mechanics liens and /or tenants or parties in possession.

3.15 Termination of Property Contracts. Seller shall terminate any service contracts or similar agreement relating to the Property that the Buyer does not expressly elect in writing to assume which termination shall be effective as of the Close of Escrow.

4. Real Estate Brokerage Commission. Buyer and Seller each represent and warrant to each other that they have not employed, dealt with or incurred any obligation to any broker, agent or finder in connection with the Property, and that they have not incurred any obligation to pay any other real estate brokerage or other commission or fee in connection with the conveyance of the Property to Buyer. Buyer and Seller agree to indemnify, defend and hold each other free and harmless from and against all costs and liabilities, including without limitation reasonable attorneys' fees and the costs and expenses of litigation, for causes of action or proceedings in any way related to or resulting from a breach of the foregoing representation and warranty or arising out of any action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying Party, respectively, in connection with this transaction.

5. Remediation Work.

5.1 Completion of Remediation Work. Subject to Unavoidable Delay, within one-hundred and eighty (180) days after the Closing and the issuance of all necessary permits required to commence the Remediation Work, Buyer shall, at its sole cost and expense, diligently complete the following remediation work, as mutually agreed by the Parties: painting of main structure on the Property; replacing all windows on the main structure on the Property; installation of exterior lighting of the main structure on the Property; landscaping; and, securing of all structures on the Property ("**Remediation Work**"). All such Remediation Work must be completed in accordance with all applicable laws.

5.2 License. Pursuant to the terms and conditions of this Agreement, including the insurance requirements in Section 6.4 of this Agreement, prior to the Closing Date Seller hereby grants to Buyer and its employees, agents and contractors the nonexclusive, non-assignable, personal right and license to enter upon the Property to commence the Remediation Work, and for no other purposes without the prior written approval of the Seller. It is expressly understood that this limited license to commence the Remediation Work does not in any way whatsoever grant or convey any rights of possession, easement or other cognizable property interest in the Property. If this Agreement is terminated prior to the Closing Date, any improvements constructed by Buyer on the Property shall be the property of the fee title owner of the Property.

5.3 Notice of Substantial Completion. Upon substantial completion of the Remediation Work, Buyer will deliver to Seller notice that it has substantially performed all of the Remediation Work, other than minor items and adjustment ("**Notice of Substantial Completion**"). Within fifteen (15) days after Buyer delivers to Seller the Notice of Substantial Completion, Buyer and Seller will conduct a walk-through inspection of the Property. Within fifteen (15) days after the walk-through inspection of the Premises, Seller shall provide to Buyer a written punch-list specifying those items that Seller reasonably requires to be completed, are defective, incomplete, or do not substantially conform to the Remediation Work or any applicable laws, which items Buyer will thereafter diligently complete or Buyer shall provide, within seven (7) days, notice to Seller of Buyer's intent to not complete any or all of Seller's identified items. Buyer acknowledges and agrees that time is of the essence with respect to the completion of the Remediation Work. If the Notice of Substantial Completion is not approved by Seller and the Remediation Work is not completed within the timeframe committed to in Section 5.1, Buyer

agrees that the Property will be considered a public nuisance subject to applicable code enforcement actions and remedies.

5.4 [Intentionally Omitted]

5.5 Liens. Prior to the Closing, Buyer shall not place, or allow to be placed, on the Property, Improvements, or any portion thereof, any mortgage or encumbrance of lien. Buyer shall, within thirty (30) calendar days following receipt of notice thereof, cause to be removed or bonded against (such bonding to be by the provision of bonds satisfying California statutory requirements) any and all mechanic's liens, stop notices and/or bonded stop notices that are recorded and/or served by contractors, subcontractors (of all tiers) and suppliers in connection with the portion of the Property prior to the Closing.

5.6 Property Rights. The Remediation Work and any other work completed by Buyer, prior to the Closing, will be considered Improvements on the Property, and the right, title, and interest in said Improvements will be held by Seller in the event the Closing fails to occur for any reason except a default by Seller. In the event that the Agreement is terminated prior to Closing for any other reason, other than a default by Seller, the Remediation Work and any other work completed by Buyer will remain the property of Seller, and Seller will not reimburse Buyer for said Remediation Work or other work completed on the Property.

6. Due Diligence; Inspections.

6.1 Feasibility. Within ten (10) business days following the execution of this Agreement by Buyer and Seller, Seller shall deliver to Buyer copies of all maps, permits, applications, contracts, correspondence, studies, reports, appraisals and all other documents, materials or information of any kind that relate to the Property, whether in the possession of Seller or any agent or consultant of Seller (collectively, the "**Property Documents**"). Seller will immediately furnish Buyer with copies of any revisions or supplements to the Property Documents and will immediately furnish Escrow Holder and Buyer with copies of any revisions or supplements to the Property Documents. Seller shall deliver original versions of the Property Documents (to the extent available) to Buyer at the Close of Escrow.

6.2 License. Seller hereby grants Buyer and its agents, consultants, contractors, subcontractors, employees, representatives, and attorneys (collectively, "**Buyer's Agents**") a license and permission to enter upon, over, under and/or across the Property in order to conduct visual inspections, physical testing, air samplings, borings, and other samplings, including but not limited to, observing and documenting the Property's as-built conditions, exposing and documenting hidden conditions at the Property, by limited removal of interior non-historic fixtures and finishes, performing certain non-destructive testing of materials at the Property, extracting concrete core samples in interior non-historically sensitive locations, in connection with the proposed rehabilitation and reuse of the Property ("**Inspections**"). The Inspections shall be completed at Buyer's sole cost and expense. Buyer or Buyer's Agent shall contact Seller within one (1) day prior to the time of actual entry onto the Property and provide notice of the date and time when entry will be made. Seller may refuse access to Buyer if it would be unsafe or inappropriate, in Seller's reasonable discretion, for Buyer or Buyer's Agents to be on the Property at the desired time. Seller shall make the Property available as soon as reasonably practical

thereafter. The license and permission to enter upon, over, under and/or across the Property shall commence on the Effective Date and shall expire upon Close of Escrow or termination of this Agreement.

