

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) dated as of the Effective Date (as defined below) is between the Kennedale Economic Development Corporation (“**Seller**”) and _____ (“**Buyer**”).

1. **Agreement to Sell and Purchase.** Subject to the terms and conditions of this Agreement, Seller agrees to sell and Buyer agrees to purchase that certain real property located in Tarrant County, Texas, consisting of approximately .42 acres as more particularly described on **EXHIBIT A** attached hereto (the “**Land**”) together with Seller’s right, title and interest in and to any rights, privileges, and appurtenances belonging thereto (collectively called the “**Property**”).

2. **Reservations.** It is expressly acknowledged by Buyer that the conveyance provided for herein by Seller shall not include (and the Deed, as defined below, shall expressly exclude and reserve unto Seller) any of Seller’s right, title or interest in and to all oil, gas and other minerals located in, on or under the Land and that may be produced therefrom (such excluded rights hereinafter the “**Mineral Rights**”); *provided, however*, that as a part of such reservation by Seller, the Deed shall provide that the use of the surface of the Land in connection with the exercise of the reserved Mineral Rights shall be restricted such that Seller waives all rights to the surface of the Land and the right to conduct operations of whatsoever nature with respect to the exploration for, exploitation of, mining, production, processing, transporting and marketing of oil, gas or other minerals from the Land but that nothing shall restrict or prohibit the pooling or unitization of the portion of the Mineral Rights with land other than the Land, or the exploration or production of the oil, gas and other minerals by means of wells that are drilled or mines that open on land other than the Land but enter or bottom under the Land at depths of and below five hundred feet (500’), or by any other method that does not require ingress and egress over the surface of the Land. The Deed shall also reserve to Seller (a) a perpetual subsurface easement under and through the Land at depths of and below five hundred feet (500’) for the placement of an unlimited number of well bores from oil or gas wells the surface locations of which are situated on tracts of land other than the Property, for the purpose of developing oil, gas and other minerals in and under the Property and/or any other lands, regardless of whether such other lands are pooled with or located near the Property and (b) any rights to use subsurface reservoirs and pore space in which to inject, dispose, sequester and/or store oil, gas and other minerals located in, on or under the Land but only to the extent, in each case that any such use, injection, disposal, storage, sequestration or storage must be accomplished without disturbing the surface of the Land or any improvements now or hereafter situated thereon and in compliance with all applicable laws.

3. **Purchase Price.**

(a) *Purchase Price.* The purchase price for the Property shall be \$10.00 (the “**Purchase Price**”). There will be no earnest money.

4. **Due Diligence Materials.**

(a) Within ten (10) business days after the Effective Date, Seller will deliver or cause to be delivered to Buyer copies of the following documents to the extent the same are in Seller’s possession (herein, the “**Due Diligence Materials**”), which Seller will have the option of delivering in an electronic format such as by e-mail or via a web-based data room: any prior survey (whether one or more, the “**Prior Survey**”) and copies of all environmental reports.

(b) *Intentionally left blank.*

(c) Buyer acknowledges and agrees that, except for the representations and warranties of Seller expressly set forth in Section 8 hereof, Seller delivers or makes available the Due Diligence Materials described in this Section 4 without representation or warranty as to the accuracy thereof, and Buyer specifically acknowledges and agrees that Seller shall have no liability or responsibility for any inaccuracy thereof. Buyer, relying on its own evaluation of the Property, disclaims any reliance on the Due Diligence Materials or on any statements (oral or written) which may have been made or may be made by Seller, Seller's broker, or any other party, concerning the Due Diligence Materials. BUYER ACKNOWLEDGES AND UNDERSTANDS THAT THE DUE DILIGENCE MATERIALS AND ANY OTHER INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER PURSUANT TO THIS AGREEMENT MAY HAVE BEEN PREPARED BY PARTIES OTHER THAN SELLER AND THAT NEITHER SELLER NOR ANY OF ITS AFFILIATES NOR ANY OF THEIR RESPECTIVE MEMBERS, OFFICERS, EMPLOYEES, AGENTS, ATTORNEYS, BROKERS OR CONTRACTORS MAKE NOR HAVE MADE ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO THE COMPLETENESS, CONTENT OR ACCURACY THEREOF. BUYER SPECIFICALLY RELEASES SELLER, AND ITS AFFILIATES AND THEIR RESPECTIVE MEMBERS, OFFICERS, EMPLOYEES, AGENTS, ATTORNEYS, BROKERS AND CONTRACTORS FROM ALL CLAIMS, DEMANDS, CAUSES OF ACTION, JUDGMENTS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES WHETHER SUIT IS INSTITUTED OR NOT), WHETHER KNOWN OR UNKNOWN, LIQUIDATED OR CONTINGENT, ASSERTED AGAINST OR INCURRED BY BUYER BY REASON OF THE INFORMATION CONTAINED IN, OR THAT SHOULD HAVE BEEN CONTAINED IN, SUCH DUE DILIGENCE MATERIALS OR OTHER INFORMATION.

