

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7

BUTH-NA-BODHAIGE, INC.,

Case No.: 24-10392 (DSJ)

Debtor.
-----X

**DECLARATION OF KENNETH P. SILVERMAN, ESQ. IN SUPPORT OF
CONFIRMATION OF TRUSTEE'S SALE OF THE DEBTOR'S REAL PROPERTY**

I, Kenneth P. Silverman, Esq., declare as follows:

1. I am a partner of Rimon P.C. and the chapter 7 trustee (the "Trustee") of the bankruptcy estate (the "Estate") of Buth-Na-Bodhaige, Inc. (the "Debtor"), with offices located at 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753. I am duly admitted to practice before this Court and the courts of the State of New York.

1. I submit this declaration (this "Declaration") in support of my sale of the Debtor's real property known as and located at 5036 One World Way, Wake Forest, North Carolina 27587 (the "Real Property").

2. I have reviewed the purchase and sale agreements and relevant documents thereto, and personally appeared at the Auction (defined herein) and certify that its contents are true and correct to the best of my knowledge, and those facts are incorporated herein by reference.

I. The Sale Process

3. On July 16, 2024, the Court entered an order (ECF Doc. No. 90) approving bidding procedures for the sale of the Real Property, approving the form purchase agreement, approving bid protections in favor of the stalking horse purchaser (the "Stalking Horse Purchaser"), approving the form and manner of service of the auction notice, and scheduling an action (the "Bidding Procedures Order").



4. Pursuant to the Bidding Procedures Order, the Auction (as defined therein) for the Real Property was scheduled to take place on September 12, 2024, with a sale confirmation hearing to be held on September 17, 2024.

II. The Auction

5. Prior to the Auction, I received one additional bid package (in addition to the Stalking Horse Purchaser) pursuant to the Bidding Procedures Order from Capital One World Property, LLC ("Capital") and, together with the Stalking Horse Purchaser, the "Qualified Bidders"). My professionals and I reviewed the bid package submitted by Capital and determined that Capital was a Qualified Bidder, as that term is defined in the Bidding Procedures Order. A copy of the purchase and sale agreement executed by Capital (the "Capital PSA") is annexed hereto as **Exhibit A**. A redline version of the Capital PSA to the Form Purchase and Sale Agreement approved by the Bidding Procedures Order is annexed hereto as **Exhibit B**.

6. On September 12, 2024, my professionals and I conducted the Auction with the Qualified Bidders via Zoom, in accordance with the Bidding Procedures Order.

7. At the Auction, there were eleven (11) rounds of bidding with the final bid being made by Capital in the amount of Twelve Million Seven Hundred Thousand and 00/100 Dollars (\$12,700,00.00) (the "Successful Bid").

8. Based on my review of the purchase and sale agreements from each of the Qualified Bidders and the results of the Auction, I selected the Successful Bid as the highest and best offer for the purchase of the Real Property.

9. To the best of my knowledge, all bids were submitted in good faith and at arms-length, and there was no collusion between the Qualified Bidders, myself, my professionals, or any other party regarding the sale or the conduct of the Auction.

10. Accordingly, I request that the Court confirm the Successful Bid as the highest and best offer, approve the sale to Capital pursuant to the terms of the Capital PSA, and grant such other and further relief as the Court deems just and proper.

11. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Jericho, New York on September 12, 2024.

s/ Kenneth P. Silverman

Kenneth P. Silverman, Esq.

PURCHASE AND SALE AGREEMENT

between

KENNETH P. SILVERMAN, AS CHAPTER 7 TRUSTEE FOR

BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP,

a Virginia corporation, Seller

and

CAPITAL ONE WORLD PROPERTY, LLC,

a North Carolina limited liability company, Purchaser

dated as of

September 13, 2024

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PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this “**Agreement**”), dated as of September [●], 2024, is entered into between Kenneth P. Silverman, as Chapter 7 Trustee of BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP, a Virginia corporation (“**Seller**”), and CAPITAL ONE WORLD PROPERTY, LLC, a North Carolina limited liability company (“**Purchaser**”), each a “**Party**” and collectively the “**Parties**”.

RECITALS

WHEREAS, on March 8, 2024 (the “**Petition Date**”), BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP, a Virginia corporation (“**Debtor**”) filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code, 11 U.S.C. §101 et seq. (the “**Bankruptcy Code**”), in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”), Case No. 24-10392-dsj (the “**Chapter 7 Case**”); and

WHEREAS, following the Petition Date, Kenneth P. Silverman was appointed as Chapter 7 Trustee of the Debtor’s bankruptcy estate, and is currently acting as Seller in such capacity;

WHEREAS, Seller wishes to sell to Purchaser and Purchaser wishes to acquire from Seller the Property (as hereinafter defined) on the terms and conditions set forth in this Agreement (the “**Sale**”); and

WHEREAS, the transactions contemplated by this Agreement is subject to an order of the Bankruptcy Court approving, *inter alia*, the sale of the Property to the Purchaser, consistent with terms, conditions and transactions contemplated by the Agreement; and

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

ARTICLE I DEFINITIONS

The following terms have the meanings specified or referred to in this Article I:

“**Affiliate**” means any person or entity which directly or indirectly controls, is controlled by, or is under common control with, any Person.

“**Applicable Law**” means, with respect to any Person, any foreign, federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, guidance, plan, order, injunction, judgment, decree, ruling, charge or other similar requirement, including any Labor and Employment Law and Requirements, enacted, adopted, or promulgated by a Governmental Authority that is binding upon such Person, as amended.

“**Agreement**” has the meaning set forth in the preamble.

“**Bankruptcy Code**” has the meaning set forth in the recitals.

“**Bankruptcy Court**” has the meaning set forth in the recitals.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as prescribed by the United States Supreme Court pursuant to Section 2075 of title 28 of the United States Code and as applicable to the Chapter 7 Case.

“Bidding Procedures Order” has the meaning set forth in Section 12.01.

“Board” means the governing board of an entity, including the board of directors, board of governors, board of trustees, or board of managers, as applicable.

“Broker” has the meaning set forth in Section 15.01.

“Business” refers to the Debtor’s business prior to its cessation of operations.

“Business Day” has the meaning set forth in Section 16.05.

“Chapter 7 Case” has the meaning set forth in the recitals.

“Claim” has the meaning ascribed to such term in Section 101(5) of the Bankruptcy Code.

“Closing” has the meaning set forth in Section 4.01.

“Closing Date” has the meaning set forth in Section 4.01.

“Code” has the meaning set forth in Section 4.02(c).

“Confidential Information” has the meaning set forth in Section 14.01.

“Deed” has the meaning set forth in Section 4.02(a).

“Deposit” has the meaning set forth in 3.01(b).

“Escrow Agent” has the meaning set forth in 13.01.

“Excluded Property” has the meaning set forth in Section 2.02.

“Final Order” means an order or judgment of the Bankruptcy Court or any other court of competent jurisdiction that has not been reversed, vacated, or stayed and as to which (a) the time to appeal, petition for certiorari, or move for a stay, new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for stay, new trial, reargument, or rehearing shall then be pending or (b) if an appeal, writ of certiorari, stay, new trial, reargument, or rehearing has been sought, (i) such order or judgment shall have been affirmed by the highest court to which such order was appealed, certiorari shall have been denied, or a stay, new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and (ii) the time to take any further appeal, petition for certiorari, or move for a stay, new trial, reargument, or rehearing shall have expired; provided, however, that the possibility that a motion under section 502(j) of the Bankruptcy Code, Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or applicable state court rules of civil procedure may be, but has not been, filed with respect to such order shall not cause such order not to be a Final Order.

“Governmental Authority” means any domestic or foreign federal, state or local governmental authority, department, court or government, commission, tribunal or organization or any regulatory, administrative or other agency, or any political or other division, subdivision, department or branch of any of the foregoing.

“Governmental Authorizations” means any approval, consent, license, permit, waiver, registration, accreditation or other authorization issued, granted, given, made available or otherwise required by any Governmental Authority or pursuant to Applicable Law.

“Improvements” has the meaning set forth in Section 2.01(b).

“Land” has the meaning set forth in Section 2.01(a).

“Liens” means “any and all liens (including mechanics’, materialmen’s and other consensual and non-consensual liens and statutory liens), security interests, encumbrances, adverse rights, trusts, and claims, rights of distraint, reclamation claims, mortgages, deeds of trust, pledges, covenants, restrictions, hypothecations, charges, indentures, loan agreements, instruments, contracts, leases, licenses, options, rights of first refusal, rights of offset, recoupment, rights of recovery, judgments, orders and decrees of any Court or foreign or domestic governmental entity, claims for reimbursement, contribution, indemnity or exoneration, assignment, debts, charges, suits, rights of recovery, interests, products liability, alter-ego, environmental, successor liability, tax and other liabilities (including probate liabilities), causes of action and claims, to the fullest extent of the law, in each case whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, or known or unknown, whether imposed by agreement, understanding, law, equity or otherwise, or any other interest of any nature whatsoever of, on or with respect to any property or property interest.

“Notices” has the meaning set forth in Section 9.01.

“OFAC” has the meaning set forth in Section 6.01(g).

“Permitted Exceptions” has the meaning set forth in Section 5.02.

“Person” has the meaning ascribed to such term in Section 101(41) of the Bankruptcy Code.

“Property” has the meaning set forth in Section 2.01.

“Purchase Price” has the meaning set forth in Section 3.01.

“Purchaser” has the meaning set forth in the preamble.

“Sale” has the meaning set forth in in the recitals.

“Sale Motion” has the meaning set forth in Section 12.01.

“**Sale Order**” means an order of the Bankruptcy Court in a form acceptable to the Purchaser in its sole and absolute discretion, authorizing and approving this Agreement and the sale and purchase of the Property hereunder.

“**Seller**” has the meaning set forth in the preamble.

“**Survey**” has the meaning set forth in Section 5.03(a)(ii).

“**Title Commitment**” has the meaning set forth in Section 5.03(a)(i).

“**Title Insurance Company**” shall be Investors Title Insurance Company, or such other title company mutually selected by Purchaser and Seller.

“**Transaction Parties**” has the meaning set forth in Section 14.01.

“**Violations**” has the meaning set forth in Section 5.05.

ARTICLE II CONVEYANCE OF THE PROPERTY

Section 2.01 Subject of Conveyance. Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, all right, title, and interest of the Debtor and its bankruptcy estate in and to the following (collectively referred to herein as the “**Property**”) free and clear of all Liens, Claims and interests in, to or against the Property, other than Liens securing the Permitted Exceptions, to the fullest extent permissible under Section 363(f) of the Bankruptcy Code:

(a) All that certain lot, piece, or parcel of land located at 5036 One World Way, Wake Forest, County of Wake, and State of North Carolina, as more particularly bounded and described in Exhibit A attached hereto and hereby made a part hereof (the “**Land**”);

(b) All buildings and improvements located on the Land and all of Debtor’s and its estate’s right, title, and interest in and to any and all fixtures attached thereto (collectively, the “**Improvements**”);

(c) All other rights of way, privileges, easements, licenses, and appurtenances relating to the Land; and

(d) All intangible property owned by Debtor arising from or used exclusively in connection with the ownership, use, operation or maintenance of the Land or the Improvements (collectively, the “**Intangible Property**”), including: all of Debtor’s right, title and interest in, to and under (to the extent assignable), any (i) assignable warranties and guaranties issued to Debtor in connection with the Property; (ii) all assignable certificates of occupancy, permits, licenses and certificates relating to the Land or the Improvements; and (iii) all assignable or deliverable surveys, drawings, plans, specifications, diagrams, space finish plans, third-party reports, environmental assessments, and other architectural or engineering work product relating to the Land or the Improvements.

Section 2.02 Excluded Property. Notwithstanding the foregoing, the sale of the Property contemplated by this Agreement shall not include the personal property and liabilities listed in Exhibit B attached hereto and made a part hereof (the “**Excluded Property**”), which Excluded Property is expressly excluded from such conveyance.

Section 2.03 AS-IS.

(a) Except as set forth in this Agreement, Purchaser acknowledges that Purchaser has made thorough inspections and investigations of the Property and Purchaser agrees to take title to the Property "AS-IS, WHERE IS, AND WITH ALL FAULTS" and in the condition existing as of the date of this Agreement, subject to reasonable use, ordinary wear and tear, and without any reduction in or abatement of the Purchase Price. Purchaser has undertaken all such investigations of the Property as Purchaser deems necessary or appropriate under the circumstances as to the status of the Property and the existence or nonexistence of curative action to be taken with respect to any hazardous or toxic substances on or discharged from the property, and based upon same, Purchaser is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel, and officers.

(b) Neither party to this Agreement is relying on any statement or representation not expressly stated in this Agreement. Purchaser specifically confirms and acknowledges that in entering into this Agreement, Purchaser has not been induced by, and has not relied upon, whether express or implied, warranties, guaranties, promises, statements, inducements, representations, or information pertaining to the Property or its uses, the physical condition, environmental condition, state of title, income, expenses, or operation of the Property, or any other matter or thing with respect thereto, written or unwritten, whether made by Seller or any agent, employee, or other representative of Seller, or any broker or any other person representing (or purporting to represent) Seller, which are not expressly set forth in this Agreement. Seller shall not be liable for or bound by any written or unwritten statements, representations, warranties, brokers' statements, or other information pertaining to the Property furnished by Seller, any broker, any agent, employee, or other actual (or purported) representative of Seller, or any person, unless and only to the extent the same are expressly set forth in this Agreement.

(c) Seller makes no warranty with respect to the presence of any hazardous or toxic substances on, above, beneath, or discharged from the Property (or any adjoining or neighboring property) or in any water on or under the Property. The Closing hereunder shall be deemed to constitute an express waiver of Purchaser's right to recover from Seller, and forever releases, covenants not to sue, and discharges Seller from, any and all damages, demands, claims, losses, liabilities, penalties, fines, liens, judgments, costs, or expenses whatsoever, including attorneys' fees and costs, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the physical condition of the Property.

(d) The provisions of this Section 2.03 shall survive the Closing and shall not be deemed to have merged into any of the documents executed or delivered at the Closing.

Section 2.04 No Assumption of Liabilities. Except for any liabilities arising out of ownership of the Property after Closing, Purchaser does not and shall not be deemed to assume any obligations or liabilities in connection with the transactions contemplated by this Agreement.

ARTICLE III PURCHASE PRICE

Section 3.01 Purchase Price and Deposit. The purchase price to be paid by Purchaser to Seller for the Property is Twelve Million Seven Hundred Thousand and 00/100 Dollars (\$12,700,000.00) (the “**Purchase Price**”). The Purchase Price shall be paid as follows:

(a) Initial Deposit. Upon the mutual execution of this Agreement, Purchaser shall make a deposit of Six Hundred Thirty-Five Thousand and 00/100 Dollars (\$635,000.00) (“**Initial Deposit**”) with the Seller, to be held in Seller’s dedicated earnest monies account for the Debtor’s estate (“**Trustee Account**”).

(b) Additional Deposit. In the event Purchaser is designated as the Successful Bidder or Backup Bidder (as defined in the Bidding Procedures Order) at the conclusion of the Auction, Purchaser shall make an additional deposit of Six Hundred Thirty-Five Thousand and 00/100 Dollars (\$635,000.00) to the Trustee Account (the “**Additional Deposit**,” and together with the Initial Deposit, the “**Deposit**”). Seller shall retain the Deposit as liquidated damages if this Agreement is properly terminated by Seller pursuant to Section 10.01(b) or upon the failure of Purchaser to consummate the Sale in accordance with the terms of this Agreement, provided that all conditions precedent to Closing have been satisfied and there shall not have been a material breach by Seller of any representation, warranty or covenant contained in this Agreement.

(c) Balance at Closing. The Purchase Price, less the Deposit, shall be paid to Seller on the Closing Date, subject to any credits or apportionments as provided for under this Agreement, by certified or official bank checks made payable to Seller or by one or more wire transfers of immediately available federal funds to Seller on the Closing Date. The Deposit shall be applied toward the Purchase Price on the Closing Date.

Section 3.02 No Financing. Purchaser expressly agrees and acknowledges that Purchaser’s obligations to pay the Purchase Price and otherwise consummate the transactions contemplated hereby are not in any way conditioned upon Purchaser’s ability to obtain financing of any type or nature whatsoever (that is, whether by way of debt financing, equity investment, or otherwise).

ARTICLE IV CLOSING

Section 4.01 Closing Date. The closing of the transactions contemplated herein (the “**Closing**”) shall take place within three (3) business days after satisfaction or waiver of all conditions to the obligations of Seller and Purchaser to consummate the transactions contemplated herein (other than conditions with respect to actions Seller and Purchaser will take at the Closing) or such other date as Purchaser and Seller may mutually determine in writing (the “**Closing Date**”).

Section 4.02 Seller’s Closing Deliverables. At Closing, Seller shall deliver or cause to be delivered to Purchaser (or Title Insurance Company, as appropriate), the following, executed, certified, and acknowledged by Seller, as appropriate:

(a) One (1) original deed (the “**Deed**”) in substantially the form attached hereto as Exhibit C, duly executed with the appropriate acknowledgment form and otherwise in proper form for recording so as to convey title to the Property as required by this Agreement. The delivery of the Deed by Seller, and the acceptance by Purchaser, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed pursuant to this Agreement, except those obligations of Seller which are expressly stated in this Agreement to survive the Closing.