6.3 Limitations. The Buyer shall not conduct any intrusive or destructive testing of any portion of the Property, other than low volume soil samples, without the Seller's prior written consent, which shall not be unreasonably withheld or delayed. Following the conduct of any Inspections on the Property, the Buyer shall restore the Property to substantially its condition prior to the conduct of such Inspections.

6.4 Insurance. Prior to entry onto the Property, Buyer shall secure, or shall require its contractors, if any, to secure an insurance policy or policies, as described below.

6.4.1 Notwithstanding any inconsistent statement in the insurance policy or any subsequent endorsement attached thereto, the protection afforded by these policies shall be written on an occurrence basis in which Seller, and its respective elected and appointed officials, officers, employees, agents and representatives (together, "**Additional Insureds**") are named as additional insureds on all coverage, except for workers' compensation coverage, and shall (on or prior to the Effective Date, Seller shall provide to Buyer the complete legal names of all Additional Insureds):

(a) Name Additional Insureds as additional insureds on a Commercial General Liability policy;

(b) Provide a combined single limit of broad form commercial general liability insurance in the amount of Two Million Dollars (\$2,000,000) per occurrence, which will be considered equivalent to the required minimum limits, and such insurance shall (i) be written on an occurrence form, (ii) be written with a primary policy form with limits of not less than \$1,000,000 per occurrence; (iii) be written with one or more excess layers to bring the total of primary and excess coverage limits to not less than \$2,000,000 per occurrence, (iv) not be written with a deductible greater than \$25,000 per occurrence, (v) contain a waiver of subrogation in favor of Seller;

(c) Provide automobile liability insurance for owned, non-owned, and hired vehicles, as applicable to, or for any use related to, the Work, in an amount not less than Five Hundred Thousand Dollars (\$500,000) combined single limit, with excess insurance coverage to bring the total amount of automobile liability insurance coverage to an amount not less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage;

6.4.2 Buyer shall notify Seller not less than thirty (30) days before any expiration, cancellation, or non-renewal of such policy or policies; and

6.4.3 Buyer shall furnish certificates of insurance and endorsements to Seller prior to entry onto the Property.

6.4.4 Buyer, or Buyer's agents entering the Property, shall comply with Sections 3700 and 3800 of the Labor Code by securing, paying for and maintaining in full force

and effect during the Term, and continuing prior to entry onto the Property pursuant to this Section, with the earlier to occur of expiration of the Term complete workers' compensation insurance, to statutory limits, with employer's liability limits not less than One Million Dollars (\$1,000,000) per occurrence, and shall furnish a Certificate of Insurance to Seller prior to entry onto the Property pursuant to this Section, before the commencement of work. All Additional Insureds shall not be responsible for any claims in law or equity occasioned by the failure of Buyer to comply with this section. Every workers' compensation insurance policy shall bear an endorsement or shall have attached a rider providing that, in the event of expiration or proposed cancellation of such policy for any reason whatsoever, Seller shall be notified, giving Buyer a sufficient time to comply with applicable law, but in no event less than thirty (30) days before such expiration, cancellation, or reduction in coverage is effective or in the event of nonpayment of premium.

6.4.5 If Buyer fails or refuses to produce or maintain the insurance required by this Section or fails or refuses to furnish Seller with required proof that insurance has been procured and is in force and paid for, Seller shall have the right, at its election, to forthwith terminate this the right of entry provided in this Section.

6.5 Liens. Buyer shall not permit any mechanics', materialmen's or other liens of any kind or nature ("**Liens**") to be filed or enforced against the Property arising from Buyer's entry on the Property. Seller reserves the right, at its sole cost and expense, at any time and from time to time, to post and maintain on the Property, or any portion thereof, or on the improvements on the Property, any notices of non-responsibility or other notice as may be desirable to protect Seller against liability. In addition to, and not as a limitation of Seller's other rights and remedies under this Section, should Buyer fail, within thirty (30) days of written request from Seller, either to discharge any Lien (to the extent such Lien is prohibited pursuant to this Section) or to bond for any Lien (to the extent such Lien is prohibited pursuant to this Section), or to defend, indemnify, and hold harmless Seller from and against any loss, damage, injury, liability or claim arising out of a Lien (to the extent such Lien is prohibited pursuant to this Section), then Seller, at its option, may elect to pay such Lien, or settle or discharge such Lien and any action or judgment related thereto and all costs, expenses and attorneys' fees incurred in doing so shall be paid to Seller, as applicable, by Buyer upon written demand.

6.6 Buyer's Investigation. Buyer shall be entitled to conduct such independent investigations as Buyer deems necessary or appropriate concerning (i) Buyer's proposed use, sale, development or suitability for development of the Property; (ii) the condition and all other attributes of the Property, including, without limitation all improvements located thereon; (iii) applicable laws, statutes, rules, regulations, ordinances, limitations, restrictions or requirements concerning the use, density, location or suitability of the Property or any existing or proposed development or condition thereof, including but not limited to zoning, subdivision and other regulations (collectively, the "**Regulations**"); (iv) the necessity or availability of any specific plan or general amendments, rezoning, zone variances, conditional use permits, building permits, environmental impact reports, subdivision maps, public reports issued by the California Bureau of Real Estate ("**BRE**") and all other governmental permits, approvals or acts (collectively, the "**Permits**"); (v) the necessity and existence of all dedications, fees, charges, costs or assessments which may be imposed by any Governmental Authority in connection with the proposed development of the Property; (vi) the value of the Property; (vii) the availability or adequacy of access to the Property, or of water, sewage, gas, electrical or other utilities serving the Property

and (viii) the presence or adequacy of infrastructure or other improvements on, near or concerning the Property. If Buyer disapproves the Property for any reason or for no reason prior to the Closing Date, Buyer may elect to give Seller written notice terminating this Agreement and the parties shall have no further obligations hereunder except those that expressly survive termination of this Agreement.