5. **Title; Survey; Objections.**

(a) As soon as practicable after the Effective Date, Seller will cause the Title Company to issue and deliver to Buyer a current TLTA Form T-7 Commitment for Title Insurance (the "**Title Commitment**") for a standard TLTA Form T-1 Owner's Policy of Title Insurance (the "**Title Policy**"). Within thirty (30) days after the Effective Date, Seller shall obtain a current on-the-ground survey (or an update of an existing on-the-ground survey) (the "**Survey**") of the Property, prepared by a registered professional land surveyor reasonably acceptable to Buyer and the Title Company, and in a form that allows the Title Company to delete the survey exception (except as to "shortages-in-area") from the Title Policy. As soon as reasonably possible after receipt of the finalized Survey, Seller shall provide a copy thereof to Buyer. The costs of the Survey shall be the responsibility of Seller, notwithstanding whether or not the transactions contemplated hereby actually close. At Closing, the metes and bounds description of the Property reflected in the Survey, once finally approved by Buyer and the Title Company, shall be used in the Deed (hereinafter defined) and any other documents requiring a legal description of the Property.

(b) Not later than ten (10) days after receiving both the Survey and the Title Commitment (the "**Objection Deadline**"), Buyer may give written notice to Seller and the Title Company (the "**Objection Notice**") of any matters contained in the Title Commitment or the Survey to which Buyer objects (the "**Title Objections**"). Any matters in the Title Commitment or Survey to which Buyer does not timely object (or to which Buyer objects but which Seller is not obligated to cure) shall constitute "**Permitted Exceptions.**" In the event that the Title Company adds any new exceptions to the Title Commitment after the expiration of the Objection Deadline, Buyer shall have the right to object to such new exceptions. If Buyer gives notice of its Title Objections within the time period set forth above, Seller shall have five (5) business days after receipt thereof to notify Buyer that Seller either will cause or elects not to cause any or all of the Title Objections disclosed therein to be removed or insured over by the Title Company. Seller shall not be obligated to cure or attempt to cure any Title Objection, other than voluntary liens or deeds of trust filed against the Property arising by, through, or under Seller or mechanic's liens resulting from the acts or omissions of Seller. If Seller does not notify Buyer within

such five (5) business day period as to any Title Objection shall be deemed an election by Seller not to remove or have the Title Company insure over such Title Objections. If Seller notifies or is deemed to have notified Buyer that Seller will not remove nor have the Title Company insure over any or all of the Title Objections, Buyer shall have until the third (3rd) business day after the expiration of such five (5) business day period to (i) terminate this Agreement or (ii) waive such Title Objections and proceed to Closing without any reduction in the Purchase Price on account of such Title Objections. If Buyer does not give such notice within said three (3) business day period, Buyer shall be deemed to have elected to waive its Objections.