(b) An assignment by Seller and an assumption by Purchaser, in the form attached hereto as Exhibit D (the “**Assignment and Assumption of Intangibles**”), duly executed and acknowledged by Seller, of all of Seller’s right, title, and interest in and to all Intangible Property.

(c) A certification that Seller is not a "foreign person" as such term is defined in Section 1445 of the Internal Revenue Code, as amended and the regulations thereunder (collectively, the “**Code**”), which certification shall be signed under penalty of perjury.

(d) Originals, or copies certified by Seller as being complete, of all applicable bills, invoices, fuel readings, and other items that shall be apportioned as of the Closing Date.

(e) A counterpart of a closing statement jointly prepared by Seller and Purchaser reflecting the prorations and adjustments required under Section 4.06 of this Agreement and the balance of the Purchase Price due Seller (the “**Settlement Statement**”).

(f) All keys, key cards, and access codes to any portion of the Property, to the extent in Seller's possession or control.

(g) All other documents reasonably necessary or otherwise required by the Escrow Agent and Title Insurance Company to consummate the transaction contemplated by this Agreement and such other mutually acceptable documents as may be reasonably necessary or appropriate to effect the consummation of the transaction which is the subject of this Agreement.

Section 4.03 Purchaser’s Closing Deliverables. On the Closing Date, Purchaser shall deliver or cause to be delivered to Seller (or Title Insurance Company, as appropriate), the following, executed, certified, and acknowledged by Purchaser, as appropriate:

(a) The balance of the Purchase Price as set forth in Section 3.01(c).

(b) Purchaser shall, where applicable, join with Seller in the execution and delivery of the closing documents and instruments required under Section 4.02 of this Agreement.

(c) An organizational resolution of Purchaser authorizing the transaction contemplated hereby and the execution and delivery of the documents required to be executed and delivered hereunder.

(d) All other documents reasonably necessary or otherwise required by the Escrow Agent or the Title Insurance Company to consummate the transactions contemplated by this

Agreement and such other mutually acceptable documents as may be reasonably necessary or appropriate to effect the consummation of the transaction which is the subject of this Agreement.

Section 4.04 Conditions to Closing. The obligations of the Purchaser hereunder are, at Purchaser's option, subject to the satisfaction, on or prior to the date of the Closing, of the following conditions:

(a) Accuracy of Representations; Performance of Obligations. Seller will have performed Seller's obligations hereunder required to have been performed before the date of the Closing in all material respects, and the representations and warranties of the Seller contained in Article VI of this Agreement will be true and correct in all material respects (except for such representations and warranties that are qualified by their terms by a reference to materiality, which representations and warranties as so qualified will be true in all respects, and representations and warranties that relate to a certain date, which shall be true and correct as of such date) on and as of the date of the Closing with the same effect as though such representations and warranties had been made on and as of such date.

(b) Free and Clear. The Property shall be free and clear of all Liens, Claims and interests in, to or against the Property, other than Liens securing the Permitted Exceptions, to the fullest extent permissible under Section 363(f) of the Bankruptcy Code.

(c) Closing Deliverables. The Seller shall have fulfilled each of its closing deliverables as set forth in section 4.02 of this Agreement.

(d) Sale Order. The Bankruptcy Court shall have entered the Sale Order, in form and substance acceptable to Purchaser in its sole discretion, which shall have become a Final Order and provide, among other things, that the Sale is (i) free and clear of all Liens, Claims, encumbrances, interests, and rights of set-off, whether known or unknown, disputed, contingent, actual, or otherwise, arising prior to closing, pursuant to Section 363(f) of the Bankruptcy Code, (ii) by a good faith purchaser entitled to the protection of Section 363(m) of the Bankruptcy Code, and (iii) with no successor liability.

(e) Vacant Property. The Property shall be fully vacant as set forth in Section 7.04 of this Agreement.

(f) Additional Documents. Purchaser will have received all such further instruments, and documents as the Purchaser may reasonably require to consummate the Sale.

Section 4.05 Closing Costs.

(a) Seller and Purchaser shall each pay the fees and expenses of its own counsel in connection with the preparation and negotiation of this Agreement. The Deed and other agreements and instruments related to the transaction contemplated by this Agreement and such legal costs shall not be part of the closing costs; provided, however, that if any legal action is instituted under this Agreement, the prevailing party in such action shall be entitled to recover from the other party costs related to such legal action, including reasonable attorneys' fees and costs in all trial, appellate, post-judgment, and bankruptcy proceedings.

(b) Seller shall pay:

(i) The commission owed to the Broker, if any, pursuant to Article XIII of this Agreement;

(ii) All recording fees for the release of any Liens on the Property, as required pursuant to the terms of this Agreement;

(iii) Any transfer taxes and sales taxes payable in connection with the transaction contemplated by this Agreement;

(iv) All costs related to the Chapter 7 Case.

(c) Purchaser shall pay:

(i) The costs charged by the Title Insurance Company, including, without limitation, costs related to the Title Commitment, any premiums, title endorsements, and affirmative insurance;

(ii) The costs related to the Survey and any other survey or survey update;

(iii) Any other fees or costs related to Purchaser's due diligence reviews; and

(iv) All costs related to the recording fees payable in connection with the recording of the Deed and Purchaser's lender's security instruments, if any.

Section 4.06 Apportionments. The following shall be apportioned as of 11:59 p.m. Eastern of the date immediately preceding the Closing Date, unless expressly provided for otherwise:

(a) All real estate taxes based on the fiscal year for which they are assessed and any assessments. If the Closing shall occur before a new tax rate is fixed, the apportionment of real estate taxes shall be upon the basis of the tax rate for the preceding fiscal period applied to the latest assessed valuation. If the Property shall be, or has been, affected by any assessments or special assessments payable in a lump sum or which are, or may become, payable in installments, of which the first installment is then a charge or lien, or has already been paid, then at the Closing such amounts shall be paid or apportioned, as the case may be in the following manner:

(i) Any such assessments or installments, or portion thereof, payable on or after the Closing Date shall be the responsibility of Purchaser; and

(ii) Any such assessments or installments, or portion thereof, payable prior to the Closing Date shall be the responsibility of Seller.

(b) All water and sewer charges based on most recently issued bills, unless the meters are read on the date immediately preceding the Closing Date.

(c) Utilities, fuel, gas, and electric charges based on most recently issued bills, unless the meters are read on the date immediately preceding the Closing Date.

(d) All other items customarily apportioned in connection with sales of buildings substantially similar to the Property in the State of North Carolina.

Section 4.07 Miscellaneous. Any miscellaneous adjustments payable by either Purchaser or Seller, as the case may be, that occur at the Closing may be paid at the Closing by delivery of personal or business checks, provided, however, that such miscellaneous adjustments do not exceed One Thousand and 00/100 Dollars (\$1,000.00). Any errors in calculations or apportionments shall be corrected or adjusted as soon as practicable after the Closing Date. The provisions of this Section 4.07 and Section 4.06 shall survive the Closing.

ARTICLE V TITLE MATTERS AND VIOLATIONS

Section 5.01 Acceptable Title. Seller shall convey, and Purchaser shall accept, such title to the Property that the Title Insurance Company is willing to insure, subject to the matters set forth in this Agreement. Seller shall convey, and Purchaser shall accept, fee simple title to the Property in accordance with the terms and conditions of this Agreement, and subject to:

- (a) The Permitted Exceptions; and
- (b) Such other matters as any Title Insurance Company shall be willing to omit as exceptions to coverage.

Section 5.02 Permitted Exceptions. The Property shall be sold, assigned, and conveyed by Seller to Purchaser, and Purchaser shall accept and assume same, subject to the following matters (collectively, the “**Permitted Exceptions**”):

- (a) Any and all present and future zoning, building, environmental and other laws, statutes, ordinances, codes, rules, regulations, requirements, or executive mandates of all Governmental Authorities having jurisdiction with respect to the Property, including, without limitation, landmark designations and all zoning variances and special exceptions, if any.
- (b) Any state of facts that an accurate survey of the Property would disclose, provided such facts do not render title unmarketable.
- (c) All presently existing and future liens for unpaid real estate taxes, assessments, and water and sewer charges that are not due and payable as of the Closing Date, subject to any apportionments as provided for in this Agreement.
- (d) All covenants, restrictions, and rights, and all easements and agreements for the erection and/or maintenance of water, gas, steam, electric, telephone, sewer or other utility pipelines, poles, wires, conduits, or other like facilities, and appurtenances thereto, over, across, and under the Property.

- (e) Any lien or encumbrance arising out of the acts or omissions of the Purchaser.
- (f) Any exceptions disclosed on Schedule B of the Title Commitment (as hereinafter defined) which will be extinguished upon the transfer of the Property.
- (g) The standard conditions and exceptions to title contained in the form of title policy issued to Purchaser by the Title Insurance Company.
- (h) Such other matters as any reputable title insurer licensed to do business in the State of North Carolina shall be willing, without special premium, to omit as exceptions to title insurance coverage.

Section 5.03 Title.

- (a) Purchaser shall promptly order at its sole cost and expense:
 - (i) A commitment for title insurance from the Title Insurance Company, together with copies of any tax search, departmental or municipal searches, and all instruments giving rise to any defects or exceptions to title to the Property (collectively, the **"Title Commitment"**), which the parties shall instruct the Title Insurance Company to deliver to counsel for both Purchaser and Seller concurrently; and
 - (ii) Either an update of an existing survey or a new survey of the Property, prepared by a surveyor licensed in the state where the Property is located (**"Survey"**), which the parties shall instruct the surveyor to deliver the Survey to counsel for both Purchaser and Seller concurrently.
- (b) No later than ten (10) Business Days after receipt of the Title Commitment and Survey, Purchaser will notify Seller of Purchaser's objections to title (other than Permitted Exceptions) including matters based on the Survey (**"Title Objection Notice"**).
- (c) Not later than five (5) Business Days after receipt of Purchaser's Title Objection Notice, Seller will notify Purchaser whether or not Seller will remove the title defects (**"Title Defects"**) specified in the Title Objection Notice. If Seller elects to cure the Title Defects, then Seller shall be obligated to remove such Title Defects from Purchaser's Title Commitment at Seller's sole cost and expense prior to Closing. If Seller notifies Purchaser within the five (5) Business Day period that Seller does not intend to remove the Title Defects specified in the Title Objection Notice (or if Seller does not respond to Purchaser's Title Objection Notice within such five (5) Business Day period, in which case Seller shall be deemed to have elected not to remove such Title Defects, then Purchaser may, at its option, either (i) terminate this Agreement in which case Purchaser shall receive back the Deposit and the parties hereto shall have no further obligations under this Agreement, except pursuant to the provisions which expressly survive termination of this Agreement, or (ii) accept title at Closing subject to the Title Defects specified in the Title Objection Notice, without any reduction or adjustment in the Purchase Price.

(d) If Seller is unable to remove all such Title Defects which Seller has expressly agreed to remove on or before the Closing Date, subject to the terms hereof, then Purchaser may at its option: (i) waive such Title Defects and proceed to close the transaction, or (ii) terminate this Agreement by delivering written notice to Seller, in which event the Deposit shall be returned to Purchaser and the parties hereto shall have no further obligations under this Agreement, except pursuant to the provisions which expressly survive termination of this Agreement. If any supplemental or subsequent title or “run down” report issued by the Title Insurance Company discloses any liens, encumbrances, easements, restrictions, agreements, encroachments or other exceptions to title or the Survey not caused by Purchaser or its agents (other than Permitted Exceptions) (collectively, “**New Title Defects**”), Purchaser shall have the right to object to the New Title Defects by notifying Seller in writing (a “**Run Down Objection Notice**”) of any such New Title Defects within five (5) Business Days after Purchaser’s receipt of such New Title Defects. If Seller is unable or unwilling to remove any such New Title Defects in accordance with the requirements hereof, Seller shall so notify Purchaser within five (5) days of receipt of the Run Down Objection Notice and Purchaser shall have the right to accept such title as Seller shall be able to convey or to terminate this Agreement, by notice delivered to Seller within five (5) days following receipt of the New Seller Title Notice. If Purchaser elects to terminate this Agreement by delivering written notice thereof to Seller, then the Deposit shall be returned to Purchaser and the parties hereto shall have no further obligations under this Agreement, except pursuant to the provisions which expressly survive termination of this Agreement.

Section 5.04 Seller’s Inability to Convey.

(a) If, on the Closing Date, Seller fails or is unable to convey title to the Property in accordance with this Agreement, Seller shall be entitled, upon written notice delivered to Purchaser on or prior to the Closing Date, to reasonable adjournments of the Closing one or more times for a period not to exceed sixty (60) days in the aggregate to enable Seller to convey such title to the Property.

(b) If Seller does not so elect to adjourn the Closing, and on the Closing Date, fails or is unable to convey title subject to and in accordance with the provisions of this Agreement, Purchaser may either: (i) terminate this Agreement by written notice to Seller delivered on or before the Closing Date, in which event Purchaser shall be entitled to a return of the Deposit, and this Agreement shall thereupon be deemed terminated and of no further effect, and neither party hereto shall have any obligations to the other hereunder or by reason hereof, except for the provisions hereof that expressly survive termination of this Agreement; or (ii) complete the purchase (with no reduction in the Purchase Price) with such title as Seller is able to convey on the Closing Date.

(c) If Seller elects to adjourn the Closing as provided in Section 5.04(a) above, this Agreement shall remain in effect for the period or periods of adjournment, in accordance with its terms. If, on the adjourned Closing Date, Seller fails or is unable to convey title to the Property subject to and in accordance with the provisions of this Agreement, Purchaser shall make its election between clauses (i) and (ii) of Section 5.04(b) above, by written notice to Seller given not later than the adjourned Closing Date. If Purchaser shall fail to give such notice as aforesaid,

Purchase shall be deemed to have elected clause (ii) of Section 5.04(b) above and the Closing shall take place within three (3) Business Days following the adjourned Closing Date.

(d) Notwithstanding anything to the contrary contained in this Agreement, Seller shall not be required to take or bring any action or proceeding or any take other steps to remove any defect in or objection to title or to fulfill any condition precedent to Purchaser's obligations under this Agreement or to expend any moneys therefor, nor shall Purchaser have any right of action against Seller therefor, at law or in equity, except that Seller shall, on or prior to the Closing, pay, discharge, or remove of record or cause any Liens to be paid, discharged, or removed of record in accordance with the Sale Order, at Seller's sole cost and expense.

(e) Notwithstanding anything in this Section 5.04 above to the contrary, Purchaser may at any time accept such title as Seller can convey, without reduction of the Purchase Price or any credit or allowance on account thereof or any claim against Seller.

Section 5.05 Violations. Notwithstanding anything to the contrary in this Agreement, Purchaser shall accept title to the Property subject to any and all violations or any notes or notices of violations of law or municipal ordinances, orders, or requirements noted or issued prior to, on or after the date of this Agreement (collectively, the "**Violations**"), if any, provided the cost to cure such Violations does not exceed Twenty-Five Thousand and 00/100 Dollars (\$25,000.00). Purchaser acknowledges and accepts that Seller shall not be obligated to comply with or take any action or incur any expense in connection with any Violations. If requested by Purchaser, Seller shall furnish Purchaser with an authorization to make any required violation searches against the Property. In the event the cost to cure such Violations does exceed Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), then Purchaser shall have the right to either (i) request that Seller cure such Violations within fifteen (15) Business Days and Seller, in its sole discretion may elect to cure such Violation; provided, however, that if such Violation cannot be reasonably cured within said period, Seller may apply a credit toward the Purchase Price at Closing equal to the amount that the cost to cure such Violations exceeds Twenty-Five Thousand and 00/100 Dollars (\$25,000); if Seller does not cure the Violation or apply said credit, Purchaser shall have the option to terminate this Agreement by written notice to Seller delivered on or before the Closing Date, in which event Purchaser shall be entitled to a return of the Deposit, and this Agreement shall thereupon be deemed terminated and of no further effect, and neither party hereto shall have any obligations to the other hereunder or by reason hereof, except for the provisions hereof that expressly survive termination of this Agreement; or (ii) complete the purchase (with no reduction in the Purchase Price) on the Closing Date.

ARTICLE VI REPRESENTATIONS AND WARRANTIES

Section 6.01 Seller's Representations and Warranties. Seller represents and warrants to Purchaser on and as of the date of this Agreement as follows:

(a) Seller is the permanent chapter 7 Trustee of the Debtor's bankruptcy estate, pursuant to Bankruptcy Code sections 701 and 702(d).

(b) Except for such authorization as is required by the Bankruptcy Court, Seller has full corporate power and authority to execute and deliver this Agreement and, subject to such

authorization as is required by the Bankruptcy Court and any required approval by a Court of competent jurisdiction to perform its obligations hereunder. Without limiting the generality of the foregoing, the Board of Seller has duly authorized the execution, delivery and performance of this Agreement by Seller. This Agreement constitutes, and any and all other closing documents to be executed by Seller pursuant hereto, when executed, will constitute, the valid and legally binding obligation of Seller, enforceable in accordance with their terms and conditions, except as enforceability against Seller may be restricted, limited or delayed by applicable bankruptcy, moratorium or other Laws affecting creditors' rights generally and except as enforceability may be subject to general principles of equity..