6.7 No Representations or Warranties. Buyer shall rely solely and exclusively upon the results of its Investigations of the Property, including, without limitation, investigations regarding geotechnical soil conditions, compliance with all laws applicable to the development or use of the Property by the Buyer and any other matters relevant to the condition or suitability of the Property for the development or operation of the Project, as the Buyer may deem necessary or appropriate. The Seller makes no representation or warranty, express or implied, to the Buyer relating to the condition of the Property or suitability of the Property for any intended use or development by the Buyer.

6.8 Acceptance of Property "AS-IS." Buyer shall accept all conditions of the Property, without any liability of the Seller whatsoever, upon the Buyer's unconditional and irrevocable acceptance of the condition of the Property in the Property's AS IS, WHERE IS, SUBJECT TO ALL FAULTS CONDITION, WITHOUT WARRANTY AS TO QUALITY, CHARACTER, PERFORMANCE OR CONDITION and with full knowledge of the physical condition of the Property, the nature of the Seller's interest in and use of the Property, all laws applicable to the Property and of any and all conditions, restrictions, encumbrances and all matters of record relating to the Property, and that the Property is being acquired by Buyer as a result of its own knowledge, inspection and investigation of the Property and not as a result of any representation(s) made by the Seller or any employee, official, consultant or agent of the Seller relating to the condition of the Property, unless such statement or representation is expressly and specifically set forth in this Agreement. Seller hereby expressly and specifically disclaims any express or implied warranties regarding the Property.

7. Warranties.

7.1 Seller's Warranties. In consideration of Buyer entering into this Agreement and as an inducement to Buyer to purchase the Property from Seller, Seller makes the following representations and warranties which shall be true and correct as of the Effective Date and the Close of Escrow and each of which is material and being relied upon by Buyer. For all purposes of this Agreement, including Seller's representations and warranties contained herein, the phrase "**to the best of Seller's knowledge**" shall mean the current actual knowledge of Seller. If prior to the Close of Escrow Buyer has actual Knowledge that any representation or warranty of Seller is untrue, inaccurate or incomplete in any material respect (and without waiving any of Buyer's rights or remedies hereunder at law or in equity with respect to any material untruth, incompleteness or inaccuracy existing on the Effective Date, that was known of or should have been known of by Seller), Buyer may give Seller written notice of same and Seller shall have seven (7) days from the date of receipt of Buyer's notice (and the Closing Date shall be extended to permit the running of such seven (7) day period) ("**Seller Cure Period**") to correct any factor circumstance that makes such representation or warranty materially untrue or inaccurate to Buyer's reasonable satisfaction. If Seller fails to make such correction within the Seller Cure Period, then Buyer by written notice to Seller within three (3) days after the expiration of the Seller Cure Period (and the Closing Date

shall be extended to permit the running of such three (3) day period) shall be entitled (a) to terminate this Agreement, or (b) continue this Agreement in full force and effect with no change in terms, but without waiving any legal, equitable or other remedies it may have against Seller. The foregoing is not a waiver or release of any of Buyer's rights or remedies for any material untruth, incompleteness or inaccuracy in a representation or warranty of Seller of which Buyer obtains knowledge after the Close of Escrow.

7.1.1 Authorization. Seller has full power and authority to enter into this Agreement and to perform all its obligations hereunder, and has taken all action required by law, its governing instruments or otherwise to authorize the execution, delivery and performance of this Agreement by Seller. Each individual or entity who has executed this Agreement on behalf of Seller has the right, power, legal capacity and authority to execute, deliver and perform this Agreement on behalf of Seller.

7.1.2 Conflicting Agreements. Neither the execution or delivery of this Agreement, nor the consummation of the transaction contemplated herein, will conflict with, or result in a breach of, any contract, license or undertaking to which Seller is a party or by which Seller or any of the Property is bound, or constitute a default thereunder. In addition, with respect to any agreements that affect the Property, neither Seller nor any other party or parties to such agreements are in default thereunder nor are there any facts that currently exist which with the passage of time would result in any such default. To the best of Seller's knowledge, the Property is not subject to any prescriptive easements, claims of adverse possession, encroachments or similar rights or claims. The Property is not subject to any leases, options or other similar rights or claims in favor of any third parties. The Property is not subject to a Williamson Act contract or any similar agricultural agreement.

7.1.3 Proceedings. To the best of Seller's knowledge, no legal or administrative proceeding is pending or threatened against Seller or the Property nor are there any other facts or circumstances which would adversely affect (i) Seller's right to convey title to the Property to Buyer as contemplated in this Agreement, or (ii) Buyer's ability to own, develop and/or market the Property in the manner disclosed by Buyer to Seller. To the best of Seller's knowledge, there are no condemnation or eminent domain proceedings pending or threatened with respect to the Property.

7.1.4 Binding Agreement. This Agreement constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally.

7.1.5 Violations of Law. On the Effective Date and Close of Escrow neither this Agreement nor the Property shall be in violation of any law, ordinance, rule regulation, or administrative or judicial order.

7.1.6 Hazardous Materials. Seller has not stored or released, caused to be stored or released or approved the storage or release on the Property, of any "hazardous materials" (as defined below). To the best of Seller's knowledge, no prior owner of the Property has stored or caused to be stored any hazardous materials on the Property; (b) no hazardous

materials now exist in, on or under the Property in violation of any “**environmental law**” (as defined below); (c) there are no underground tanks on the Property nor have there ever been any underground storage tanks on the Property; (d) no use of or operations on the Property have occurred which use or operation has violated any applicable environmental law; and (e) the Property is not on any “**Superfund**” list under any applicable environmental law. As used herein, “**environmental law**” shall mean any and all present federal, state or local laws (whether common law, statute, rule, regulation or otherwise), permits, orders and any other requirements of Governmental Authorities relating to the environment to any “**hazardous materials**” (as defined below) (including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.) as amended from time to time and the applicable provisions of the California Health and Safety Code and California Water Code). As used herein, “**hazardous materials**” shall mean any (a) chemical, compound, material, mixture or substance that is now defined or listed in, or otherwise classified pursuant to any environmental law as a “**hazardous substance,**” “**hazardous material,**” “**hazardous waste,**” “**extremely hazardous waste,**” “**infectious waste,**” “**toxic waste,**” “**toxic pollutant**” or any other formulation intended to define, list or classify substances by reason of deleterious properties or effect and (b) petroleum, petroleum by-products, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas in such synthetic gas), ash, municipal solid waste steam, drilling fluids, produced waters and other wastes associated with the exploration, development and production of crude oil, natural gas or geothermal resources.