6. **Inspections.**

(a) Subject to the terms hereof, Buyer shall have the right during the Inspection Period (unless this Agreement is terminated earlier as provided herein), to enter upon the Property at all reasonable times and from time to time for any purpose contemplated by the terms and conditions hereof; *provided, however*, that any entry shall be at the sole cost, expense and risk of Buyer, and that, except for the mere discovery of existing defects or conditions affecting the Property, Buyer hereby indemnifies and agrees to hold Seller harmless from and against any and all loss, cost or expense (including attorneys' fees and expenses) resulting, directly or indirectly, from any entry by Buyer, or any employee, agent, principal or independent contractor of Buyer, upon the Property; provided, however, that the foregoing indemnity shall not extend to (i) protect Seller from any pre-existing liabilities for matters merely discovered by Buyer (i.e., latent environmental contamination) or (ii) any liens, claims, causes of action, damages, liabilities or expenses that are attributable to the action or inaction of Seller or its agents or employees. SUCH INDEMNIFICATION WILL BE ENFORCED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW FOR THE BENEFIT OF SELLER, EVEN IF THE APPLICABLE CLAIM AND REGARDLESS OF WHETHER LIABILITY WITHOUT FAULT, PREMISES LIABILITY, OR STRICT LIABILITY IS IMPOSED UPON OR ALLEGED AGAINST SELLER. Buyer shall notify Seller not less than two (2) business days in advance of any such proposed entry, and Seller may (to the extent it timely makes personnel available) be present during any such entry by Buyer. Further, Buyer agrees to (i) satisfy any and all mechanic's liens which may be filed or threatened against the Property as a result of such entry by Buyer, or any of its employees, agents, principals or independent contractors, onto the Property, and (ii) if this transaction does not close, repair any damage to the Property caused by Buyer, or its employees, agents, principals or independent contractors, and restore the Property to substantially the same condition existing at the time immediately prior to any such damage.

(b) Seller hereby consents to Buyer conducting a Phase I Environmental Site Assessment of the Property (a "***Phase I***") during the Inspection Period, if it so desires, and Buyer shall promptly furnish a copy thereof to Seller. If, as a result of the Phase I which Buyer so obtains, Buyer deems it appropriate to have a Phase II Environmental Site Assessment (a "***Phase II***") of the Property performed, Buyer shall present Seller with a detailed plan or proposal for the conducting of the Phase II for Seller's prior approval thereof. Buyer shall obtain Seller's prior written approval or consent before performing the Phase II in the manner so proposed, which said consent or approval of the Phase II can be granted or denied by Seller in its sole and absolute discretion. Seller may have a representative present at any time that Buyer or its representative is on the Property for any and all such inspection, examination, investigation and testing of the Property. Buyer shall provide Seller at least seventy-two (72) hours' advance written notice before it conducts any Phase II test to which Seller has given its prior written consent and at least twenty-four (24) hours' advance written notice of any such other proposed inspection, examination, investigation and testing to be conducted, at any time, on the Property by Buyer or its representative.

(c) Buyer shall be solely responsible, at Buyer's sole cost and expense, for obtaining all governmental approvals necessary for Buyer's intended use and development of the Property, including,

without limitation, zoning (collectively, the “*Approvals*”). Buyer shall not make any submissions or applications to, or correspond with, any governmental entity regarding the Property with respect to such Approvals without Seller’s prior written consent, which consent shall not be unreasonably withheld. Seller shall reasonably cooperate with Buyer’s efforts to obtain the Approvals, at no cost or liability to Seller.

(d) This Section 6 shall survive the termination of this Agreement or the Closing, whichever is applicable.

7. **Inspection Period.**

(a) *Inspection Period.* Purchaser will have a period of sixty (60) days after the Effective Date (the “*Inspection Period*”) to inspect the Property and conduct studies regarding the Property as described in Section 6 above. Purchaser may also use the Inspection Period to perform feasibility studies, obtain equity funding, seek financing, and satisfy other conditions unrelated to the condition of the Property.

(b) *Right to Terminate.* Buyer shall have the right to terminate this Agreement for any reason whatsoever or for no reason before the expiration of the Inspection Period by sending written notice thereof to Seller and the Title Company on or before the expiration of the Inspection Period. If Buyer delivers such notice of termination within the Inspection Period, then this Agreement shall terminate and have no further force or effect. After such copies of all surveys, inspections, and reports that Buyer obtained for the Property are delivered to Seller