(c) Seller is not a "foreign person" within the meaning of Section 1445 of the Code.

(d) Subject to Bankruptcy Court approval and any other required approval by a Court of competent jurisdiction, if any, neither the execution and delivery of this Agreement, the consummation of the transactions contemplated herein (including each Closing Document required to be delivered by Seller at Closing), nor the fulfillment of the terms hereof by Seller, will (i) violate any order or award of any court, administrative agency or governmental body applicable to Seller; (ii) constitute a violation by Seller of any Applicable Law; or (iii) conflict with or violate any charter document of Seller.

(e) To Seller's actual knowledge, there is no pending or threatened litigation or condemnation action against the Property or against Seller with respect to the Property as of the date of this Agreement.

(f) Seller has not entered into any service or equipment leasing contracts relating to the Property.

(g) Seller is not, and will not become, a person or entity with whom United States persons or entities are restricted or prohibited from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities.

(h) Seller has not received written notice from any governmental agency having jurisdiction over the Property of any uncured violation of any applicable laws, ordinances, rules and regulations, including without limitation, zoning, development, construction code and environmental laws.

Section 6.02 Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller on and as of the date of this Agreement and on and as of the Closing Date as set forth in this Section 6.02.

(a) Purchaser is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of North Carolina.

(b) Purchaser has full power and authority to execute and deliver this Agreement and, subject to such authorizations as required by the Bankruptcy Court and any other required approval by a Court of competent jurisdiction, if any, to perform its obligations hereunder. The execution, delivery and performance of this Agreement and all other agreements contemplated hereby have been duly authorized by all requisite corporate action of Purchaser. This Agreement constitutes, and any and all other closing documents to be executed by Purchaser pursuant hereto when executed will constitute, the valid and legally binding obligation of Purchaser, enforceable in accordance with their terms and conditions, except as enforceability against Purchaser may be restricted, limited or delayed by applicable bankruptcy, moratorium or other Laws affecting creditors' rights generally and except as enforceability may be subject to general principles of equity.

(c) Subject to Bankruptcy Court approval, and any other required approval by a Court of competent jurisdiction, if any, neither the execution and delivery of this Agreement, the consummation of the transactions contemplated herein (including each Closing Document required to be delivered by Purchaser at Closing), nor the fulfillment of the terms hereof by Purchaser, will (i) violate any Applicable Law to which Purchaser is subject or any provision of its charter, bylaws, or other governing documents or (ii) conflict with, violate or result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Purchaser is a party or by which it is bound or to which any of its assets are subject.

(d) Purchaser is not required to give any notice to, make any filing with, or obtain any authorization, consent, or approval of any Governmental Authority in order for the Parties to consummate the transactions contemplated herein (including each Closing Document required to be delivered by Purchaser at Closing), except for such notices, consents and approvals as have already been given or obtained, those required under or in relation to those required by the Bankruptcy Court.

(e) Purchaser has not violated any contract, agreement, or other instrument to which Purchaser is a party nor any judicial order, judgment, or decree to which Purchaser is bound by: (i) entering into this Agreement; (ii) executing any of the documents Purchaser is obligated to execute and deliver on the Closing Date or (iii) performing any of its duties or obligations under this Agreement or otherwise necessary to consummate the transactions contemplated by this Agreement.

(f) To Purchaser's actual knowledge, there are no actions, lawsuits, litigation, or proceedings pending or threatened in any court or before any governmental or regulatory agency that affect Purchaser's power or authority to enter into or perform this Agreement. There are no judgments, orders, or decrees of any kind against Purchaser unpaid or unsatisfied of record, or, to the best of Purchaser's knowledge, threatened against Purchaser, which would have any material adverse effect on the business or assets or the condition, financial or otherwise, of Purchaser or the ability of Purchaser to consummate the transactions contemplated by this Agreement.

(g) Except for the express representations and warranties of Seller found in Section 6.01, Purchaser is acquiring the Property on an "AS IS, WHERE IS" basis, without any

representation or warranty of any kind or nature whatsoever, express or implied, and Purchaser acknowledges that no such representations or warranties have been made except as set forth in writing herein. In deciding whether to acquire the Property, Purchaser is relying solely on Purchaser's investigation of the Property.

(h) Purchaser is not, and will not become, a person or entity with whom United States persons or entities are restricted or prohibited from doing business under regulations of OFAC (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities.

ARTICLE VII PRE-CLOSING COVENANTS

The parties agree as follows with respect to the period between the date of mutual execution of this Agreement and the Closing:

Section 7.01 General. Each of the Parties will use its commercially reasonable efforts to take all actions and to do all things reasonably necessary in order to consummate and make effective the transactions contemplated herein (including satisfaction, but not waiver, of the conditions to Closing set forth in this Agreement).

Section 7.02 Intentionally Omitted.

Section 7.03 Maintenance and Repairs. Seller shall cause the Property, and the Improvements, to be maintained in substantially the same manner as prior to the date of this Agreement pursuant to Seller's normal course of Business, subject to reasonable wear and Article VIII of this Agreement.

Section 7.04 Removal of Assets Prior to Closing. Except as otherwise agreed by the Parties, Seller shall deliver the Property fully vacant, including, without limitation, from any and all inventory which shall be fully removed and vacated from the Property at the Seller's sole expense.

Section 7.05 Additional Covenants of Seller Pending Closing. Seller covenants and agrees that, up to and through the Closing:

(a) Seller shall maintain its existing insurance coverage.

(b) Seller shall give Purchaser prompt notice of: (i) any actual or threatened condemnation of all or any portion of the Property of which Seller receives a written notice, (ii) any actual or threatened enforcement action by any governmental agency relating to the use, condition, or environmental condition of the Property of which Seller received a written notice, and (iii) the commencement of any action by any party seeking relief which could result in the imposition of a lien on the Property, (iv) any rezoning of the Property, (v) the filing in a court of competent jurisdiction of any action by any party seeking relief against Seller or the Property

that would result in the imposition of a lien on the Property that will be binding on the Property following Closing, (vi) any casualty to the Property, (vii) written notice from a governmental authority of violations affecting the Property, (viii) all judgments, claims, and litigation affecting Seller or any part of the Property, and (ix) Seller obtaining actual knowledge that any representations or warranties made by Seller herein are not true, accurate, and/or complete.

(c) Seller shall not enter into contract affecting the Property that would bind Purchaser or run with the land, which cannot be terminated by Seller prior to Closing or upon thirty (30) days' notice without charge, cost, penalty or premium to Purchaser.

ARTICLE VIII RISK OF LOSS

Section 8.01 Risk of Loss. Seller shall maintain its current liability and casualty insurance on the Property. If prior to Closing there shall be any damage or destruction to the Property or any of them by fire or other casualty, Seller shall give prompt notice thereof to Purchaser. So long as the cost of the repairs required to complete restoration of the loss, damage or destruction is not reasonably expected to exceed \$400,000 (as determined by Seller's insurance adjuster) and does not eliminate parking, access or in respect to a material portion of the Property (an "**Immaterial Casualty**"), then Purchaser may not terminate this Agreement, and Closing shall be completed without abatement of the Purchase Price. In such event, (a) Seller and Purchaser shall jointly negotiate and resolve any all insurance claims with respect to said damage, (b) Seller shall not undertake or complete any repairs to the Property without first obtaining the Purchaser's prior written consent (which shall include the designation of the third party to complete such repair), and all such repairs shall be completed in accordance with applicable laws, regulations and ordinances, (c) at Closing, Seller shall pay over to Purchaser all insurance proceeds collected by Seller with respect to damage to the Property from such fire or other casualty (but (i) excluding all insurance proceeds payable on account of Seller's inventory, furniture, equipment and other personal property, and (ii) excluding all proceeds for so-called "contents coverage", and (iii) deducting any amount required to reimburse Seller for Seller's actual costs incurred in connection with the repair and restoration of the Property) and, to the extent such proceeds have not yet been applied to the repair and restoration of the Property as provided in this Section 8.01, or to reimburse Seller for the cost and expense therefor, and if any such proceeds have not been collected, Seller shall assign to Purchaser all its right, title and interest in and to the same, and (d) at Closing Seller shall credit against the Purchase Price the amount equal to the applicable deductibles under Seller's insurance policies for damage to the Real Property to the extent not otherwise paid or expended by Seller in connection with repair or restoration of the Property as a result of such fire or other casualty prior to the Closing. In the event the loss, damage or destruction is not an Immaterial Casualty, then Purchaser may elect in its sole discretion whether to terminate this Agreement or proceed to Closing.

Section 8.02 Condemnation. If, prior to Closing, Seller receives notice of the commencement of any condemnation proceeding or other proceeding in the nature of eminent domain in connection with any Material Portion of the Property or Improvements, Seller agrees to notify Purchaser in writing thereof. Purchaser then shall have the right, at Purchaser's option, to terminate this Agreement by giving written notice to Seller within five (5) Business Days after receipt of such notice. Upon such termination, the Deposit shall be returned to Purchaser and thereafter this Agreement shall be

canceled with no further liability of either party to the other, except as specifically provided herein. If Purchaser does not so terminate this Agreement, Purchaser shall proceed to Closing hereunder as if no such proceeding had commenced and will pay Seller the full Purchase Price in accordance with this Agreement; Seller shall assign to Purchaser all of its right, title and interest in and to any compensation for such condemnation, and Seller shall not negotiate or settle any claims for compensation prior to Closing without Purchaser's participation. For purpose of this Section 8.02, a "Material Portion" shall mean any change is made, or proposed to be made, to the current means of ingress and egress to the Property or to the roads or driveways adjoining the Property, or to change such ingress or egress or to change the grade thereof which in any such event materially impairs access to the Property, or any proposed taking of 5% or more of the total square footage of the Improvement.

ARTICLE IX NOTICES

Section 9.01 Delivery of Notices. Unless specifically stated otherwise in this Agreement, all notices, demands, consents, approvals, waivers, or other communications (for purposes of this Section 9.01 collectively referred to as "**Notices**") shall be in writing and delivered to Purchaser or Seller at the addresses set forth in Section 9.02, by one of the following methods:

- (a) Personal delivery, whereby delivery is deemed to have occurred at the time of delivery;
- (b) Overnight delivery by a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the Business Day following deposit with the courier; or
- (c) Electronic transmission (facsimile or email) provided that such transmission is completed no later than 5:00 pm Eastern on a Business Day and the original is also sent by personal delivery, overnight delivery, or by mail in the manner previously described, whereby delivery is deemed to have occurred at the end of the Business Day on which the electronic transmission is completed.

Section 9.02 Parties' Addresses.

(a) Unless changed in accordance with Section 9.02(b) of this Agreement, the addresses for all communications and notices shall be as follows:

If to Seller: Kenneth P. Silverman, Chapter 7 Trustee
100 Quadrangle Suite 300
Jericho, NY 11753
EMAIL: kenneth.silverman@rimonlaw.com
TEL: 516-479-6310

with copy to: Rimon PC
100 Quadrangle Suite 300
Jericho, NY 11753
ATTN: Brian Powers

EMAIL: brian.powers@rimonlaw.com
TEL: 516-479-6357

If to Purchaser: Capital One World Property, LLC
4900 Leigh Drive
Raleigh, NC 27616
ATTN: Timothy W. Michael,
Mollie Tisdale Fisher and
Renee Coltrane Pakkala
EMAIL: tim.michael@capitalautogroup.com;
mollie.fisher@capitalautogroup.com and
renee.pakkala@capitalautogroup.com
TEL: 919-999-1400

with copy to: Kilpatrick Townsend & Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101
ATTN: Michael Myers
EMAIL: mamyers@ktslaw.com
TEL: 336-747-7543

(b) Any party may, by notice given in accordance with this Article, designate a different address or person for receipt of all communications or notices.

(c) Any notice under this Agreement may be given by the attorneys of the respective parties who are hereby authorized to do so on their behalf.

ARTICLE X TERMINATION

Section 10.01 Termination of Agreement.

(a) Termination by Purchaser. Purchaser may terminate this Agreement immediately upon written notice to Seller of the occurrence of any of the following, at which time all obligations of Purchaser hereunder shall be of no further force and effect:

(i) Purchaser is ready, willing, and able to perform and has properly served Seller with a Time is of the Essence demand and Seller has not properly rejected the same and not performed;

(ii) if there shall be a material breach by Seller of any material representation or warranty, or any material covenant or agreement contained in this Agreement, which breach cannot be cured or has not been cured within fifteen (15) days after the giving of written notice by Purchaser to Seller of such breach; or

(iii) if Seller is unable or unwilling to close within sixty (60) days following the date that the Sale Order becomes a Final Order.

(b) Termination by Seller. If Purchaser is unable or unwilling to close within sixty (60) days following the date that the Sale Order becomes a Final Order and provided that all conditions precedent to Closing have been satisfied and there shall not have been a material breach by Seller, Seller may terminate this Agreement upon written notice to Purchaser, at which time all obligations of Seller hereunder shall be of no further force and effect, except for those obligations specified in this Agreement to survive termination.

(c) Termination by Purchaser or Seller. Subject to Bankruptcy Court approval, the Parties may terminate this Agreement by mutual written consent of Seller and Purchaser.

(d) Extension of Time Periods. The time periods for termination of this Agreement set forth in this Section 10.01 may be extended upon the written agreement of the Parties without the further approval of the Bankruptcy Court.

Section 10.02 Procedure For Termination. If this Agreement is terminated by Purchaser or Seller, or both, pursuant to Section 10.01, written notice thereof shall promptly be given to the other Party, and upon the giving of such notice (or at such time as specified in the particular termination right set forth in Section 10.01), the transactions contemplated herein shall be abandoned and this Agreement shall terminate to the extent and with the effect provided by Section 10.03, without further action by the Parties.

Section 10.03 Effect of Termination. If either Seller or Purchaser terminates this Agreement pursuant to Section 10.01, all rights and obligations of the Parties hereunder shall terminate without any liability of any Party to any other Party (except for any Liability of any Party then in breach of this Agreement); provided that if such termination is the result of a breach or default hereunder by the non-terminating Party, then the non-breaching Party shall be entitled to seek any and all remedies available to the terminating Party at law or in equity.

ARTICLE XI DISPUTE RESOLUTION

Section 11.01 Dispute Resolution. The Bankruptcy Court shall retain jurisdiction to adjudicate any dispute that arises under this Agreement.

ARTICLE XII BANKRUPTCY COURT MATTERS

Section 12.01 Competing Transaction.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Seller of higher or better competing bids (each, a “**Competing Bid**”) pursuant to the order of the Bankruptcy Court approving bidding procedures for the sale of the Property (the “**Bidding Procedures**”).

(b) If a Competing Bid is selected in conjunction with an auction (the “**Auction**”) but such bidder does not consummate the purchase of the Property and Purchaser is the second highest bidder (the “**Backup Bidder**”), Purchaser shall be subject to the rights and responsibilities of the Backup Bidder as set forth in the Bidding Procedures.

ARTICLE XIII ESCROW AGENT

Section 13.01 Escrow Terms. Title Insurance Company shall serve as the escrow agent (“**Escrow Agent**”) with regard to payment of closing costs set forth in Section 4.05 and payment of apportionments set forth in Section 4.06. Escrow Agent shall make disbursements as set forth in the Settlement Statement.

ARTICLE XIV CONFIDENTIALITY

Section 14.01 Confidential Information. Purchaser hereby agrees to hold as confidential all information disclosed to it by Seller and/or Debtor in connection with the transaction contemplated hereby and concerning the other, or otherwise gained through Purchaser’s access to the Property (“**Seller Confidential Information**”). Seller hereby agrees to hold as confidential all information disclosed to it by Purchaser in connection with the transaction contemplated hereby (“**Purchaser Confidential Information**”). Seller Confidential Information and Purchaser Confidential Information may be collectively referred to as “**Confidential Information**”, and expressly excludes any information that is a matter of public record in connection with the Chapter 7 Case, or was otherwise previously or is hereafter publicly disclosed (other than in violation of this Agreement or other confidentiality agreements to which such other party is a party). Each of Purchaser and Seller and shall not release any such Confidential Information to third parties without the prior written consent of the other party, except (i) to its members, advisers, underwriters, analysts, employees, affiliates, officers, directors, consultants, lenders, investors, potential lenders and investors, accountants, legal counsel, governmental representatives or their agents, title companies or other advisors of any of the foregoing, provided that they are advised as to the confidential nature of such information and are instructed to maintain such confidentiality, (ii) to comply with any applicable law, rule (including, if applicable, the rules of an applicable stock exchange on which such party or its affiliates lists its securities) or regulation, and (iii) in any legal proceeding between the Seller and Purchaser in connection with this Agreement. Neither Seller nor Purchaser shall at any time issue a press release or otherwise communicate with media representatives regarding this sale and purchase unless such release or communication (x) has received the prior approval of the other party (which approval shall not be unreasonably withheld, conditioned or delayed) or (y) is required to comply with any applicable law, rule (including, if applicable, the rules of an applicable stock exchange on which such party or its affiliates lists its securities) or regulation.