7.1.7 No Assumed Obligations. There are no obligations or responsibilities of Seller with respect to the Property or otherwise of any kind that are assumed by Buyer.

7.1.8 Endangered Species. To the best of Seller’s knowledge, (a) there are no endangered or threatened species of animals, plants or insects on the Property, and (b) there are no environmental or biological characteristics of the Property or adjacent property, which under existing law will adversely affect Buyer’s ability to own, develop and/or market the Property or the cost thereof.

7.1.9 Ownership of Property. Seller is the sole and only party that owns or holds any interest in the Property.

7.1.10 Property Documents. To the best of Seller’s knowledge, the Property Documents and all other documents and information provided by Seller or its agents or consultants to Buyer are complete, true and accurate and do not omit any material fact and there are no other documents, materials, studies, surveys or other information in the possession or control of Seller that would have a material and adverse effect on Buyer’s ability to own, develop and/or market the Property.

7.1.11 Other Agreements. Except as set forth in the Property Documents and this Agreement, Seller has not made any commitment or representation to or entered into any agreement of any kind with any government authority, or any adjoining or surrounding property owner, group or other third party, which would in any way be binding on Buyer or all or any portion of the Property or would interfere in any way with Buyer’s ability to own, develop, improve and/or market the Property, and will not make any such representations or warranties or enter into

any such agreements which would affect the Property or any portion thereof prior to the Close of Escrow, without Buyer's written consent.

7.1.12 Access. There is full and unobstructed direct access to the Property from public streets, highways or roads that are adjacent to the Property.

7.1.13 Bankruptcy. No "**Bankruptcy Event**" (as defined below) has occurred with respect to Seller nor any member or manager of Seller. There is not pending or threatened any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or re-composition of Seller or any member or manager of Seller or seeking appointment of a receiver, trustee, custodian or similar official for Seller or any member or manager of Seller for all or any substantial part of its or their assets. "**Bankruptcy Event**" means (a) the making by a person of a general assignment for the benefit of such person's creditors, (b) the admission in writing by a person of its inability to pay its or their debts as they mature, (c) an attachment, execution or other judicial seizure of any property interest which remains in effect, or (d) the failure to have taken or submission to any action indicating a general inability by a person to meet its financial obligations as they accrue.

7.1.14 Material Change. Seller shall promptly notify Buyer if Seller obtains information that would make any of the representations or warranties contained herein materially inaccurate or misleading.

7.2 Buyer's Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Property to Buyer, Buyer makes the following representations and warranties which shall be true and correct as of the Effective Date and the Close of Escrow and each of which is material and being relied upon by Seller. For all purposes of this Agreement, including Buyer's representations and warranties contained herein, the phrase "**to the best of Buyer's knowledge**" shall mean the current actual knowledge of Buyer. If prior to the Close of Escrow Seller determines that any representation or warranty of Buyer is untrue, inaccurate or incomplete in any material respect (and without waiving any of Seller's rights or remedies hereunder at law or in equity with respect to any material untruth, incompleteness or inaccuracy existing on the Effective Date, that was known of or should have been known of by Buyer), Seller may give Buyer written notice of same and Buyer shall have seven (7) days from the date of receipt of Seller's notice (and the Closing Date shall be extended to permit the running of such seven (7) day period) ("**Buyer Cure Period**") to correct any fact or circumstance that makes such representation or warranty materially untrue or inaccurate to Seller's reasonable satisfaction. If Buyer fails to make such correction within the Buyer Cure Period, then Seller by written notice to Buyer within three (3) days after the expiration of the Buyer Cure Period (and the Closing Date shall be extended to permit the running of such three (3) day period) shall be entitled (a) to terminate this Agreement or (b) continue this Agreement in full force and effect with no change in terms, but without waiving any legal, equitable or other remedies it may have against Buyer. The foregoing is not a waiver or release of any of Seller's rights or remedies for any material untruth, incompleteness or inaccuracy in a representation or warranty of Buyer of which Seller obtains knowledge after the Close of Escrow.

7.2.1 Authorization. Buyer is a corporation duly formed in the State of Nevada and validly existing under the laws of the State of California and is qualified to transact

business in the State of California. Buyer has full power and authority to enter into this Agreement and to perform all of its obligations hereunder, and has taken all action required by law, its governing instruments or otherwise to authorize the execution, delivery and performance of this Agreement. Each individual who has executed this Agreement on behalf of Buyer has the right, power, legal capacity and authority to execute, deliver and perform this Agreement on behalf of Buyer.

7.2.2 Binding Agreement. This Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally.

7.2.3 [Intentionally Omitted]

7.2.4 Compliance with Law. Buyer is required to carry out the development of the Project in conformity with all applicable laws, including all applicable building, planning and zoning laws, including any historic property regulations and environmental laws.

7.3 Natural Hazard Zone Disclosure. No later than seven (7) business days prior to the Property Approval Date, the Seller will, at its sole cost and expense, provide Buyer with a Natural Hazard Zone Disclosure required by applicable law.