8. **Representations and Warranties.**

(a) Seller represents and warrants to Buyer that (i) Seller is a duly organized and validly existing nonprofit corporation in good standing under the laws of the state of its organization, (ii) to Seller’s knowledge, Seller has not received any written notice of any violation of any ordinance, regulation, law or statute from any governmental agency regarding the Property which has not been complied with, (iii) to Seller’s knowledge, there are no pending condemnation actions with respect to the Property and Seller has not received any notice of any condemnation actions being contemplated, (iv) other than this Agreement, Seller has not granted any options to Purchase, and Seller is not a party to any purchase contracts or leases, written or oral, granting any person, firm, corporation or entity (other than Buyer) any right, title or interest in, or right to acquire, the surface estate in the Property or any portion thereof, nor is Seller currently a party to any negotiations regarding the same (other than with Buyer), (v) to Seller’s knowledge, Seller has not transferred (and has no intent to transfer) any development rights with respect to the Property, (vi) to Seller’s knowledge, Seller does not currently have in progress any material construction or material excavation projects with respect to the Property or any portion thereof, (vii) Seller will not sell, assign or convey any right, title or interest whatever in or to the surface estate in the Property or create or grant any lien, encumbrance or charge thereon (other than the Permitted Exceptions) without discharging the same on or before the Closing Date. Seller has or will have as of the Closing full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Seller pursuant hereto, and any required action and approvals therefor have been or will be as of the Closing duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are or will be as of the Closing duly authorized to sign the same on Seller’s behalf and to bind Seller thereto. Neither the execution, delivery or performance of this Agreement by Seller, nor the consummation of the transactions contemplated hereby will violate any order, judgment, injunction, award or decree of any court or arbitration body, by or to which Seller or the Property are or may be bound or subject.

(b) Buyer represents and warrants to Seller that Buyer has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Buyer pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Buyer are and shall be duly authorized to sign the same on Buyer's behalf and to bind Buyer thereto. Neither the execution, delivery or performance of this Agreement by Buyer, nor the consummation of the transactions contemplated hereby will (i) violate or conflict with any provision of the organizational documents of Buyer, or (ii) violate any order, judgment, injunction, award or decree of any court or arbitration body, by or to which Buyer is or may be bound or subject.

9. **Disclaimers; Releases and Limitations.**

(a) BUYER REPRESENTS AND WARRANTS TO SELLER THAT BUYER IS A KNOWLEDGEABLE, EXPERIENCED AND SOPHISTICATED BUYER OF REAL ESTATE. BUYER ACKNOWLEDGES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES MADE BY SELLER IN SECTION 8 (AS LIMITED BY THIS SECTION 9) AND IN THE DEED, BUYER DISCLAIMS ANY RELIANCE UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY STATEMENT OF SELLER OR ANY OF ITS AFFILIATES OR ANY MEMBER, OFFICER, DIRECTOR, TRUSTEE, BROKER, AGENT, EMPLOYEE OR OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER OR ANY OF ITS AFFILIATES.

(b) WITHOUT IN ANY MANNER LIMITING THE PROVISIONS OF THE PRECEDING PARAGRAPH, AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT, SELLER AND BUYER AGREE THAT BUYER IS TAKING THE PROPERTY "AS IS," "WHERE IS" AND "WITH ALL FAULTS" AND WITH ANY AND ALL LATENT, AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE (INCLUDING, WITHOUT LIMITATION, WARRANTIES WITH RESPECT TO HABITABILITY, MARKETABILITY, USE OR FITNESS FOR A PARTICULAR PURPOSE) MADE BY SELLER WITH RESPECT TO THE PROPERTY (EXCEPT FOR THE REPRESENTATIONS OF SELLER EXPRESSLY SET FORTH IN SECTION 8 (AS LIMITED BY THIS SECTION 9) AND IN THE DEED, ALL OTHER REPRESENTATIONS AND WARRANTIES, BOTH EXPRESS AND IMPLIED, ARE HEREBY EXPRESSLY DISCLAIMED AND DENIED. BUYER ACKNOWLEDGES THAT IT HAS BEEN OR WILL BE GIVEN ADEQUATE TIME TO CONDUCT WHATEVER EXAMINATION, EVALUATIONS, INSPECTIONS, REVIEWS, STUDIES OR TESTS OF THE PROPERTY AND ITS CONDITION AS BUYER MAY DESIRE OR DETERMINE WARRANTED, AND THAT BUYER DISCLAIMS ANY RELIANCE ON ANY REPRESENTATION, WARRANTY, STATEMENT OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY OR ITS CONDITION BY SELLER (EXCEPT FOR THE REPRESENTATIONS OF SELLER EXPRESSLY SET FORTH IN SECTION 8 (AS LIMITED BY THIS SECTION 9) AND IN THE DEED) OR ANY OF SELLER'S AFFILIATES OR ANY MEMBER, OFFICER, DIRECTOR, TRUSTEE, BROKER, AGENT, EMPLOYEE OR OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER OR ANY OF ITS AFFILIATES, BUT BUYER IS RELYING SOLELY ON ITS OWN EXAMINATION, EVALUATIONS, INSPECTIONS, REVIEWS, STUDIES OR TESTS OF THE PROPERTY.