Section 14.02 Return or Destruction of Confidential Information. As of the Closing Date or in the event of a termination of this Agreement, if applicable, such confidentiality shall be maintained by Purchaser and all Confidential Information in accordance with the written request of Seller shall be either promptly: (a) returned to Seller; or (b) destroyed by Purchaser, with any such destruction confirmed by Purchaser and its Transaction Parties in writing.

Section 14.03 Survival. The provisions of this Article shall survive the Closing Date or termination of this Agreement.

ARTICLE XV BROKERS

Section 15.01 Brokers. Purchaser and Seller each represent and warrant to each other that they dealt with no broker in connection with, nor has any broker had any part in bringing about, this transaction other than Cushman & Wakefield (the “**Broker**”). Seller shall pay the brokerage commission due Broker in accordance with the terms and conditions of a separate written agreement. Seller and Purchaser shall each indemnify, defend, and hold harmless the other from and against any claim of any broker or other person for any brokerage commissions, finder's fees, or other compensation in connection with this transaction if such claim is based in whole or in part by, through, or on account of, any acts of the indemnifying party or its agents, employees, or representatives and from all losses, liabilities, costs, and expenses in connection with such claim, including without limitation, [reasonable] attorneys’ fees, court costs, and interest.

Section 15.02 Survival. The provisions of this Article XV shall survive the Closing or the termination of this Agreement prior to the Closing.

ARTICLE XVI MISCELLANEOUS

Section 16.01 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.

Section 16.02 Merger; No Representations. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. This Agreement is entered into after full investigation, no party is relying upon any statement or representation not set forth in this Agreement, made by any other party.

Section 16.03 No Survival. Except as otherwise provided in this Agreement, no representations, warranties, covenants, or other obligations of Seller set forth in this Agreement shall survive the Closing and no action based thereon shall be commenced after the Closing.

Section 16.04 Limitation of Liability.

(a) No shareholder or agent of Seller, nor any Seller Related Party, shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement or any amendment or amendments to any of the foregoing made at any time or times, heretofore and hereafter, and Purchaser and its successors and assigns and, without limitation all other persons and entities, shall look solely to Seller's assets for the payment of any claim or for any performance and Purchaser, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability.

(b) No shareholder or agent of Purchaser, nor any Purchaser Related Party shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter, and Seller and its successors and assigns and, without limitations, all other persons and entities, shall look solely to Purchaser's assets for the payment of any claim or for any performance, and Seller, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability.

Section 16.05 Business Days. Whenever any action must be taken (including the giving of notices) under this Agreement during a certain time period (or by a particular date) that ends or occurs on a non-business day, then such period (or date) shall be extended until the next succeeding Business Day. As used herein, the term “**Business Day**” shall mean any day other than a Saturday, a Sunday, or a legal holiday on which national banks are not open for general business in the State of New York.

Section 16.06 Modifications and Amendments. This Agreement cannot under any circumstance be modified or amended orally and no agreement shall be effective to waive, change, modify, terminate, or discharge this Agreement, in whole or in part, unless such agreement is in writing and is signed by both Seller and Purchaser.

Section 16.07 No Recording. Neither this Agreement, nor any memorandum of this Agreement, shall be recorded. The recording of this Agreement, or any memorandum of this Agreement, by Purchaser shall constitute a material default and shall entitle Seller to retain the Deposit and any interest earned thereon.

Section 16.08 Successors and Assigns; Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns. Purchaser may not assign or otherwise transfer this Agreement, or any of its rights or obligations hereunder, without the prior written consent of Seller, which consent may be withheld in Seller's sole discretion. Any purported assignment without Seller's consent shall be void and of no force or effect. Any change in control of Purchaser or of any of the direct or indirect ownership interests in Purchaser, at any level or tier of ownership, whether in one transaction or a series of transactions, shall constitute an assignment for purposes of this Section 16.08.

Section 16.09 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect, invalidate, or render unenforceable any other term or provision of this Agreement. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement be consummated as originally contemplated to the greatest extent possible.

Section 16.10 Further Assurances. Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby, provided such documents are customarily delivered in real estate transactions in

the State of North Carolina and do not impose any material obligations upon any party hereunder except as set forth in this Agreement.

Section 16.11 Counterparts. This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall together constitute but one and the same instrument.

Section 16.12 Headings. The captions or paragraph titles contained in this Agreement are for convenience and reference only and shall not be deemed a part of the text of this Agreement.

Section 16.13 No Waivers. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party providing the waiver. No waiver by either party of any failure or refusal to comply with any obligations under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

Section 16.14 No Offer. This Agreement shall not be deemed an offer or binding upon Seller or Purchaser until this Agreement is fully executed and delivered by Seller and Purchaser.

Section 16.15 Waiver of Jury Trial. SELLER AND PURCHASER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY SUCH PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

Section 16.16 Submission to Jurisdiction; Consent to Service of Process. Without limiting any Party's right to appeal any order of the Bankruptcy Court, (a) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any Claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated herein, and (b) any and all proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in Section 9.02 hereof. The Parties hereby irrevocably waive, to the fullest extent permitted by Applicable Law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the Parties hereby consents to process being served by any Party to this Agreement in any suit, action or proceeding by delivery of a copy thereof in accordance with the provisions of Section 9.02.

Section 16.17 Time of the Essence. The parties hereto acknowledge and agree that, except as otherwise expressly provided in this Agreement, TIME IS OF THE ESSENCE with respect to all time periods, dates and the payment and performance of all obligations under this Agreement (including, without limitation, the giving of Notices, the delivery of documents, and the funding of money). Whenever action must be taken by either party (including, without limitation, the giving of Notice, the delivery of documents, or the funding of money) under this Agreement, prior to the expiration of, by no later than, or on a particular date, unless otherwise expressly provided in this Agreement, such action must be completed by 5:00 p.m. Eastern on such date. However, notwithstanding anything to the contrary herein, whenever action must be taken by either party (including, without limitation, the giving

of Notice, the delivery of documents, or the funding of money) under this Agreement prior to the expiration of, by no later than, or on a particular date that is not a Business Day, then such date shall be extended until the immediately following Business Day.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

PURCHASER:

CAPITAL ONE WORLD PROPERTY, LLC, a
North Carolina limited liability company

By: s/ Timothy W. Michael

Name: Timothy W. Michael

Title: Member/Manager

SELLER:

BUTH-NA-BODHAIGE, INC. dba THE BODY
SHOP, a Delaware corporation

By: s/ Kenneth P. Silverman

Name: Kenneth P. Silverman, Esq.

Title: Chapter 7 Trustee

SCHEDULES AND EXHIBITS

<u>Exhibit A</u>	Legal Description of Real Property
<u>Exhibit B</u>	Excluded Property
<u>Exhibit C</u>	Draft Deed
<u>Exhibit D</u>	Assignment and Assumption of Intangibles

Exhibit A

Legal Description of Real Property

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Wake Forest, County of Wake, State of North Carolina. Beginning at an existing iron pipe on the eastern right of way of Unicon Drive, said iron pipe being the northwestern corner of the property belonging to Thurman Kitchin and being recorded in deed book 4649 page 467 of the Wake County Registry and being the POINT OF BEGINNING the following courses and distances: N21-46-37 E 607.38' to a point, thence N 21-46-43 E 280.89' to an existing iron pipe, thence S 67-38-03 E 1343.06' to an existing iron pipe, thence S 27-52-38 W 319.83' to an existing iron pipe, thence S 03-00-21 W 147.43' to an existing iron pipe, thence S 02-51-38 W 129.00' to an existing iron pipe, thence S 55-58-11 W 201.32' to an existing iron pipe, thence S 56-00-06 W 64.61' to an existing iron pipe, thence S 07-07-17 E 164.03' to an existing iron pipe, thence S 01-06-15 E 347.20' to an existing iron pipe, thence S 33-34-02 W 81.22' to a point, thence with a creek S 75-00-55 W 36.27' to a point, thence N 67-44-31 W 59.44' to a point, thence N 43-38-17 W 38.19' to a point, thence N 58-27-25 W 25.32' to a point, thence S 63-12-00 W 45.93' to an existing iron pipe, thence N 55-59-48 W 421.33' to an existing iron pipe, thence N 40-58-22 W 341.40' to a new iron pipe, thence N 45-40-07 W 209.61' to an existing iron pipe, thence N 41-12-00 W 300.16' to an existing iron pipe, thence N 43-58-16 W 100.41' to the point of beginning. LESS AND EXCEPT the property conveyed to Town of Wake Forest, by North Carolina General Warranty Deed recorded on October 20, 2020 in Book 18139 Page 1755, as described as follows: That certain Clean Water Management Trust Fund (CWMTF) Conservation area lying in the Wake Forest Township, Wake County North Carolina and being the southern portion of now or formerly Buth NA Bodhaige Inc., Parcel "A" property as found in Deed Book (DB) 11638, Page (Pg) 2248 and Book of Maps (BM) 1992, (Pg) 1487 in the Wake County Register of Deeds, having Wake County Parcel Identification Number (PIN) 1739713177, and being bounded on the north by said Buth NA Bodhaige Inc., property, on the east by now or formerly Town of Wake Forest property as found in (DB) 10748, (Pg) 324 and (BM) 2004, (Pg) 555 in the Wake County Register of Deeds; and on the south by now or formerly Lot 1, Finger Lakes Drive LLC property as found in (DB) 17639, (Pg) 2220 and (BM) 2020, (Pg) 869 in the Wake County Register of Deeds; and on the west by now or formerly Lot 3, 708 Finger Lakes Drive LLC property as found in (DB) 17810, (Pg) 341 and (BM) 2019, (Pg) 2172 in the Wake County Register of Deeds and being more particularly described as follows: Beginning at an existing iron pipe found in northern right-of-way terminus of One World Way (variable width public right-of-way) and a common line with said Buth NA Bodhaige Inc., property having North Carolina Grid Coordinates (all coordinates are referenced to NC Grid Coordinate Reference System NAD 83 (2011) and all distances are horizontal ground unless otherwise stated) of Northing = 790,807.67, Easting = 2,137,004.96; thence leaving said right of way terminus of One World Way, South 70 degrees 04 minutes 32 seconds East, a distance of 889.61 feet to a new rebar set in a common line with said now or formerly Town of Wake Forest property; thence along said common line with now or formerly Town of Wake Forest property, South 01 degrees 02 minutes 47 seconds East, a distance of 198.14 feet to a new rebar set; thence along said common line with now or formerly Town of Wake Forest property, South 33 degrees 37 minutes 30 seconds West, a distance of 81.22 feet to a new rebar set, said point also being a common corner with said now or formerly Lot 1, Finger Lakes Drive LLC property; thence along a common line with said now or formerly Lot 1, Finger Lakes Drive LLC property the following six (6) courses and distances: South 75 degrees 04 minutes 23 seconds West, a distance of 36.12 feet to a new rebar set; thence North 67 degrees 43 minutes 50 seconds West, a distance of 59.75 feet to a new rebar set; thence North 43 degrees 37 minutes 36 seconds

West, a distance of 38.19 feet to a new rebar set; thence North 58 degrees 26 minutes 44 seconds West, a distance of 25.32 feet to a new rebar set; thence South 63 degrees 12 minutes 41 seconds West, a distance of 45.93 feet to a new rebar set; thence North 55 degrees 59 minutes 07 seconds West, a distance of 231.79 feet to a point, said point being a common corner with said now or formerly Lot 3, 708 Finger Lakes Drive LLC property; thence along a common line with said now or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 55 degrees 59 minutes 07 seconds West, a distance of 189.54 feet to a new rebar set; thence along a common line with now or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 40 degrees 57 minutes 41 seconds West, a distance of 341.40 feet to a new rebar set; thence along a common line with said now or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 45 degrees 39 minutes 26 seconds West, a distance of 46.09 feet to a new rebar set at the southern right-of-way terminus of said One World Way; thence along said northern right-of-way terminus of One World Way, North 45 degrees 39 minutes 26 seconds West, a distance of 13.81 feet to an existing iron pipe, the Point of Beginning. Said (CWMTF) Conservation area is the same as shown on an exempt subdivision map entitled "Exempt Subdivision and CWMTF Conservation Area Map for the Town of Wake Forest and the Clean Water Management Trust Fund - Contract Grant 2016-089 BUTH NA BODHAIGE, INC. 5036 ONE WORLD WAY Wake Forest, North Carolina" prepared by Timothy E. Bowes, PLS with VHB Engineering NC, P.C. and dated April 2, 2020.

NOTE FOR INFORMATION: Being Parcel No(s). 1739713269 and 1739719112, of the City of Wake Forest, County of Wake.

Exhibit B

Excluded Property

Any/all personal property located on the Real Property, except for racking located within the Improvements.

Note: Racking located within the Improvements shall be included as part of the Property being sold pursuant to the Agreement.

Exhibit C
Draft Deed

(attached)

NORTH CAROLINA TRUSTEE’S DEED

Excise Tax:	\$
Parcel ID:	1739713269 and 1739719112
Mail/Box To:	Grantee
Prepared By:	Grantor
Brief description for the Index:	5036 One World Way, Wake Forest, NC

THIS TRUSTEE’S DEED (“Deed”) is made on the ____ day of _____, 2024, by and between:

GRANTOR	GRANTEE
Kenneth P. Silverman, Esq., solely in his capacity as Chapter 7 Trustee of the Bankruptcy Estate of Buth-na-Bodhaige, Inc., a Virginia corporation qualified in North Carolina d/b/a The Body Shop, Case No. 24-10392 (DSJ) 100 Jericho Quadrangle, Suite 300 Jericho, NY 11753	[●]

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does hereby grant and release unto the Grantee, the heirs or successors and assigns of the Grantee forever, all of the Grantor's right, title, and interest in and to all that certain lot or parcel of land situated in the City of Wake Forest, Wake County, North Carolina, and more particularly described on Exhibit A attached hereto and made a part hereof (the "Property").

All or a portion of the Property was acquired by Buth-na-Bodhaige, Inc., a Virginia corporation qualified in North Carolina d/b/a The Body Shop, by instrument recorded in Book 11638 at Page 2248, Wake County Registry.

All or a portion of the Property does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple.

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to said premises.

Said premises being conveyed by and pursuant to the Order of the Honorable David S. Jones, United States Bankruptcy Judge for Southern District of New York, dated September ___, 2024.

IN WITNESS WHEREOF, Grantor has duly executed this Deed, if an entity, by its duly authorized representative.

GRANTOR:

Kenneth P. Silverman, Esq., solely in his
capacity as Chapter 7 Trustee of the
Bankruptcy Estate of Buth-na-Bodhaige,
Inc., a Virginia corporation qualified in North
Carolina d/b/a The Body Shop

STATE OF _____)
_____)
COUNTY OF _____)

I, _____, a Notary Public in the above state and county, certify that
the following person(s) personally appeared before me on _____, 2024, and
acknowledged to me that he signed the foregoing document in the capacity represented and identified
therein (if any): Kenneth P. Silverman, Esq., solely in his capacity as Chapter 7 Trustee of the
Bankruptcy Estate of Buth-na-Bodhaige, Inc., a Virginia corporation qualified in North Carolina d/b/a
The Body Shop.

Affix Notary Seal/Stamp

Notary Public (Official Signature)
My commission expires: _____

EXHIBIT A
LEGAL DESCRIPTION

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Wake Forest, County of Wake, State of North Carolina.

Beginning at an existing iron pipe on the eastern right of way of Unicon Drive, said iron pipe being the northwestern corner of the property belonging to Thurman Kitchin and being recorded in deed book 4649 page 467 of the Wake County Registry and being the POINT OF BEGINNING the following courses and distances: N 21-46-37 E 607.38' to a point, thence N 21-46-43 E 280.89' to an existing iron pipe, thence S 67-38-03 E 1343.06' to an existing iron pipe, thence S 27-52-38 W 319.83' to an existing iron pipe, thence S 03-00-21 W 147.43' to an existing iron pipe, thence S 02-51-38 W 129.00' to an existing iron pipe, thence S 55-58-11 W 201.32' to an existing iron pipe, thence S 56-00-06 W 64.61' to an existing iron pipe, thence S 07-07-17 E 164.03' to an existing iron pipe, thence S 01-06-15 E 347.20' to an existing iron pipe, thence S 33-34-02 W 81.22' to a point, thence with a creek S 75-00-55 W 36.27' to a point, thence N 67-44-31 W 59.44' to a point, thence N 43-38-17 W 38.19' to a point, thence N 58-27-25 W 25.32' to a point, thence S 63-12-00 W 45.93' to an existing iron pipe, thence N 55-59-48 W 421.33' to an existing iron pipe, thence N 40-58-22 W 341.40' to a new iron pipe, thence N 45-40-07 W 209.61' to an existing iron pipe, thence N 41-12-00 W 300.16' to an existing iron pipe, thence N 43-58-16 W 100.41' to the point of beginning.