7.4 Buyer and Seller Cooperation. Buyer shall submit plans for the Project to Seller, and Seller, in its capacity as the City within which the Project is located, will make the determination as to the required entitlements based upon Buyer's proposed plans. Buyer may then process and obtain the Project Entitlements through Seller in its capacity as the City within which the Project Entitlements is located. Nothing in this Agreement shall be deemed to be a prejudgment or commitment with respect to exercise of governmental discretion with regard to such items, nor a guarantee that such approvals or permits will be granted at all or within any particular time or with or without any particular conditions.

7.5 Seller's Additional Covenants. Seller hereby covenants and agrees that during the term of this Agreement: Seller (a) will not promote, advertise, market, transfer, lease or convey any of the Property or enter into any agreement to promote, advertise, market, transfer, lease or convey any of the Property or modify or amend any lease other than to terminate any leases as to the Property; (b) will not enter into any agreement, that will be or purport to be binding on the Buyer or the Property subsequent to the Close of Escrow; (c) shall, at its sole cost and expense, maintain the Property and all improvements thereon in a reasonable condition and in a manner that complies with all applicable laws and shall continue in full force and effect all property and liability insurance with respect to the Property which is in effect 30 days before the Effective Date; (d) will not take, approve or consent to any action or omission that would change the zoning, use, permits or entitlement of or for the Property or that would otherwise adversely affect the Property or Buyer's plan for development of the Property or Buyer's processing of the entitlements; (e) will promptly give Buyer written notice of any notice or information Seller receives regarding zoning uses, permits, licenses or other entitlements which would have an adverse impact on the ability of Buyer to develop the Property for its anticipated use; (f) shall not

record or cooperate in the recording against the Property or any portion thereof, of any lien, encumbrance, agreement, easement, right of way or other matter without Buyer's written consent; and (g) will not engage in any act or omission which would result in the Property not being in compliance with the provisions of this Agreement or any applicable law or which would prevent the Title Company from issuing the Title Policy in accordance with this Agreement.

8. Destruction/Condemnation of Property; Other Notices. In the event that all or any portion of the Property is damaged or destroyed by any casualty under the provisions of applicable law after the Effective Date but prior to the date of Closing, Seller shall give Buyer immediate written notice of the same. Seller shall promptly notify Buyer of any building code violation notices or actions pending, and of any event that causes the representation of Seller under this Agreement to no longer be true or correct.

9. Indemnification.

9.1 Obligations. Seller shall Indemnify Buyer and Buyer shall Indemnify Seller against any wrongful intentional act or negligence of the Indemnitor. Buyer shall also Indemnify Seller against any and all of the following: (a) any damage to the Property caused by the Investigations of the Property by Buyer; and (b) any accident, injury or damage whatsoever caused to any person in or on the Property by Buyer prior to the Closing. Notwithstanding anything to the contrary in this Agreement, no Indemnitor shall be required to Indemnify any Indemnitee to the extent of the Indemnitee's wrongful intentional acts or negligence.

9.2 Limitation on Liability of the Seller. Following the Close of Escrow, the Buyer is and shall be responsible for operation of the Property and the Project and the Seller shall not be able for any injury or damage to any property (of the Buyer or any other person) or to any person occurring on or about the Property or the Project, except to the extent caused by the Seller's wrongful intentional act or negligence.

9.3 Strict Liability. The indemnification obligations of an Indemnitor shall apply regardless of whether liability without fault or strict liability is imposed or sought to be imposed on one or more Indemnitees.

9.4 Independent of Insurance Obligations. Buyer's indemnification obligations under this Agreement shall not be construed or interpreted as in any way restricting, limiting, or modifying Buyer's insurance or other obligations under this Agreement and is independent of the Buyer's insurance and other obligations under this Agreement. Buyer's compliance with its insurance obligations and other obligations under this Agreement shall not in any way restrict, limit, or modify the Buyer's indemnification obligations under this Agreement and are independent of the Buyer's indemnification and other obligations under this Agreement.

9.5 Survival of Indemnification and Defense Obligations. The indemnity and defense obligations under this Agreement shall survive the expiration or earlier termination of this Agreement, until all claims against any of the Indemnitees involving any of the indemnified matters are fully, finally, absolutely and completely barred by applicable statutes of limitations.

9.6 Independent Duty to Defend. The duty to defend under this Agreement is separate and independent of the duty to Indemnify. The duty to defend includes claims for which

an Indemnitee may be liable without fault or strictly liable. The duty to defend applies immediately upon notice of a claim, regardless of whether the issues of negligence, liability, fault, default or other obligation on the part of the Indemnitor or the Indemnitee have been determined. The duty to defend applies immediately, regardless of whether the Indemnitee has paid any amounts or incurred any detriment arising out of or relating (directly or indirectly) to any claims. It is the express intention of the Parties that an Indemnitee be entitled to obtain summary adjudication or summary judgment regarding an Indemnitor's duty to defend the Indemnitee, at any stage of any claim or suit, within the scope of the Indemnitor's indemnity obligations under this Agreement.

9.7 Indemnification Procedures. Wherever this Agreement requires any Indemnitor to Indemnify any Indemnitee:

9.7.1 Prompt Notice. The Indemnitee shall promptly notify the Indemnitor of any claim. To the extent, and only to the extent, that the Indemnitee fails to give prompt Notice of a Claim and such failure materially prejudices the Indemnitor in providing indemnity for such claim, the Indemnitor shall be relieved of its indemnity obligations for such claim.

9.7.2 Selection of Counsel. The Indemnitor shall select counsel reasonably acceptable to the Indemnitee. Counsel to Indemnitor's insurance carrier that is providing coverage for a claim shall be deemed reasonably satisfactory. Even though the Indemnitor shall defend the action, Indemnitee may, at its option and its own expense, engage separate counsel to advise it regarding the claim and its defense. The Indemnitee's separate counsel may attend all proceedings and meetings. The Indemnitor's counsel shall actively consult with the Indemnitee's separate counsel. The Indemnitor and its counsel shall, however, fully control the defense, except to the extent that the Indemnitee waives its rights to indemnity and defense for such claim.