LESS AND EXCEPT the property conveyed to Town of Wake Forest, by North Carolina General Warranty Deed recorded on October 20, 2020 in [Book 18139 Page 1755](#), as described as follows:

That certain Clean Water Management Trust Fund (CWMTF) Conservation area lying in the Wake Forest Township, Wake County North Carolina and being the southern portion of now or formerly Buth NA Bodhaige Inc., Parcel "A" property as found in Deed Book (DB) 11638, Page (Pg) 2248 and Book of Maps (BM) 1992, (Pg) 1487 in the Wake County Register of Deeds, having Wake County Parcel Identification Number (PIN) 1739713177, and being bounded on the north by said Buth NA Bodhaige Inc., property, on the east by now or formerly Town of Wake Forest property as found in (DB) 10748, (Pg) 324 and (BM) 2004, (Pg) 555 in the Wake County Register of Deeds; and on the south by now or formerly Lot 1, Finger Lakes Drive LLC property as found in (DB) 17639, (Pg) 2220 and (BM) 2020, (Pg) 869 in the Wake County Register of Deeds; and on the west by now or formerly Lot 3, 708 Finger Lakes Drive LLC property as found in (DB) 17810, (Pg) 341 and (BM) 2019, (Pg) 2172 in the Wake County Register of Deeds and being more particularly described as follows:

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Said (CWMTF) Conservation area is the same as shown on an exempt subdivision map entitled "Exempt Subdivision and CWMTF Conservation Area Map for the Town of Wake Forest and the Clean Water Management Trust Fund - Contract Grant 2016-089 BUTH NA BODHAIGE, INC. 5036 ONE WORLD WAY Wake Forest, North Carolina" prepared by Timothy E. Bowes, PLS with VHB Engineering NC, P.C. and dated April 2, 2020.

NOTE FOR INFORMATION: Being Parcel No(s). 1739713269 and 1739719112, of the City of Wake Forest, County of Wake.

SCHEDULE A
LEGAL DESCRIPTION
File No.: MMTNC-189095
(Continued)

or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 55 degrees 59 minutes 07 seconds West, a distance of 189.54 feet to a new rebar set; thence along a common line with now or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 40 degrees 57 minutes 41 seconds West, a distance of 341.40 feet to a new rebar set; thence along a common line with said now or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 45 degrees 39 minutes 26 seconds West, a distance of 48.09 feet to a new rebar set at the southern right-of-way terminus of said One World Way; thence along said northern right-of-way terminus of One World Way, North 45 degrees 39 minutes 26 seconds West, a distance of 13.81 feet to an existing iron pipe, the Point of Beginning.

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NOTE FOR INFORMATION: Being Parcel No(s). 1739713269 and 1739719112, of the City of Wake Forest, County of Wake.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Stewart Title Guaranty Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

ALTA Commitment for Title Insurance (8-1-16)

189095

Exhibit D

Assignment and Assumption of Intangibles

Assignment and Assumption of Intangible Property

This Assignment and Assumption of Intangible Property (this "Assignment"), dated as of [●] (the "Effective Date"), is entered into by and between Kenneth P. Silverman, as Chapter 7 Trustee of BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP, a Virginia corporation ("Assignor"), and [●], a [●] ("Assignee").

WHEREAS, Assignor, as seller, and Assignee, as purchaser, have entered into that certain Purchase and Sale Agreement (the "**Purchase Agreement**") dated as of [●], for the purchase and sale of that certain property having an address of 5036 One World Way, Wake Forest, North Carolina, and as more particularly described in the Purchase Agreement (the "**Property**"); and

WHEREAS, in connection with the purchase and sale of the Property, the Purchase Agreement obligates Assignor to assign to Assignee, and Assignee to assume from Assignor, the intangible property as further defined herein, subject to the terms and conditions set forth in this Assignment.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Assignment**. As of the Effective Date of this Assignment, Assignor HEREBY ASSIGNS AND TRANSFERS unto Assignee all of Assignor's rights in, under and to all benefits and privileges accruing to Assignor thereunder to each of the following (collectively, the "**Assumed Intangible Property**"):

(a) **Warranties and Guaranties**. Any written warranty, guaranty or other obligation from any contractor, manufacturer or vendor to any improvements, furnishings, fixture or equipment located at the Property, to the extent assignable in connection with the sale of the Property (the "**Assumed Warranties and Guaranties**").

(b) **Permits and Licenses**. Any permit, license or other form of authorization or approval issued by a government agency or authority and legally required for the operation and use of the Property to the extent transferable with the sale of the Property (the "**Assumed Permits and Licenses**").

Assignor hereby disclaims all express or implied warranties regarding the existence or condition of, or title to, such Assumed Intangible Property, including without limitation the implied warranties of merchantability and suitability for a particular purpose.

2. **Assumption**.

(a) Assignee hereby assumes and agrees to perform any and all of the obligations and liabilities of Assignor under each of the Assumed Intangible Property accruing from and after the Effective Date.

(b) Assignee accepts all Assumed Intangible Property in its "AS-IS" condition and "WITH ALL FAULTS."

3. Miscellaneous.

(a) All notices and other communications required or permitted under this Assignment shall be given in the same manner as in the Purchase Agreement.

(b) This Assignment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument. A signed copy of this Assignment delivered by either facsimile or e-mail shall be deemed to have the same legal effect as delivery of an original signed copy of this Assignment, provided such original signed copy is delivered within three (3) days thereafter. Notwithstanding the foregoing, each party hereto shall deliver original counterpart signatures to the other parties on or before the date hereof.

(c) This Assignment shall be governed by and construed in accordance with the laws of the State of North Carolina, without regard to conflict of law rules.

(d) This Assignment may not be modified or amended in any manner other than by a written agreement signed by the party to be charged.

(e) Assignor shall promptly execute and deliver to Assignee any additional instrument or other document which Assignee reasonably requests to evidence or better effect the assignment contained herein.

(f) This Assignment and the obligations of the parties hereunder shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be executed as of the date set forth above.

ASSIGNOR:

BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP,
a Virginia corporation

By: _____

Name: Kenneth P. Silverman

Title: Chapter 7 Trustee

ASSIGNEE:

[●]

By: _____

Name: _____

PURCHASE AND SALE AGREEMENT

between

**KENNETH P. SILVERMAN, AS CHAPTER 7 TRUSTEE FOR
BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP,
a Virginia corporation, Seller**

and

~~{●}~~,

CAPITAL ONE WORLD PROPERTY, LLC,

a ~~{●}~~ **North Carolina limited liability company,** Purchaser

dated as of

[DATE]

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PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this “**Agreement**”), dated as of September [●], 2024, is entered into between Kenneth P. Silverman, as Chapter 7 Trustee of BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP, a Virginia corporation (“**Seller**”), and ~~[●], a [●]~~ CAPITAL ONE WORLD PROPERTY, LLC, a North Carolina limited liability company (“**Purchaser**”), each a “**Party**” and collectively the “**Parties**”.

RECITALS

WHEREAS, on March 8, 2024 (the “**Petition Date**”), BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP, a Virginia corporation (“**Debtor**”) filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code, 11 U.S.C. §101 et seq. (the “**Bankruptcy Code**”), in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”), Case No. 24-10392-dsj (the “**Chapter 7 Case**”); and

WHEREAS, following the Petition Date, Kenneth P. Silverman was appointed as Chapter 7 Trustee of the Debtor’s bankruptcy estate, and is currently acting as Seller in such capacity;

WHEREAS, Seller wishes to sell to Purchaser and Purchaser wishes to acquire from Seller the Property (as hereinafter defined) on the terms and conditions set forth in this Agreement (the “**Sale**”); and

WHEREAS, the transactions contemplated by this Agreement is subject to an order of the Bankruptcy Court approving, *inter alia*, the sale of the Property to the Purchaser, consistent with terms, conditions and transactions contemplated by the Agreement; and

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

ARTICLE I DEFINITIONS

The following terms have the meanings specified or referred to in this Article I:

“**Affiliate**” means any person or entity which directly or indirectly controls, is controlled by, or is under common control with, any Person.

“**Applicable Law**” means, with respect to any Person, any foreign, federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, guidance, plan, order, injunction, judgment, decree, ruling, charge or other similar requirement, including any Labor and Employment Law and Requirements, enacted, adopted, or promulgated by a Governmental Authority that is binding upon such Person, as amended.

“**Agreement**” has the meaning set forth in the preamble.

“**Bankruptcy Code**” has the meaning set forth in the recitals.

“Bankruptcy Court” has the meaning set forth in the recitals.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as prescribed by the United States Supreme Court pursuant to Section 2075 of title 28 of the United States Code and as applicable to the Chapter 7 Case.

“Bidding Procedures Order” has the meaning set forth in Section 12.01.

“Board” means the governing board of an entity, including the board of directors, board of governors, board of trustees, or board of managers, as applicable.

“Broker” has the meaning set forth in Section 15.01.

“Business” refers to the Debtor’s business prior to its cessation of operations.

“Business Day” has the meaning set forth in Section 16.05.

“Chapter 7 Case” has the meaning set forth in the recitals.

“Claim” has the meaning ascribed to such term in Section 101(5) of the Bankruptcy Code.

“Closing” has the meaning set forth in Section 4.01.

“Closing Date” has the meaning set forth in Section 4.01.

“Code” has the meaning set forth in Section 4.02(c).

“Confidential Information” has the meaning set forth in Section 14.01.

“Deed” has the meaning set forth in Section 4.02(a).

“Deposit” has the meaning set forth in ~~Error! Reference source not found.~~ 13.01(b).

“Escrow Agent” has the meaning set forth in ~~Error! Reference source not found.~~ 13.01.

“Excluded Property” has the meaning set forth in Section 2.02.

“Final Order” means an order or judgment of the Bankruptcy Court or any other court of competent jurisdiction that has not been reversed, vacated, or stayed and as to which (a) the time to appeal, petition for certiorari, or move for a stay, new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for stay, new trial, reargument, or rehearing shall then be pending or (b) if an appeal, writ of certiorari, stay, new trial, reargument, or rehearing has been sought, (i) such order or judgment shall have been affirmed by the highest court to which such order was appealed, certiorari shall have been denied, or a stay, new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and (ii) the time to take any further appeal, petition for certiorari, or move for a stay, new trial, reargument, or rehearing shall have expired; provided, however, that the possibility that a motion under section 502(j) of the Bankruptcy Code, Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule

under the Bankruptcy Rules or applicable state court rules of civil procedure may be, but has not been, filed with respect to such order shall not cause such order not to be a Final Order.

“Governmental Authority” means any domestic or foreign federal, state or local governmental authority, department, court or government, commission, tribunal or organization or any regulatory, administrative or other agency, or any political or other division, subdivision, department or branch of any of the foregoing.

“Governmental Authorizations” means any approval, consent, license, permit, waiver, registration, accreditation or other authorization issued, granted, given, made available or otherwise required by any Governmental Authority or pursuant to Applicable Law.

“Improvements” has the meaning set forth in Section 2.01(b).

“Land” has the meaning set forth in Section 2.01(a).

“Liens” means “any and all liens (including mechanics’, materialmens’ and other consensual and non-consensual liens and statutory liens), security interests, encumbrances, adverse rights, trusts, and claims, rights of distraint, reclamation claims, mortgages, deeds of trust, pledges, covenants, restrictions, hypothecations, charges, indentures, loan agreements, instruments, contracts, leases, licenses, options, rights of first refusal, rights of offset, recoupment, rights of recovery, judgments, orders and decrees of any Court or foreign or domestic governmental entity, claims for reimbursement, contribution, indemnity or exoneration, assignment, debts, charges, suits, rights of recovery, interests, products liability, alter-ego, environmental, successor liability, tax and other liabilities (including probate liabilities), causes of action and claims, to the fullest extent of the law, in each case whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, or known or unknown, whether imposed by agreement, understanding, law, equity or otherwise, or any other interest of any nature whatsoever of, on or with respect to any property or property interest.

“Notices” has the meaning set forth in Section 9.01.

“OFAC” has the meaning set forth in Section 6.01(g).

“Permitted Exceptions” has the meaning set forth in Section 5.02.

“Person” has the meaning ascribed to such term in Section 101(41) of the Bankruptcy Code.

“Property” has the meaning set forth in Section 2.01.

“Purchase Price” has the meaning set forth in Section 3.01.

“Purchaser” has the meaning set forth in the preamble.

“Sale” has the meaning set forth in in the recitals.

“Sale Motion” has the meaning set forth in Section 12.01.

“**Sale Order**” means an order of the Bankruptcy Court in a form acceptable to the Purchaser in its sole and absolute discretion, authorizing and approving this Agreement and the sale and purchase of the Property hereunder.

“**Seller**” has the meaning set forth in the preamble.

“**Survey**” has the meaning set forth in Section 5.03(a)(ii).

“**Title Commitment**” has the meaning set forth in Section 5.03(a)(i).

“**Title Insurance Company**” shall be ~~_____~~ Investors Title Insurance Company, or such other title company mutually selected by Purchaser and Seller.

“**Transaction Parties**” has the meaning set forth in Section 14.01.

“**Violations**” has the meaning set forth in Section 5.05.

ARTICLE II CONVEYANCE OF THE PROPERTY

Section 2.01 Subject of Conveyance. Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, all right, title, and interest of the Debtor and its bankruptcy estate in and to the following (collectively referred to herein as the “**Property**”) free and clear of all Liens, Claims and interests in, to or against the Property, other than Liens securing the Permitted Exceptions, to the fullest extent permissible under Section 363(f) of the Bankruptcy Code:

(a) All that certain lot, piece, or parcel of land located at 5036 One World Way, Wake Forest, County of Wake, and State of North Carolina, as more particularly bounded and described in Exhibit A attached hereto and hereby made a part hereof (the “**Land**”);

(b) All buildings and improvements located on the Land and all of Debtor’s and its estate’s right, title, and interest in and to any and all fixtures attached thereto (collectively, the “**Improvements**”);

(c) All other rights of way, privileges, easements, licenses, and appurtenances relating to the Land; and

(d) All intangible property owned by Debtor arising from or used exclusively in connection with the ownership, use, operation or maintenance of the Land or the Improvements (collectively, the “**Intangible Property**”), including: all of Debtor’s right, title and interest in, to and under (to the extent assignable), any (i) assignable warranties and guaranties issued to Debtor in connection with the Property; (ii) all assignable certificates of occupancy, permits, licenses and certificates relating to the Land or the Improvements; and (iii) all assignable or deliverable surveys, drawings, plans, specifications, diagrams, space finish plans, third-party

reports, environmental assessments, and other architectural or engineering work product relating to the Land or the Improvements.

Section 2.02 Excluded Property. Notwithstanding the foregoing, the sale of the Property contemplated by this Agreement shall not include the personal property and liabilities listed in Exhibit B attached hereto and made a part hereof (the “**Excluded Property**”), which Excluded Property is expressly excluded from such conveyance.

Section 2.03 AS-IS.

(a) Except as set forth in this Agreement, Purchaser acknowledges that Purchaser has made thorough inspections and investigations of the Property and Purchaser agrees to take title to the Property "AS-IS, WHERE IS, AND WITH ALL FAULTS" and in the condition existing as of the date of this Agreement, subject to reasonable use, ordinary wear and tear, and without any reduction in or abatement of the Purchase Price. Purchaser has undertaken all such investigations of the Property as Purchaser deems necessary or appropriate under the circumstances as to the status of the Property and the existence or nonexistence of curative action to be taken with respect to any hazardous or toxic substances on or discharged from the property, and based upon same, Purchaser is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel, and officers.

(b) Neither party to this Agreement is relying on any statement or representation not expressly stated in this Agreement. Purchaser specifically confirms and acknowledges that in entering into this Agreement, Purchaser has not been induced by, and has not relied upon, whether express or implied, warranties, guaranties, promises, statements, inducements, representations, or information pertaining to the Property or its uses, the physical condition, environmental condition, state of title, income, expenses, or operation of the Property, or any other matter or thing with respect thereto, written or unwritten, whether made by Seller or any agent, employee, or other representative of Seller, or any broker or any other person representing (or purporting to represent) Seller, which are not expressly set forth in this Agreement. Seller shall not be liable for or bound by any written or unwritten statements, representations, warranties, brokers' statements, or other information pertaining to the Property furnished by Seller, any broker, any agent, employee, or other actual (or purported) representative of Seller, or any person, unless and only to the extent the same are expressly set forth in this Agreement.

(c) Seller makes no warranty with respect to the presence of any hazardous or toxic substances on, above, beneath, or discharged from the Property (or any adjoining or neighboring property) or in any water on or under the Property. The Closing hereunder shall be deemed to constitute an express waiver of Purchaser's right to recover from Seller, and forever releases, covenants not to sue, and discharges Seller from, any and all damages, demands, claims, losses, liabilities, penalties, fines, liens, judgments, costs, or expenses whatsoever, including attorneys' fees and costs, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the physical condition of the Property.

(d) The provisions of this Section 2.03 shall survive the Closing and shall not be deemed to have merged into any of the documents executed or delivered at the Closing.