9.7.3 [Intentionally Omitted]

9.7.4 Settlement. The Indemnitor may, with the Indemnitee's consent, not to be unreasonably withheld, settle a claim. The Indemnitee's consent shall not be required for any settlement by which all of the following occur: (a) the Indemnitor procures (by payment, settlement, or otherwise) a release of the Indemnitee from the subject claim(s) by which the Indemnitee need not make any payment to the claimant; (b) neither the Indemnitee nor the Indemnitor on behalf of the Indemnitee admits liability; (c) the continued effectiveness of this Agreement is not jeopardized in any way; and (d) the Indemnitee's interest in the Project Entitlements is not jeopardized in any way.

9.7.5 Insurance Proceeds. The Indemnitor's obligations shall be reduced by net insurance proceeds the Indemnitee actually receives for the matter giving rise to indemnification obligation.

10. Miscellaneous.

10.1 Notices. Any notice, request, demand, instruction or other document required or permitted to be given or served hereunder or under any document or instrument executed pursuant hereto will be in writing and will be delivered personally or sent by United

States registered or certified mail, return receipt requested, postage prepaid or by overnight express courier, postage prepaid and addressed to the parties at their perspective addresses set forth below, and the same will be effective upon the date of confirmed dispatch, if by electronic communication receipt if delivered personally or via overnight express courier or on the third Business Day after deposit if mailed. A party may change its address for receipt of notices by service of a notice to such change in accordance herewith. Buyer and Seller hereby agree that notices may be given hereunder by the parties' respective counsel and that, if any communication is to be given hereunder by Buyer's or Seller's counsel, such counsel may communicate directly with all principals as required to comply with the provisions of this Section.

If to Buyer: Caribou Industries, Inc.
1130 N. Broadway St.
Santa Ana, CA 92701
Attn: Mike Harrah

with a copy to: Rutan & Tucker, LLP
611 Anton Blvd., Suite 1400
Costa Mesa, CA 92626
Attention: Joseph L. Maga, Esq.
Telephone: (714) 662-4648
E-mail: jmaga@rutan.com

After August 15, 2020:

Rutan & Tucker, LLP
18575 Jamboree Road, Suite 900
Irvine, CA 92612
Attention: Joseph L. Maga, Esq.
Telephone: (714) 662-4648
E-mail: jmaga@rutan.com

If to Seller: City of Santa Ana

Santa Ana, CA 92701
Attn: _____

with a copy to: City of Santa Ana

Santa Ana, CA 92701
Attn: _____

10.2 Assignment. Seller may not assign its interest in this Agreement, or any of its rights or obligations hereunder, without the prior written consent of Buyer, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Buyer may, without the prior written consent of Seller assign its interest in this Agreement, or any of its rights or obligations hereunder to a Permitted Transferee (as defined below). As used herein, the term "**Permitted Transferee**" means: (a) any affiliate of Buyer, being a person or entity who, directly

or indirectly, controls, is controlled by, or is under common control with, Buyer, including any partner, member, stockholder or other equity holder of Buyer (for purposes of this definition, "control" shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of Buyer, whether through ownership of voting securities, membership, partnership or other ownership interests, by contract or otherwise; and the terms "controlling" and "controlled" shall have correlative meanings); (b) a successor related to Buyer by merger, consolidation, non-bankruptcy reorganization or government action or (c) any entity in which Mike Harrah directly or indirectly has an ownership interest. No transfer or assignment in violation of the provisions hereof shall be valid or enforceable. Subject to the foregoing, this Agreement and the terms and provisions hereof shall inure to the benefit of and shall be binding upon the successors and assigns of the parties.

10.3 No Third Party Beneficiaries. Notwithstanding any provision contained in this Agreement to the contrary, this Agreement is intended as and shall be deemed to be an agreement for the sale of assets and none of the provisions hereof shall be deemed to create any obligation or liability of any person that is not a Party, whether under a third-party beneficiary theory, laws relating to transferee liabilities or otherwise. Buyer shall not assume and shall not be obligated to discharge or be liable for any debts, liabilities or obligations of Seller including, but not limited to, any (a) liabilities or obligations of Seller to its creditors, shareholders, members, partners, managers, or owners, (b) liabilities or obligations of Seller with respect to any acts, events or transactions occurring prior to, on or after the Close of Escrow, (c) liabilities or obligations of Seller for any federal, state, county or local taxes, or (d) any contingent liabilities or obligations of Seller, whether known or unknown by Seller or Buyer. Buyer shall have no duty whatsoever to take any action or receive or make any payment or credit arising from or related to any services provided or costs incurred in connection with the Property prior to the Close of Escrow, including, but not limited to, any matters relating to cost reports, collections, audits, hearings, or legal action arising therefrom.

10.4 Further Instruments. Each Party will, whenever and as often as it shall be reasonably requested to do so by the other, cause to be executed, acknowledged or delivered any and all such further instruments and documents as may be necessary or proper, in the reasonable opinion of the requesting Party, in order to carry out the intent and purpose of this Agreement.

10.5 Calculation of Time Periods; Business Day; Time of Essence. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next day which is a Business Day. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. local time in the state in which the Real Property is located. As used herein, the term "**Business Day**" means any day excluding Saturdays, Sundays and State and National holidays and any day the City is closed. Subject to the foregoing provisions, time is of the essence of this Agreement.

10.6 Entire Agreement; Amendments. This Agreement (including the documents delivered pursuant to this Agreement), constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements or letters of

intent of the Parties. This Agreement may not be amended, modified, or supplemented except by a written instrument signed by an authorized representative of each of the Parties.

10.7 Survival. All covenants, agreements, representations, warranties and indemnities contained in this Agreement shall survive the execution and delivery of this Agreement and the Close of Escrow and the delivery and recordation of all documents or instruments in connection therewith.

10.8 Binding Effect; Enforcement. The covenants, agreements, representations, and warranties contained herein will be binding upon, be enforceable by and inure to the benefit of the representatives, successors, and permitted assigns of the respective parties hereto.

10.9 Applicable Law. This Agreement will be construed and interpreted under, and governed and enforced according to, the laws of the State of California applicable to contracts made and to be performed entirely therein.

10.10 Venue. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be the Superior Court of Orange County and the Parties hereby agree to and do hereby submit to the jurisdiction of such court.

10.11 Attorneys' Fees. If any Party to this Agreement shall bring any action or proceeding for any relief against the other, declaratory or otherwise, in any way arising out of or in connection this Agreement and/or the Property, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' fees and costs (including without limitation expert witness fees) incurred in bringing or defending such action or proceeding or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action or proceeding and shall be paid whether or not such action or proceeding is prosecuted to final judgment. Any judgment or order entered in such action or proceeding shall contain a specific provision providing for the recovery of attorneys' fees and costs, separate from the judgment, incurred in enforcing such judgment. The prevailing Party shall be determined by the trier of fact based upon an assessment of which Party's major arguments or positions taken in the proceedings could fairly be said to have prevailed over the other Party's major arguments or positions on major disputed issues. For the purposes of this Section, attorneys' fees shall include, without limitation, fees incurred in the following: (1) post-judgment motions; (2) contempt proceedings; (3) garnishment, levy and debtor and third party examinations; (4) discovery; and (5) bankruptcy litigation.

10.12 Construction. The provisions of this Agreement shall not be construed in favor of or against either Party, but shall be construed as if both Parties prepared this Agreement.

10.13 Interpretation. The paragraph and section headings in this Agreement are solely for convenience and will not be deemed to limit or otherwise affect the meaning or construction of any part of this Agreement. Any pronoun used in this Agreement will be deemed to cover all genders. The terms "**include**," "**including**," and similar terms will be construed as if followed by the phrase "**without being limited to**." The term "**or**" has, except where otherwise indicated, the inclusive meaning represented by the phrase "**and/or**." The words "**hereof**," "**herein**," "**hereby**," "**hereunder**," and similar terms in this Agreement refer to this Agreement

as a whole and not to any particular provision or section of this Agreement. Words in this Agreement importing the singular number will mean and include the plural number, and vice versa.

10.14 No Waiver. No waiver by a Party of a breach of any of the terms, covenants, or conditions of this Agreement by the other shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition contained herein. No waiver of any default by a Party shall be implied from any omission by the other Party to take any action on account of such default if such default persists or is repeated and no express waiver shall affect a default other than as specified in such waiver. The consent or approval by either Party to or of any act by the other requiring the first Party's consent or approval shall not be deemed to waive or render unnecessary the consenting Party's consent or approval to or of any subsequent similar acts by the other Party.

10.15 Severability of Provisions. Wherever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement will be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

10.16 Condemnation. From the Effective Date through and until the earlier of Close of Escrow or the termination of this Agreement, Seller shall not exercise the power of eminent domain or similar powers on any portion of the Property, except to the extent required in order for Seller to satisfy its obligations in connection with this Agreement.

10.17 [Intentionally Omitted]

10.18 Incorporation of Exhibits. Except as intentionally omitted, all exhibits attached hereto and referred to herein are incorporated into the Agreement as though fully set forth herein.

10.19 Counterparts. This Agreement may be executed in any number of counterparts and by different Parties to this Agreement in separate counterparts, each of which when so executed and delivered will be deemed original, but all such counterparts, together, will constitute but one and the same instrument. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. This Agreement will become effective upon the execution and delivery of a counterpart hereof by each Party to this Agreement. A signature of a Party to this Agreement sent by facsimile, electronic mail (including a scanned portable document format copy sent by electronic mail), or other electronic transmission will have the same force and effect as delivery of an original signature of such Party.

10.20 Amendments. This Agreement may not be modified, changed, supplemented, superseded, canceled or terminated, except by written instrument signed by the Parties hereto.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

ATTEST


CITY OF SANTA ANA

Daisy Gomez
City Clerk

Kristine Ridge
City Manager

APPROVED AS TO FORM

Sonia R. Carvalho
City Attorney


By: 

Ryan O. Hodge
Assistant City Attorney

RECOMMENDED FOR APPROVAL

CARIBOU INDUSTRIES, INC., a Nevada corporation

Steven A. Mendoza
Executive Director
Community Development Agency

By: 
Name: Michael F. Morant
Title: PRESIDENT

Exhibits:

Exhibit "A" – Legal Description of the Property

Exhibit "A-1" – Map of the Property

Exhibit "B" – Form of Grant Deed

Exhibit "C" – Form of Restrictive Covenant

EXHIBIT "A"

LEGAL DESCRIPTION

[see attached]

EXHIBIT "A-1"

MAP OF THE DRIVEWAY LOT

[see attached]

EXHIBIT "B"

FORM OF GRANT DEED

[see attached]

AT THE REQUEST OF AND
WHEN RECORDED MAIL TO:

City of Santa Ana
20 Civic Center Plaza (M-)
P.O. Box 1988
Attention: City Clerk

SPACE ABOVE FOR RECORDER'S USE

GRANT DEED

For a valuable consideration, receipt of which is hereby acknowledged:

The City of Santa Ana, a California charter city in the County of Orange of the State of California ("Grantor" or "City"), hereby grants to Caribou Industries, Inc., a Nevada Corporation ("Grantee" or "Developer"), that certain real property described in **Exhibit "A"** attached hereto and incorporated herein by this reference together with (a) all improvements owned by Grantor and located on the Property and all fixtures contained in any such improvements, and (b) any and all easements, rights-of-way, privileges, rights and appurtenances benefiting, appertaining or belonging to the Property, including, without limitation, any and all streets and roads (whether opened or proposed) abutting the Property, riparian rights, water or water rights and stock evidencing any such water rights, and/or oil, gas or other minerals laying under the Property ("Property").

EXECUTED ON _____, in _____, California.