Section 2.04 No Assumption of Liabilities. Except for any liabilities arising out of ownership of the Property after Closing, Purchaser does not and shall not be deemed to assume any obligations or liabilities in connection with the transactions contemplated by this Agreement.

ARTICLE III PURCHASE PRICE

Section 3.01 Purchase Price and Deposit. The purchase price to be paid by Purchaser to Seller for the Property is ~~Twelve Million Seven Hundred Thousand and 00/100~~ Dollars (~~\$12,700,000.00~~) (the “**Purchase Price**”). The Purchase Price shall be paid as follows:

(a) **Initial Deposit.** Upon the mutual execution of this Agreement, Purchaser shall make a deposit of ~~Six Hundred Thirty-Five Thousand and 00/100~~ Dollars (~~\$635,000.00~~)⁺ (“**Initial Deposit**”) with the Seller, to be held in Seller’s dedicated earnest monies account for the Debtor’s estate (“**Trustee Account**”).

(b) **Additional Deposit.** In the event Purchaser is designated as the Successful Bidder or Backup Bidder (as defined in the Bidding Procedures Order) at the conclusion of the Auction, Purchaser shall make an additional deposit of ~~Six Hundred Thirty-Five Thousand and 00/100~~ Dollars (~~\$635,000.00~~)² to the Trustee Account (the “**Additional Deposit**,” and together with the Initial Deposit, the “**Deposit**”). Seller shall retain the Deposit as liquidated damages if this Agreement is properly terminated by Seller pursuant to Section 10.01(b) or upon the failure of Purchaser to consummate the Sale in accordance with the terms of this Agreement, provided that all conditions precedent to Closing have been satisfied and there shall not have been a material breach by Seller of any representation, warranty or covenant contained in this Agreement.

(c) **Balance at Closing.** The Purchase Price, less the Deposit, shall be paid to Seller on the Closing Date, subject to any credits or apportionments as provided for under this Agreement, by certified or official bank checks made payable to Seller or by one or more wire transfers of immediately available federal funds to Seller on the Closing Date. The Deposit shall be applied toward the Purchase Price on the Closing Date.

Section 3.02 No Financing. Purchaser expressly agrees and acknowledges that Purchaser’s obligations to pay the Purchase Price and otherwise consummate the transactions contemplated hereby are not in any way conditioned upon Purchaser’s ability to obtain financing of any type or nature whatsoever (that is, whether by way of debt financing, equity investment, or otherwise).

⁺NTD: Per bidding procedures, initial deposit should be 5% of purchase price.

²NTD: Per bidding procedures, additional deposit should be 5% of purchase price.

ARTICLE IV CLOSING

Section 4.01 Closing Date. The closing of the transactions contemplated herein (the “**Closing**”) shall take place within three (3) business days after satisfaction or waiver of all conditions to the obligations of Seller and Purchaser to consummate the transactions contemplated herein (other than conditions with respect to actions Seller and Purchaser will take at the Closing) or such other date as Purchaser and Seller may mutually determine in writing (the “**Closing Date**”).

Section 4.02 Seller’s Closing Deliverables. At Closing, Seller shall deliver or cause to be delivered to Purchaser (or Title Insurance Company, as appropriate), the following, executed, certified, and acknowledged by Seller, as appropriate:

(a) One (1) original deed (the “**Deed**”) in substantially the form attached hereto as Exhibit C, duly executed with the appropriate acknowledgment form and otherwise in proper form for recording so as to convey title to the Property as required by this Agreement. The delivery of the Deed by Seller, and the acceptance by Purchaser, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed pursuant to this Agreement, except those obligations of Seller which are expressly stated in this Agreement to survive the Closing.

(b) An assignment by Seller and an assumption by Purchaser, in the form attached hereto as Exhibit D (the “**Assignment and Assumption of Intangibles**”), duly executed and acknowledged by Seller, of all of Seller’s right, title, and interest in and to all Intangible Property.

(c) A certification that Seller is not a "foreign person" as such term is defined in Section 1445 of the Internal Revenue Code, as amended and the regulations thereunder (collectively, the “**Code**”), which certification shall be signed under penalty of perjury.

(d) Originals, or copies certified by Seller as being complete, of all applicable bills, invoices, fuel readings, and other items that shall be apportioned as of the Closing Date.

(e) A counterpart of a closing statement jointly prepared by Seller and Purchaser reflecting the prorations and adjustments required under Section 4.06 of this Agreement and the balance of the Purchase Price due Seller (the “**Settlement Statement**”).

(f) All keys, key cards, and access codes to any portion of the Property, to the extent in Seller's possession or control.

(g) All other documents reasonably necessary or otherwise required by the Escrow Agent and Title Insurance Company to consummate the transaction contemplated by this Agreement and such other mutually acceptable documents as may be reasonably necessary or appropriate to effect the consummation of the transaction which is the subject of this Agreement.

Section 4.03 Purchaser's Closing Deliverables. On the Closing Date, Purchaser shall deliver or cause to be delivered to Seller (or Title Insurance Company, as appropriate), the following, executed, certified, and acknowledged by Purchaser, as appropriate:

- (a) The balance of the Purchase Price as set forth in Section 3.01(c).
- (b) Purchaser shall, where applicable, join with Seller in the execution and delivery of the closing documents and instruments required under Section 4.02 of this Agreement.
- (c) An organizational resolution of Purchaser authorizing the transaction contemplated hereby and the execution and delivery of the documents required to be executed and delivered hereunder.
- (d) All other documents reasonably necessary or otherwise required by the Escrow Agent or the Title Insurance Company to consummate the transactions contemplated by this Agreement and such other mutually acceptable documents as may be reasonably necessary or appropriate to effect the consummation of the transaction which is the subject of this Agreement.

Section 4.04 Conditions to Closing. The obligations of the Purchaser hereunder are, at Purchaser's option, subject to the satisfaction, on or prior to the date of the Closing, of the following conditions:

- (a) Accuracy of Representations; Performance of Obligations. Seller will have performed Seller's obligations hereunder required to have been performed before the date of the Closing in all material respects, and the representations and warranties of the Seller contained in Article VI of this Agreement will be true and correct in all material respects (except for such representations and warranties that are qualified by their terms by a reference to materiality, which representations and warranties as so qualified will be true in all respects, and representations and warranties that relate to a certain date, which shall be true and correct as of such date) on and as of the date of the Closing with the same effect as though such representations and warranties had been made on and as of such date.
- (b) Free and Clear. The Property shall be free and clear of all Liens, Claims and interests in, to or against the Property, other than Liens securing the Permitted Exceptions, to the fullest extent permissible under Section 363(f) of the Bankruptcy Code.
- (c) Closing Deliverables. The Seller shall have fulfilled each of its closing deliverables as set forth in section 4.02 of this Agreement.
- (d) Sale Order. The Bankruptcy Court shall have entered the Sale Order, in form and substance acceptable to Purchaser in its sole discretion, which shall have become a Final Order and provide, among other things, that the Sale is (i) free and clear of all Liens, Claims, encumbrances, interests, and rights of set-off, whether known or unknown, disputed, contingent, actual, or otherwise, arising prior to closing, pursuant to Section 363(f) of the Bankruptcy Code, (ii) by a good faith purchaser entitled to the protection of Section 363(m) of the Bankruptcy Code, and (iii) with no successor liability.

(e) Vacant Property. The Property shall be fully vacant as set forth in Section 7.04 of this Agreement.

(f) Additional Documents. Purchaser will have received all such further instruments, and documents as the Purchaser may reasonably require to consummate the Sale.

Section 4.05 Closing Costs.

(a) Seller and Purchaser shall each pay the fees and expenses of its own counsel in connection with the preparation and negotiation of this Agreement. The Deed and other agreements and instruments related to the transaction contemplated by this Agreement and such legal costs shall not be part of the closing costs; provided, however, that if any legal action is instituted under this Agreement, the prevailing party in such action shall be entitled to recover from the other party costs related to such legal action, including reasonable attorneys' fees and costs in all trial, appellate, post-judgment, and bankruptcy proceedings.

(b) Seller shall pay:

(i) The commission owed to the Broker, if any, pursuant to Article XIII of this Agreement;

(ii) All recording fees for the release of any Liens on the Property, as required pursuant to the terms of this Agreement;

(iii) Any transfer taxes and sales taxes payable in connection with the transaction contemplated by this Agreement;

(iv) All costs related to the Chapter 7 Case.

(c) Purchaser shall pay:

(i) The costs charged by the Title Insurance Company, including, without limitation, costs related to the Title Commitment, any premiums, title endorsements, and affirmative insurance;

(ii) The costs related to the Survey and any other survey or survey update;

(iii) Any other fees or costs related to Purchaser's due diligence reviews; and

(iv) All costs related to the recording fees payable in connection with the recording of the Deed and Purchaser's lender's security instruments, if any.

Section 4.06 Apportionments. The following shall be apportioned as of 11:59 p.m. Eastern of the date immediately preceding the Closing Date, unless expressly provided for otherwise:

(a) All real estate taxes based on the fiscal year for which they are assessed and any assessments. If the Closing shall occur before a new tax rate is fixed, the apportionment of real estate taxes shall be upon the basis of the tax rate for the preceding fiscal period applied to the

latest assessed valuation. If the Property shall be, or has been, affected by any assessments or special assessments payable in a lump sum or which are, or may become, payable in installments, of which the first installment is then a charge or lien, or has already been paid, then at the Closing such amounts shall be paid or apportioned, as the case may be in the following manner:

(i) Any such assessments or installments, or portion thereof, payable on or after the Closing Date shall be the responsibility of Purchaser; and

(ii) Any such assessments or installments, or portion thereof, payable prior to the Closing Date shall be the responsibility of Seller.

(b) All water and sewer charges based on ~~the fiscal year for which they are assessed~~most recently issued bills, unless the meters are read on the date immediately preceding the Closing Date.

(c) Utilities, fuel, gas, and electric charges based on most recently issued bills, unless the meters are read on the date immediately preceding the Closing Date.

(d) All other items customarily apportioned in connection with sales of buildings substantially similar to the Property in the State of North Carolina.

Section 4.07 Miscellaneous. Any miscellaneous adjustments payable by either Purchaser or Seller, as the case may be, that occur at the Closing may be paid at the Closing by delivery of personal or business checks, provided, however, that such miscellaneous adjustments do not exceed One Thousand and 00/100 Dollars (\$1,000.00). Any errors in calculations or apportionments shall be corrected or adjusted as soon as practicable after the Closing Date. The provisions of this Section 4.07 and Section 4.06 shall survive the Closing.

ARTICLE V TITLE MATTERS AND VIOLATIONS

Section 5.01 Acceptable Title. Seller shall convey, and Purchaser shall accept, such title to the Property that the Title Insurance Company is willing to insure, subject to the matters set forth in this Agreement. Seller shall convey, and Purchaser shall accept, fee simple title to the Property in accordance with the terms and conditions of this Agreement, and subject to:

(a) The Permitted Exceptions; and

(b) Such other matters as any Title Insurance Company shall be willing to omit as exceptions to coverage.

Section 5.02 Permitted Exceptions. The Property shall be sold, assigned, and conveyed by Seller to Purchaser, and Purchaser shall accept and assume same, subject to the following matters (collectively, the “**Permitted Exceptions**”):

(a) Any and all present and future zoning, building, environmental and other laws, statutes, ordinances, codes, rules, regulations, requirements, or executive mandates of all Governmental Authorities having jurisdiction with respect to the Property, including, without limitation, landmark designations and all zoning variances and special exceptions, if any.

(b) Any state of facts that an accurate survey of the Property would disclose, provided such facts do not render title unmarketable.

(c) All presently existing and future liens for unpaid real estate taxes, assessments, and water and sewer charges that are not due and payable as of the Closing Date, subject to any apportionments as provided for in this Agreement.

(d) All covenants, restrictions, and rights, and all easements and agreements for the erection and/or maintenance of water, gas, steam, electric, telephone, sewer or other utility pipelines, poles, wires, conduits, or other like facilities, and appurtenances thereto, over, across, and under the Property.

(e) Any lien or encumbrance arising out of the acts or omissions of the Purchaser.

(f) Any exceptions disclosed on Schedule B of the Title Commitment (as hereinafter defined) which will be extinguished upon the transfer of the Property.

(g) The standard conditions and exceptions to title contained in the form of title policy issued to Purchaser by the Title Insurance Company.

(h) Such other matters as any reputable title insurer licensed to do business in the State of North Carolina shall be willing, without special premium, to omit as exceptions to title insurance coverage.

Section 5.03 Title.

(a) Purchaser shall promptly order at its sole cost and expense:

(i) A commitment for title insurance from the Title Insurance Company, together with copies of any tax search, departmental or municipal searches, and all instruments giving rise to any defects or exceptions to title to the Property (collectively, the **"Title Commitment"**), which the parties shall instruct the Title Insurance Company to deliver to counsel for both Purchaser and Seller concurrently; and

(ii) Either an update of an existing survey or a new survey of the Property, prepared by a surveyor licensed in the state where the Property is located (**"Survey"**), which the parties shall instruct the surveyor to deliver the Survey to counsel for both Purchaser and Seller concurrently.

(b) No later than ten (10) Business Days after receipt of the Title Commitment and Survey, Purchaser will notify Seller of Purchaser's objections to title (other than Permitted Exceptions) including matters based on the Survey (**"Title Objection Notice"**).

(c) Not later than five (5) Business Days after receipt of Purchaser's Title Objection Notice, Seller will notify Purchaser whether or not Seller will remove the title defects ("**Title Defects**") specified in the Title Objection Notice. If Seller elects to cure the Title Defects, then Seller shall be obligated to remove such Title Defects from Purchaser's Title Commitment at Seller's sole cost and expense prior to Closing. If Seller notifies Purchaser within the five (5) Business Day period that Seller does not intend to remove the Title Defects specified in the Title Objection Notice (or if Seller does not respond to Purchaser's Title Objection Notice within such five (5) Business Day period, in which case Seller shall be deemed to have elected not to remove such Title Defects, then Purchaser may, at its option, either (i) terminate this Agreement in which case Purchaser shall receive back the Deposit and the parties hereto shall have no further obligations under this Agreement, except pursuant to the provisions which expressly survive termination of this Agreement, or (ii) accept title at Closing subject to the Title Defects specified in the Title Objection Notice, without any reduction or adjustment in the Purchase Price.

(d) If Seller is unable to remove all such Title Defects which Seller has expressly agreed to remove on or before the Closing Date, subject to the terms hereof, then Purchaser may at its option: (i) waive such Title Defects and proceed to close the transaction, or (ii) terminate this Agreement by delivering written notice to Seller, in which event the Deposit shall be returned to Purchaser and the parties hereto shall have no further obligations under this Agreement, except pursuant to the provisions which expressly survive termination of this Agreement. If any supplemental or subsequent title or "run down" report issued by the Title Insurance Company discloses any liens, encumbrances, easements, restrictions, agreements, encroachments or other exceptions to title or the Survey not caused by Purchaser or its agents (other than Permitted Exceptions) (collectively, "**New Title Defects**"), Purchaser shall have the right to object to the New Title Defects by notifying Seller in writing (a "**Run Down Objection Notice**") of any such New Title Defects within five (5) Business Days after Purchaser's receipt of such New Title Defects. If Seller is unable or unwilling to remove any such New Title Defects in accordance with the requirements hereof, Seller shall so notify Purchaser within five (5) days of receipt of the Run Down Objection Notice and Purchaser shall have the right to accept such title as Seller shall be able to convey or to terminate this Agreement, by notice delivered to Seller within five (5) days following receipt of the New Seller Title Notice. If Purchaser elects to terminate this Agreement by delivering written notice thereof to Seller, then the Deposit shall be returned to Purchaser and the parties hereto shall have no further obligations under this Agreement, except pursuant to the provisions which expressly survive termination of this Agreement.

Section 5.04 Seller's Inability to Convey.

(a) If, on the Closing Date, Seller fails or is unable to convey title to the Property in accordance with this Agreement, Seller shall be entitled, upon written notice delivered to Purchaser on or prior to the Closing Date, to reasonable adjournments of the Closing one or more times for a period not to exceed sixty (60) days in the aggregate to enable Seller to convey such title to the Property.

(b) If Seller does not so elect to adjourn the Closing, and on the Closing Date, fails or is unable to convey title subject to and in accordance with the provisions of this Agreement, Purchaser may either: (i) terminate this Agreement by written notice to Seller delivered on or before the Closing Date, in which event Purchaser shall be entitled to a return of the Deposit, and this Agreement shall thereupon be deemed terminated and of no further effect, and neither party hereto shall have any obligations to the other hereunder or by reason hereof, except for the provisions hereof that expressly survive termination of this Agreement; or (ii) complete the purchase (with no reduction in the Purchase Price) with such title as Seller is able to convey on the Closing Date.

(c) If Seller elects to adjourn the Closing as provided in Section 5.04(a) above, this Agreement shall remain in effect for the period or periods of adjournment, in accordance with its terms. If, on the adjourned Closing Date, Seller fails or is unable to convey title to the Property subject to and in accordance with the provisions of this Agreement, Purchaser shall make its election between clauses (i) and (ii) of Section 5.04(b) above, by written notice to Seller given not later than the adjourned Closing Date. If Purchaser shall fail to give such notice as aforesaid, Purchase shall be deemed to have elected clause (ii) of Section 5.04(b) above and the Closing shall take place within three (3) Business Days following the adjourned Closing Date.