CITY:

THE CITY OF SANTA ANA, a California
charter city in the County of Orange of the
State of California

Dated: _____

By: _____

Name:

Its:

ATTEST:

By: _____

City Clerk

APPROVED AS TO FORM:

City Attorney

[NOTE: All signatures must be notarized]

Exhibit "B"

EXHIBIT "A" TO
CITY DEED

LEGAL DESCRIPTION

EXHIBIT "C"

HOTEL COVENANT

[see attached]

**AT THE REQUEST OF AND
WHEN RECORDED MAIL TO:**

**City of Santa Ana
20 Civic Center Plaza (M-___)
P.O. Box 1988
Attention: City Clerk**

	No recording fee required; this document is exempt from fee pursuant to Section 6103 of the California Government Code
--	--

SPACE ABOVE THIS LINE FOR RECORDER'S USE

HOTEL COVENANT

For a valuable consideration, receipt of which is hereby acknowledged:

The City of Santa Ana, a California charter city in the County of Orange of the State of California ("Grantor" or "City"), granted to Caribou Industries, Inc., a Nevada Corporation ("Grantee" or "Developer"), that certain real property described in Exhibit "A" attached hereto and incorporated herein by this reference ("Property") pursuant to the Grant Deed recorded against the Property at the same time as this Hotel Covenant.

1. The Property was conveyed in accordance with and subject to that certain Purchase and Sale Agreement ("Agreement") dated _____, entered into between Grantor and Grantee, a copy of which is on file with the City at its offices as a Public Record and which is incorporated herein by reference. The Agreement requires the Developer to construct and meet other requirements as set forth therein. All defined terms used herein shall have the same meaning as those used in the Agreement.

2. The Agreement acknowledges and agrees that the Property is quitclaimed by the City to the Grantee in its "AS IS," "WHERE IS" and "SUBJECT TO ALL FAULTS CONDITION," as of the date of recordation of this Hotel Covenant, with no warranties, expressed or implied, as to the environmental or other physical condition of the Property, the presence or absence of any patent or latent environmental or other physical condition on or in the Property, or any other matters affecting the Property.

3. As provided in the Agreement, Grantee shall, subject to Unavoidable Delay, submit all applications necessary for hotel Project Entitlements within one (1) year of the Close of Escrow, and shall complete development of the Property as a hotel in accordance with plans and specifications approved by Grantor within five (5) years of the Project Entitlement Date, and subject to the terms of the Agreement.

3.1. If Grantee does not submit the required applications for Project Entitlements within one (1) year of the Close of Escrow, then the five (5) year timeline to complete construction

Exhibit "C"

and commence operation of the hotel shall start on the date that is one (1) year and one (1) day after the Close of Escrow.

3.2. Grantee shall maintain the Project on the Property in good condition and order, shall keep the Property free from accumulation of debris and waste materials.

3.3. All obligations imposed upon Grantee herein shall bind any and all successors of Grantee (subject to Section 8 below); provided, however, that upon sale or conveyance of the Project, the party selling or conveying shall be relieved of any such obligation to the extent that such obligation arises after the date of sale or conveyance.

4. If Buyer fails to complete the construction of the Project and/or Improvements when required, Grantee shall have one hundred twenty (120) days following written notice of default from the Grantor to complete construction, provided that the Grantee shall not have obtained an extension or postponement to which Grantee may be entitled or that Grantee or Grantee's lender for the project have commenced and are diligently proceeding to cure such default. In the event Grantee fails to cure such default, Grantee shall be liable for liquidated damages in accordance with the Agreement.

5. The Property is subject to the requirements of the Surplus Lands Act. Accordingly, pursuant to Government Code section 54233, if 10 or more residential units are developed on the Property, not less than 15 percent of the total number of residential units developed on the parcels shall be sold or rented at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years for rental housing and 45 years for ownership housing. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision (c) of Section 65915. This covenant shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5. Rooms in a hotel project are not considered residential units under the foregoing laws.

6. All covenants contained in this Hotel Covenant shall be covenants running with the land and equitable servitudes thereon. The covenants contained in Sections 3 and 4 herein shall automatically terminate upon (a) issuance of a last Certificate of Occupancy for the Project; or (b) Grantee's payment of liquidated damages in accordance with the Agreement, without further notice or documentation.

7. The covenants contained herein shall be binding for the benefit of Grantor, the City of Santa Ana and, if applicable, any successor in interest to said parties. Such covenants shall run in favor of the Grantor and such aforementioned parties for the entire period during which such covenants shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. The right to exercise all of the right and remedies, and to maintain any actions at law or suits in equity or contained in this Hotel Covenant shall be for the benefit of and shall be enforceable only by the Grantor and such aforementioned parties. Notwithstanding anything to the contrary in this Hotel Covenant, no default by Grantee hereunder shall result in any forfeiture of fee title to the Property.

8. Nothing in this Hotel Covenant shall restrict Grantee from unencumbering the Property with a deed of trust or mortgage. Any amendment to these Hotel Covenant shall require the consent of any mortgagee. No portion of this Hotel Covenant or any amendment or violation thereof shall operate to defeat or render invalid, in whole or in part, the rights or protection of the beneficiary, insurer, guarantor, or holder of any mortgage or deed of trust encumbering any portion of the Property. Notwithstanding anything in this Hotel Covenant to the contrary, in the event of any foreclosure or deed-in-lieu of foreclosure by lender holding a deed of trust or mortgagee on the Property, any successor owner shall acquire fee title to the Property free of any obligations under this Hotel Covenant.

9. The covenants contained herein shall be deemed to be covenants running with the land and shall bind and benefit future purchasers, encumbrances and transferee.

[Signatures on following page]

EXECUTED ON _____, in _____, California.

CITY:

THE CITY OF SANTA ANA, a California
charter city in the County of Orange of the State
of California

Dated: _____

By: _____

Name:

Its:

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

BUYER:

CARIBOU INDUSTRIES, INC., a Nevada
corporation

By: _____

Name: _____

Title: _____

[NOTE: All signatures must be notarized]

EXHIBIT "A" TO
HOTEL COVENANT

LEGAL DESCRIPTION