(d) Notwithstanding anything to the contrary contained in this Agreement, Seller shall not be required to take or bring any action or proceeding or any take other steps to remove any defect in or objection to title or to fulfill any condition precedent to Purchaser's obligations under this Agreement or to expend any moneys therefor, nor shall Purchaser have any right of action against Seller therefor, at law or in equity, except that Seller shall, on or prior to the Closing, pay, discharge, or remove of record or cause any Liens to be paid, discharged, or removed of record in accordance with the Sale Order, at Seller's sole cost and expense.

(e) Notwithstanding anything in this Section 5.04 above to the contrary, Purchaser may at any time accept such title as Seller can convey, without reduction of the Purchase Price or any credit or allowance on account thereof or any claim against Seller.

Section 5.05 Violations. Notwithstanding anything to the contrary in this Agreement, Purchaser shall accept title to the Property subject to any and all violations or any notes or notices of violations of law or municipal ordinances, orders, or requirements noted or issued prior to, on or after the date of this Agreement (collectively, the "**Violations**"), if any, provided the cost to cure such Violations does not exceed Twenty-Five Thousand and 00/100 Dollars (\$25,000.00). Purchaser acknowledges and accepts that Seller shall not be obligated to comply with or take any action or incur any expense in connection with any Violations. If requested by Purchaser, Seller shall furnish Purchaser with an authorization to make any required violation searches against the Property. In the event the cost to cure such Violations does exceed Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), then Purchaser shall have the right to either (i) request that Seller cure such Violations within fifteen (15) Business Days and Seller, in its sole discretion may elect to cure such Violation; provided, however, that if such Violation cannot be reasonably cured within said period, Seller may apply a credit toward the Purchase Price at Closing equal to the amount that the cost to cure such Violations exceeds Twenty-Five Thousand and 00/100 Dollars (\$25,000); if Seller does not cure the Violation or apply said credit, Purchaser shall have the option to terminate this Agreement by written notice to Seller delivered on or

before the Closing Date, in which event Purchaser shall be entitled to a return of the Deposit, and this Agreement shall thereupon be deemed terminated and of no further effect, and neither party hereto shall have any obligations to the other hereunder or by reason hereof, except for the provisions hereof that expressly survive termination of this Agreement; or (ii) complete the purchase (with no reduction in the Purchase Price) on the Closing Date.

ARTICLE VI REPRESENTATIONS AND WARRANTIES

Section 6.01 Seller's Representations and Warranties. Seller represents and warrants to Purchaser on and as of the date of this Agreement as follows:

(a) Seller is the permanent chapter 7 Trustee of the Debtor's bankruptcy estate, pursuant to Bankruptcy Code sections 701 and 702(d).

(b) Except for such authorization as is required by the Bankruptcy Court, Seller has full corporate power and authority to execute and deliver this Agreement and, subject to such authorization as is required by the Bankruptcy Court and any required approval by a Court of competent jurisdiction to perform its obligations hereunder. Without limiting the generality of the foregoing, the Board of Seller has duly authorized the execution, delivery and performance of this Agreement by Seller. This Agreement constitutes, and any and all other closing documents to be executed by Seller pursuant hereto, when executed, will constitute, the valid and legally binding obligation of Seller, enforceable in accordance with their terms and conditions, except as enforceability against Seller may be restricted, limited or delayed by applicable bankruptcy, moratorium or other Laws affecting creditors' rights generally and except as enforceability may be subject to general principles of equity..

(c) Seller is not a "foreign person" within the meaning of Section 1445 of the Code.

(d) Subject to Bankruptcy Court approval and any other required approval by a Court of competent jurisdiction, if any, neither the execution and delivery of this Agreement, the consummation of the transactions contemplated herein (including each Closing Document required to be delivered by Seller at Closing), nor the fulfillment of the terms hereof by Seller, will (i) violate any order or award of any court, administrative agency or governmental body applicable to Seller; (ii) constitute a violation by Seller of any Applicable Law; or (iii) conflict with or violate any charter document of Seller.

(e) To Seller's actual knowledge, there is no pending or threatened litigation or condemnation action against the Property or against Seller with respect to the Property as of the date of this Agreement.

(f) Seller has not entered into any service or equipment leasing contracts relating to the Property.

(g) Seller is not, and will not become, a person or entity with whom United States persons or entities are restricted or prohibited from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those

named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities.

(h) Seller has not received written notice from any governmental agency having jurisdiction over the Property of any uncured violation of any applicable laws, ordinances, rules and regulations, including without limitation, zoning, development, construction code and environmental laws.

Section 6.02 Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller on and as of the date of this Agreement and on and as of the Closing Date as set forth in this Section 6.02.

(a) Purchaser is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of ~~New Jersey~~North Carolina.

(b) Purchaser has full power and authority to execute and deliver this Agreement and, subject to such authorizations as required by the Bankruptcy Court and any other required approval by a Court of competent jurisdiction, if any, to perform its obligations hereunder. The execution, delivery and performance of this Agreement and all other agreements contemplated hereby have been duly authorized by all requisite corporate action of Purchaser. This Agreement constitutes, and any and all other closing documents to be executed by Purchaser pursuant hereto when executed will constitute, the valid and legally binding obligation of Purchaser, enforceable in accordance with their terms and conditions, except as enforceability against Purchaser may be restricted, limited or delayed by applicable bankruptcy, moratorium or other Laws affecting creditors' rights generally and except as enforceability may be subject to general principles of equity.

(c) Subject to Bankruptcy Court approval, and any other required approval by a Court of competent jurisdiction, if any, neither the execution and delivery of this Agreement, the consummation of the transactions contemplated herein (including each Closing Document required to be delivered by Purchaser at Closing), nor the fulfillment of the terms hereof by Purchaser, will (i) violate any Applicable Law to which Purchaser is subject or any provision of its charter, bylaws, or other governing documents or (ii) conflict with, violate or result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Purchaser is a party or by which it is bound or to which any of its assets are subject.

(d) Purchaser is not required to give any notice to, make any filing with, or obtain any authorization, consent, or approval of any Governmental Authority in order for the Parties to consummate the transactions contemplated herein (including each Closing Document required to be delivered by Purchaser at Closing), except for such notices, consents and approvals as have

already been given or obtained, those required under or in relation to those required by the Bankruptcy Court.

(e) Purchaser has not violated any contract, agreement, or other instrument to which Purchaser is a party nor any judicial order, judgment, or decree to which Purchaser is bound by: (i) entering into this Agreement; (ii) executing any of the documents Purchaser is obligated to execute and deliver on the Closing Date or (iii) performing any of its duties or obligations under this Agreement or otherwise necessary to consummate the transactions contemplated by this Agreement.

(f) To Purchaser's actual knowledge, there are no actions, lawsuits, litigation, or proceedings pending or threatened in any court or before any governmental or regulatory agency that affect Purchaser's power or authority to enter into or perform this Agreement. There are no judgments, orders, or decrees of any kind against Purchaser unpaid or unsatisfied of record, or, to the best of Purchaser's knowledge, threatened against Purchaser, which would have any material adverse effect on the business or assets or the condition, financial or otherwise, of Purchaser or the ability of Purchaser to consummate the transactions contemplated by this Agreement.

(g) Except for the express representations and warranties of Seller found in Section 6.01, Purchaser is acquiring the Property on an "AS IS, WHERE IS" basis, without any representation or warranty of any kind or nature whatsoever, express or implied, and Purchaser acknowledges that no such representations or warranties have been made except as set forth in writing herein. In deciding whether to acquire the Property, Purchaser is relying solely on Purchaser's investigation of the Property.

(h) Purchaser is not, and will not become, a person or entity with whom United States persons or entities are restricted or prohibited from doing business under regulations of OFAC (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities.

ARTICLE VII PRE-CLOSING COVENANTS

The parties agree as follows with respect to the period between the date of mutual execution of this Agreement and the Closing:

Section 7.01 General. Each of the Parties will use its commercially reasonable efforts to take all actions and to do all things reasonably necessary in order to consummate and make effective the transactions contemplated herein (including satisfaction, but not waiver, of the conditions to Closing set forth in this Agreement).

Section 7.02 Intentionally Omitted.

Section 7.03 Maintenance and Repairs. Seller shall cause the Property, and the Improvements, to be maintained in substantially the same manner as prior to the date of this Agreement pursuant to Seller's normal course of Business, subject to reasonable wear and Article VIII of this Agreement.

Section 7.04 Removal of Assets Prior to Closing. Except as otherwise agreed by the Parties, Seller shall deliver the Property fully vacant, including, without limitation, from any and all inventory which shall be fully removed and vacated from the Property at the Seller's sole expense.

Section 7.05 Additional Covenants of Seller Pending Closing. Seller covenants and agrees that, up to and through the Closing:

(a) Seller shall maintain its existing insurance coverage.

(b) Seller shall give Purchaser prompt notice of: (i) any actual or threatened condemnation of all or any portion of the Property of which Seller receives a written notice, (ii) any actual or threatened enforcement action by any governmental agency relating to the use, condition, or environmental condition of the Property of which Seller received a written notice, and (iii) the commencement of any action by any party seeking relief which could result in the imposition of a lien on the Property, (iv) any rezoning of the Property, (v) the filing in a court of competent jurisdiction of any action by any party seeking relief against Seller or the Property that would result in the imposition of a lien on the Property that will be binding on the Property following Closing, (vi) any casualty to the Property, (vii) written notice from a governmental authority of violations affecting the Property, (viii) all judgments, claims, and litigation affecting Seller or any part of the Property, and ~~(ix)~~ Seller obtaining actual knowledge that any representations or warranties made by Seller herein are not true, accurate, and/or complete.

(c) Seller shall not enter into contract affecting the Property that would bind Purchaser or run with the land, which cannot be terminated by Seller prior to Closing or upon thirty (30) days' notice without charge, cost, penalty or premium to Purchaser.

ARTICLE VIII RISK OF LOSS

Section 8.01 Risk of Loss. Seller shall maintain its current liability and casualty insurance on the Property. If prior to Closing there shall be any damage or destruction to the Property or any of them by fire or other casualty, Seller shall give prompt notice thereof to Purchaser. So long as the cost of the repairs required to complete restoration of the loss, damage or destruction is not reasonably expected to exceed \$400,000 (as determined by Seller's insurance adjuster) and does not eliminate parking, access or in respect to a material portion of the Property (an "**Immaterial Casualty**"), then Purchaser may not terminate this Agreement, and Closing shall be completed without abatement of the Purchase Price. In such event, (a) Seller and Purchaser shall jointly negotiate and resolve any all insurance claims with respect to said damage, (b) Seller shall not undertake or complete any repairs to the Property without first obtaining the Purchaser's prior written consent (which shall include the designation of the third party to complete such repair), and all such repairs shall be completed in accordance with

applicable laws, regulations and ordinances, (c) at Closing, Seller shall pay over to Purchaser all insurance proceeds collected by Seller with respect to damage to the Property from such fire or other casualty (but (i) excluding all insurance proceeds payable on account of Seller's inventory, furniture, equipment and other personal property, and (ii) excluding all proceeds for so-called "contents coverage", and (iii) deducting any amount required to reimburse Seller for Seller's actual costs incurred in connection with the repair and restoration of the Property) and, to the extent such proceeds have not yet been applied to the repair and restoration of the Property as provided in this Section 8.01, or to reimburse Seller for the cost and expense therefor, and if any such proceeds have not been collected, Seller shall assign to Purchaser all its right, title and interest in and to the same, and (d) at Closing Seller shall credit against the Purchase Price the amount equal to the applicable deductibles under Seller's insurance policies for damage to the Real Property to the extent not otherwise paid or expended by Seller in connection with repair or restoration of the Property as a result of such fire or other casualty prior to the Closing. In the event the loss, damage or destruction is not an Immaterial Casualty, then Purchaser may elect in its sole discretion whether to terminate this Agreement or proceed to Closing.

Section 8.02 Condemnation. If, prior to Closing, Seller receives notice of the commencement of any condemnation proceeding or other proceeding in the nature of eminent domain in connection with any Material Portion of the Property or Improvements, Seller agrees to notify Purchaser in writing thereof. Purchaser then shall have the right, at Purchaser's option, to terminate this Agreement by giving written notice to Seller within five (5) Business Days after receipt of such notice. Upon such termination, the Deposit shall be returned to Purchaser and thereafter this Agreement shall be canceled with no further liability of either party to the other, except as specifically provided herein. If Purchaser does not so terminate this Agreement, Purchaser shall proceed to Closing hereunder as if no such proceeding had commenced and will pay Seller the full Purchase Price in accordance with this Agreement; Seller shall assign to Purchaser all of its right, title and interest in and to any compensation for such condemnation, and Seller shall not negotiate or settle any claims for compensation prior to Closing without Purchaser's participation. For purpose of this Section 8.02, a "Material Portion" shall mean any change is made, or proposed to be made, to the current means of ingress and egress to the Property or to the roads or driveways adjoining the Property, or to change such ingress or egress or to change the grade thereof which in any such event materially impairs access to the Property, or any proposed taking of 5% or more of the total square footage of the Improvement.

ARTICLE IX NOTICES

Section 9.01 Delivery of Notices. Unless specifically stated otherwise in this Agreement, all notices, demands, consents, approvals, waivers, or other communications (for purposes of this Section 9.01 collectively referred to as "Notices") shall be in writing and delivered to Purchaser or Seller at the addresses set forth in Section 9.02, by one of the following methods:

- (a) Personal delivery, whereby delivery is deemed to have occurred at the time of delivery;
- (b) Overnight delivery by a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the Business Day following deposit with the courier; or

(c) Electronic transmission (facsimile or email) provided that such transmission is completed no later than 5:00 pm Eastern on a Business Day and the original is also sent by personal delivery, overnight delivery, or by mail in the manner previously described, whereby delivery is deemed to have occurred at the end of the Business Day on which the electronic transmission is completed.

Section 9.02 Parties' Addresses.

(a) Unless changed in accordance with Section 9.02(b) of this Agreement, the addresses for all communications and notices shall be as follows:

If to Seller: Kenneth P. Silverman, Chapter 7 Trustee
100 Quadrangle Suite 300
Jericho, NY 11753
EMAIL: kenneth.silverman@rimonlaw.com
TEL: 516-479-6310

with copy to: Rimon PC
100 Quadrangle Suite 300
Jericho, NY 11753
ATTN: Brian Powers
EMAIL: brian.powers@rimonlaw.com
TEL: 516-479-6357

If to Purchaser: [\[REDACTED\]Capital One World Property, LLC](#)
[4900 Leigh Drive](#)
[Raleigh, NC 27616](#)
[ATTN: Timothy W. Michael,](#)
[Mollie Tisdale Fisher and](#)
[Renee Coltrane Pakkala](#)
[EMAIL: tim.michael@capitalautogroup.com;](#)
[mollie.fisher@capitalautogroup.com and](#)
[renee.pakkala@capitalautogroup.com](#)
[TEL: 919-999-1400](#)

with copy to: [\[REDACTED\] Kilpatrick Townsend & Stockton LLP](#)
[1001 West Fourth Street](#)
[Winston-Salem, NC 27101](#)
[ATTN: Michael Myers](#)
[EMAIL: mmyers@ktslaw.com](#)
[TEL: 336-747-7543](#)

(b) Any party may, by notice given in accordance with this Article, designate a different address or person for receipt of all communications or notices.

(c) Any notice under this Agreement may be given by the attorneys of the respective parties who are hereby authorized to do so on their behalf.

ARTICLE X TERMINATION

Section 10.01 Termination of Agreement.

(a) Termination by Purchaser. Purchaser may terminate this Agreement immediately upon written notice to Seller of the occurrence of any of the following, at which time all obligations of Purchaser hereunder shall be of no further force and effect:

(i) Purchaser is ready, willing, and able to perform and has properly served Seller with a Time is of the Essence demand and Seller has not properly rejected the same and not performed;

(ii) if there shall be a material breach by Seller of any material representation or warranty, or any material covenant or agreement contained in this Agreement, which breach cannot be cured or has not been cured within fifteen (15) days after the giving of written notice by Purchaser to Seller of such breach; or

~~(iii)~~

(iii) ~~(iv)~~ if Seller is unable or unwilling to close within sixty (60) days following the date that the Sale Order becomes a Final Order.

(b) Termination by Seller. If Purchaser is unable or unwilling to close within sixty (60) days following the date that the Sale Order becomes a Final Order and provided that all conditions precedent to Closing have been satisfied and there shall not have been a material breach by Seller, Seller may terminate this Agreement upon written notice to Purchaser, at which time all obligations of Seller hereunder shall be of no further force and effect, except for those obligations specified in this Agreement to survive termination.

(c) Termination by Purchaser or Seller. Subject to Bankruptcy Court approval, the Parties may terminate this Agreement by mutual written consent of Seller and Purchaser.

(d) Extension of Time Periods. The time periods for termination of this Agreement set forth in this Section 10.01 may be extended upon the written agreement of the Parties without the further approval of the Bankruptcy Court.

Section 10.02 Procedure For Termination. If this Agreement is terminated by Purchaser or Seller, or both, pursuant to Section 10.01, written notice thereof shall promptly be given to the other Party, and upon the giving of such notice (or at such time as specified in the particular termination right set forth in Section 10.01), the transactions contemplated herein shall be abandoned and this Agreement shall terminate to the extent and with the effect provided by Section 10.03, without further action by the Parties.

Section 10.03 Effect of Termination. If either Seller or Purchaser terminates this Agreement pursuant to Section 10.01, all rights and obligations of the Parties hereunder shall terminate without any liability of any Party to any other Party (except for any Liability of any Party then in breach of this Agreement); provided that if such termination is the result of a breach or default hereunder by the non-terminating Party, then the non-breaching Party shall be entitled to seek any and all remedies available to the terminating Party at law or in equity.

ARTICLE XI DISPUTE RESOLUTION

Section 11.01 Dispute Resolution. The Bankruptcy Court shall retain jurisdiction to adjudicate any dispute that arises under this Agreement.

ARTICLE XII BANKRUPTCY COURT MATTERS

Section 12.01 Competing Transaction.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Seller of higher or better competing bids (each, a “**Competing Bid**”) pursuant to the order of the Bankruptcy Court approving bidding procedures for the sale of the Property (the “**Bidding Procedures**”).

(b) If a Competing Bid is selected in conjunction with an auction (the “**Auction**”) but such bidder does not consummate the purchase of the Property and Purchaser is the second highest bidder (the “**Backup Bidder**”), Purchaser shall be subject to the rights and responsibilities of the Backup Bidder as set forth in the Bidding Procedures.

ARTICLE XIII ESCROW AGENT

Section 13.01 Escrow Terms. Title Insurance Company shall serve as the escrow agent (“**Escrow Agent**”) with regard to payment of closing costs set forth in Section 4.05 and payment of apportionments set forth in Section 4.06. Escrow Agent shall make disbursements as set forth in the Settlement Statement.

ARTICLE XIV CONFIDENTIALITY

Section 14.01 Confidential Information. Purchaser hereby agrees to hold as confidential all information disclosed to it by Seller and/or Debtor in connection with the transaction contemplated hereby and concerning the other, or otherwise gained through Purchaser’s access to the Property (“**Seller Confidential Information**”). Seller hereby agrees to hold as confidential all information disclosed to it by Purchaser in connection with the transaction contemplated hereby (“**Purchaser Confidential Information**”). Seller Confidential Information and Purchaser Confidential Information may be

collectively referred to as “**Confidential Information**”, and expressly excludes any information that is a matter of public record in connection with the Chapter 7 Case, or was otherwise previously or is hereafter publicly disclosed (other than in violation of this Agreement or other confidentiality agreements to which such other party is a party). Each of Purchaser and Seller shall not release any such Confidential Information to third parties without the prior written consent of the other party, except (i) to its members, advisers, underwriters, analysts, employees, affiliates, officers, directors, consultants, lenders, investors, potential lenders and investors, accountants, legal counsel, governmental representatives or their agents, title companies or other advisors of any of the foregoing, provided that they are advised as to the confidential nature of such information and are instructed to maintain such confidentiality, (ii) to comply with any applicable law, rule (including, if applicable, the rules of an applicable stock exchange on which such party or its affiliates lists its securities) or regulation, and (iii) in any legal proceeding between the Seller and Purchaser in connection with this Agreement. Neither Seller nor Purchaser shall at any time issue a press release or otherwise communicate with media representatives regarding this sale and purchase unless such release or communication (x) has received the prior approval of the other party (which approval shall not be unreasonably withheld, conditioned or delayed) or (y) is required to comply with any applicable law, rule (including, if applicable, the rules of an applicable stock exchange on which such party or its affiliates lists its securities) or regulation.

Section 14.02 Return or Destruction of Confidential Information. As of the Closing Date or in the event of a termination of this Agreement, if applicable, such confidentiality shall be maintained by Purchaser and all Confidential Information in accordance with the written request of Seller shall be either promptly: (a) returned to Seller; or (b) destroyed by Purchaser, with any such destruction confirmed by Purchaser and its Transaction Parties in writing.

Section 14.03 Survival. The provisions of this Article shall survive the Closing Date or termination of this Agreement.

ARTICLE XV BROKERS

Section 15.01 Brokers. Purchaser and Seller each represent and warrant to each other that they dealt with no broker in connection with, nor has any broker had any part in bringing about, this transaction other than Cushman & Wakefield (the “**Broker**”). Seller shall pay the brokerage commission due Broker in accordance with the terms and conditions of a separate written agreement. Seller and Purchaser shall each indemnify, defend, and hold harmless the other from and against any claim of any broker or other person for any brokerage commissions, finder's fees, or other compensation in connection with this transaction if such claim is based in whole or in part by, through, or on account of, any acts of the indemnifying party or its agents, employees, or representatives and from all losses, liabilities, costs, and expenses in connection with such claim, including without limitation, [reasonable] attorneys’ fees, court costs, and interest.

Section 15.02 Survival. The provisions of this Article XV shall survive the Closing or the termination of this Agreement prior to the Closing.

ARTICLE XVI MISCELLANEOUS

Section 16.01 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.

Section 16.02 Merger; No Representations. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. This Agreement is entered into after full investigation, no party is relying upon any statement or representation not set forth in this Agreement, made by any other party.

Section 16.03 No Survival. Except as otherwise provided in this Agreement, no representations, warranties, covenants, or other obligations of Seller set forth in this Agreement shall survive the Closing and no action based thereon shall be commenced after the Closing.

Section 16.04 Limitation of Liability.

(a) No shareholder or agent of Seller, nor any Seller Related Party, shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement or any amendment or amendments to any of the foregoing made at any time or times, heretofore and hereafter, and Purchaser and its successors and assigns and, without limitation all other persons and entities, shall look solely to Seller's assets for the payment of any claim or for any performance and Purchaser, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability.

(b) No shareholder or agent of Purchaser, nor any Purchaser Related Party shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter, and Seller and its successors and assigns and, without limitations, all other persons and entities, shall look solely to Purchaser's assets for the payment of any claim or for any performance, and Seller, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability.

Section 16.05 Business Days. Whenever any action must be taken (including the giving of notices) under this Agreement during a certain time period (or by a particular date) that ends or occurs on a non-business day, then such period (or date) shall be extended until the next succeeding Business Day. As used herein, the term “**Business Day**” shall mean any day other than a Saturday, a Sunday, or a legal holiday on which national banks are not open for general business in the State of New York.

Section 16.06 Modifications and Amendments. This Agreement cannot under any circumstance be modified or amended orally and no agreement shall be effective to waive, change,

modify, terminate, or discharge this Agreement, in whole or in part, unless such agreement is in writing and is signed by both Seller and Purchaser.

Section 16.07 No Recording. Neither this Agreement, nor any memorandum of this Agreement, shall be recorded. The recording of this Agreement, or any memorandum of this Agreement, by Purchaser shall constitute a material default and shall entitle Seller to retain the Deposit and any interest earned thereon.

Section 16.08 Successors and Assigns; Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns. Purchaser may not assign or otherwise transfer this Agreement, or any of its rights or obligations hereunder, without the prior written consent of Seller, which consent may be withheld in Seller's sole discretion. Any purported assignment without Seller's consent shall be void and of no force or effect. Any change in control of Purchaser or of any of the direct or indirect ownership interests in Purchaser, at any level or tier of ownership, whether in one transaction or a series of transactions, shall constitute an assignment for purposes of this Section 16.08.

Section 16.09 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect, invalidate, or render unenforceable any other term or provision of this Agreement. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement be consummated as originally contemplated to the greatest extent possible.

Section 16.10 Further Assurances. Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby, provided such documents are customarily delivered in real estate transactions in the State of North Carolina and do not impose any material obligations upon any party hereunder except as set forth in this Agreement.

Section 16.11 Counterparts. This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall together constitute but one and the same instrument.

Section 16.12 Headings. The captions or paragraph titles contained in this Agreement are for convenience and reference only and shall not be deemed a part of the text of this Agreement.

Section 16.13 No Waivers. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party providing the waiver. No waiver by either party of any failure or refusal to comply with any obligations under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

Section 16.14 No Offer. This Agreement shall not be deemed an offer or binding upon Seller or Purchaser until this Agreement is fully executed and delivered by Seller and Purchaser.

Section 16.15 Waiver of Jury Trial. SELLER AND PURCHASER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY SUCH PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

Section 16.16 Submission to Jurisdiction; Consent to Service of Process. Without limiting any Party's right to appeal any order of the Bankruptcy Court, (a) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any Claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated herein, and (b) any and all proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in Section 9.02 hereof. The Parties hereby irrevocably waive, to the fullest extent permitted by Applicable Law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the Parties hereby consents to process being served by any Party to this Agreement in any suit, action or proceeding by delivery of a copy thereof in accordance with the provisions of Section 9.02.

Section 16.17 Time of the Essence. The parties hereto acknowledge and agree that, except as otherwise expressly provided in this Agreement, TIME IS OF THE ESSENCE with respect to all time periods, dates and the payment and performance of all obligations under this Agreement (including, without limitation, the giving of Notices, the delivery of documents, and the funding of money). Whenever action must be taken by either party (including, without limitation, the giving of Notice, the delivery of documents, or the funding of money) under this Agreement, prior to the expiration of, by no later than, or on a particular date, unless otherwise expressly provided in this Agreement, such action must be completed by 5:00 p.m. Eastern on such date. However, notwithstanding anything to the contrary herein, whenever action must be taken by either party (including, without limitation, the giving of Notice, the delivery of documents, or the funding of money) under this Agreement prior to the expiration of, by no later than, or on a particular date that is not a Business Day, then such date shall be extended until the immediately following Business Day.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

PURCHASER:

~~[PURCHASER NAME], a[n] [STATE OF ORGANIZATION] [ENTITY TYPE]~~CAPITAL ONE WORLD PROPERTY, LLC, a North Carolina limited liability company

By: _____

Name: Timothy W. Michael

Title: Member/Manager

SELLER:

BUTH-NA-BODHAIGE, INC. dba THE BODY SHOP, a Delaware corporation

By: _____

Name:

Title:

SCHEDULES AND EXHIBITS

<u>Exhibit A</u>	Legal Description of Real Property
<u>Exhibit B</u>	Excluded Property
<u>Exhibit C</u>	Draft Deed
<u>Exhibit D</u>	Assignment and Assumption of Intangibles

Exhibit A

Legal Description of Real Property

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Wake Forest, County of Wake, State of North Carolina. Beginning at an existing iron pipe on the eastern right of way of Unicon Drive, said iron pipe being the northwestern corner of the property belonging to Thurman Kitchin and being recorded in deed book 4649 page 467 of the Wake County Registry and being the POINT OF BEGINNING the following courses and distances: N21-46-37 E 607.38' to a point, thence N 21-46-43 E 280.89' to an existing iron pipe, thence S 67-38-03 E 1343.06' to an existing iron pipe, thence S 27-52-38 W 319.83' to an existing iron pipe, thence S 03-00-21 W 147.43' to an existing iron pipe, thence S 02-51-38 W 129.00' to an existing iron pipe, thence S 55-58-11 W 201.32' to an existing iron pipe, thence S 56-00-06 W 64.61' to an existing iron pipe, thence S 07-07-17 E 164.03' to an existing iron pipe, thence S 01-06-15 E 347.20' to an existing iron pipe, thence S 33-34-02 W 81.22' to a point, thence with a creek S 75-00-55 W 36.27' to a point, thence N 67-44-31 W 59.44' to a point, thence N 43-38-17 W 38.19' to a point, thence N 58-27-25 W 25.32' to a point, thence S 63-12-00 W 45.93' to an existing iron pipe, thence N 55-59-48 W 421.33' to an existing iron pipe, thence N 40-58-22 W 341.40' to a new iron pipe, thence N 45-40-07 W 209.61' to an existing iron pipe, thence N 41-12-00 W 300.16' to an existing iron pipe, thence N 43-58-16 W 100.41' to the point of beginning. LESS AND EXCEPT the property conveyed to Town of Wake Forest, by North Carolina General Warranty Deed recorded on October 20, 2020 in Book 18139 Page 1755, as described as follows: That certain Clean Water Management Trust Fund (CWMTF) Conservation area lying in the Wake Forest Township, Wake County North Carolina and being the southern portion of now or formerly Buth NA Bodhaige Inc., Parcel "A" property as found in Deed Book (DB) 11638, Page (Pg) 2248 and Book of Maps (BM) 1992, (Pg) 1487 in the Wake County Register of Deeds, having Wake County Parcel Identification Number (PIN) 1739713177, and being bounded on the north by said Buth NA Bodhaige Inc., property, on the east by now or formerly Town of Wake Forest property as found in (DB) 10748, (Pg) 324 and (BM) 2004, (Pg) 555 in the Wake County Register of Deeds; and on the south by now or formerly Lot 1, Finger Lakes Drive LLC property as found in (DB) 17639, (Pg) 2220 and (BM) 2020, (Pg) 869 in the Wake County Register of Deeds; and on the west by now or formerly Lot 3, 708 Finger Lakes Drive LLC property as found in (DB) 17810, (Pg) 341 and (BM) 2019, (Pg) 2172 in the Wake County Register of Deeds and being more particularly described as follows: Beginning at an existing iron pipe found in northern right-of-way terminus of One World Way (variable width public right-of-way) and a common line with said Buth NA Bodhaige Inc., property having North Carolina Grid Coordinates (all coordinates are referenced to NC Grid Coordinate Reference System NAD 83 (2011) and all distances are horizontal ground unless otherwise stated) of Northing = 790,807.67, Easting = 2,137,004.96; thence leaving said right of way terminus of One World Way, South 70 degrees 04 minutes 32 seconds East, a distance of 889.61 feet to a new rebar set in a common line with said now or formerly Town of Wake Forest property; thence along said common line with now or formerly Town of Wake Forest property, South 01 degrees 02 minutes 47 seconds East, a distance of 198.14 feet to a new rebar set; thence along said common line with now or formerly Town of Wake Forest property, South 33 degrees 37 minutes 30 seconds West, a distance of 81.22 feet to a new rebar set, said point also being a common corner with said now or formerly Lot 1, Finger Lakes Drive LLC property; thence along a common line with said now or formerly Lot 1, Finger Lakes Drive LLC property

the following six (6) courses and distances: South 75 degrees 04 minutes 23 seconds West, a distance of 36.12 feet to a new rebar set; thence North 67 degrees 43 minutes 50 seconds West, a distance of 59.75 feet to a new rebar set; thence North 43 degrees 37 minutes 36 seconds West, a distance of 38.19 feet to a new rebar set; thence North 58 degrees 26 minutes 44 seconds West, a distance of 25.32 feet to a new rebar set; thence South 63 degrees 12 minutes 41 seconds West, a distance of 45.93 feet to a new rebar set; thence North 55 degrees 59 minutes 07 seconds West, a distance of 231.79 feet to a point, said point being a common corner with said now or formerly Lot 3, 708 Finger Lakes Drive LLC property; thence along a common line with said now or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 55 degrees 59 minutes 07 seconds West, a distance of 189.54 feet to a new rebar set; thence along a common line with now or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 40 degrees 57 minutes 41 seconds West, a distance of 341.40 feet to a new rebar set; thence along a common line with said now or formerly Lot 3, 708 Finger Lakes Drive LLC property, North 45 degrees 39 minutes 26 seconds West, a distance of 46.09 feet to a new rebar set at the southern right-of-way terminus of said One World Way; thence along said northern right-of-way terminus of One World Way, North 45 degrees 39 minutes 26 seconds West, a distance of 13.81 feet to an existing iron pipe, the Point of Beginning. Said (CWMTF) Conservation area is the same as shown on an exempt subdivision map entitled "Exempt Subdivision and CWMTF Conservation Area Map for the Town of Wake Forest and the Clean Water Management Trust Fund - Contract Grant 2016-089 BUTH NA BODHAIGE, INC. 5036 ONE WORLD WAY Wake Forest, North Carolina" prepared by Timothy E. Bowes, PLS with VHB Engineering NC, P.C. and dated April 2, 2020.

NOTE FOR INFORMATION: Being Parcel No(s). 1739713269 and 1739719112, of the City of Wake Forest, County of Wake.

Exhibit B

Excluded Property

Any/all personal property located on the Real Property, except for racking located within the Improvements.

Note: Racking located within the Improvements shall be included as part of the Property being sold pursuant to the Agreement.

Exhibit C

Draft Deed

[To be Attached]

Exhibit D

Assignment and Assumption of Intangibles

[To be Attached]

Summary report: Litera Compare for Word 11.6.0.100 Document comparison done on 9/12/2024 2:47:24 PM	
Style name: Default Style	
Intelligent Table Comparison: Active	
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Modified DMS: iw://dmsweb.kilpatricktownsend.com/US2008/30380711/4	
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Delete	28
Move From	0
<u>Move To</u>	0
<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	96