(c) WITHOUT LIMITING THE PROVISIONS OF THE PRECEDING PARAGRAPHS, EXCEPT FOR THE REPRESENTATIONS OF SELLER EXPRESSLY SET FORTH IN SECTION 8 (AS LIMITED BY THIS SECTION 9), BUYER EXPRESSLY RELEASES AND DISCHARGES SELLER AND ITS AFFILIATES, MEMBERS, PARTNERS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, ATTORNEYS, AGENTS, BROKERS AND CONTRACTORS

FROM ANY AND ALL OBLIGATIONS, CLAIMS, ADMINISTRATIVE PROCEEDINGS, JUDGMENTS, DAMAGES, FINES, COSTS, AND LIABILITIES ARISING OUT OF OR RELATING TO THE PHYSICAL CONDITION OF THE PROPERTY OR ANY PORTION THEREOF (COLLECTIVELY, THE “**CLAIMS**”) (WHETHER KNOWN OR UNKNOWN, AND WHETHER CONTINGENT OR LIQUIDATED), INCLUDING, BUT NOT LIMITED TO, THE ENVIRONMENTAL CONDITION WHICH SHALL INCLUDE, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGICAL CONDITION OF, AND ANY ENVIRONMENTAL RISK RELATING TO, THE PROPERTY, WHETHER THE SAME ARE A RESULT OF NEGLIGENCE OR OTHERWISE. The release set forth in this paragraph specifically includes any Claims under any Environmental Laws or with respect to any Environmental Risk. “**Environmental Laws**” means all applicable legal requirements regarding health, safety or the environment and includes, but is not limited to, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.), the Emergency Planning and Community Right to Know Act (42 U.S.C. §§ 11001 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), and the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), as any of the same may be amended from time to time, and any other state or local law dealing with environmental matters, and any regulations, orders, rules, procedures, guidelines and the like promulgated in connection therewith, regardless of whether the same are in existence on the date of this Agreement. IT IS SPECIFICALLY INTENDED BY SELLER AND BUYER THAT THE RELEASE CONTAINED HEREIN BE WITHOUT LIMIT, IRRESPECTIVE OF THE CAUSE OR CAUSES OF ANY SUCH CLAIMS (INCLUDING, WITHOUT LIMITATION, PRE-EXISTING CONDITIONS, STRICT LIABILITY OR THE NEGLIGENCE OF ANY PARTY OR PARTIES [INCLUDING SELLER], WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE). An “**Environmental Risk**” consists of (i) the presence of any asbestos or asbestos-containing materials, (ii) the presence, Release, threatened Release, discharge, or threatened discharge of any radioactive materials or “hazardous substance” or “hazardous waste” (as defined by any Environmental Laws), or (iii) the presence, Release, threatened Release, discharge, or threatened discharge of any oil or other substance containing polychlorinated biphenyl (as defined in 40 CFR 761.3). “**Release**” shall mean, without limitation, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles).

(d) THE PROVISIONS OF THIS SECTION 9 SHALL SURVIVE CLOSING WITHOUT LIMITATION.

10. The Closing.

(a) The Closing Date. The closing (the “**Closing**”) shall take place at the Title Company’s office on a date (the “**Closing Date**”) which is the thirtieth (30th) day after the expiration of the Inspection Period or at an earlier date mutually agreed to by the parties. Neither party shall have the obligation to have an authorized representative physically present at the Closing. All documents and payments shall be delivered on the Closing Date in escrow at the place of Closing specified herein.

(b) Seller’s Closing Requirements. At the Closing, Seller will: (i) execute, acknowledge and deliver a special warranty deed in the form attached to this Agreement as **EXHIBIT B** (the “**Deed**”), subject to the insertion of the Permitted Exceptions; (ii) execute and deliver a declaration of nonforeign status; (iii) deliver evidence that the person executing Seller’s closing documents is authorized to bind

Seller; (iv) execute and deliver a closing or settlement statement prepared by the Title Company and approved by Seller detailing the net proceeds due to Seller, after taking into account the allocation of closing costs under this Agreement; and (v) execute and deliver any notices, affidavits, and other documents reasonably and customarily required by the Title Company or by applicable law for the Closing.

(c) *Buyer's Closing Requirements.* At the Closing, Buyer will: (i) pay the Purchase Price in immediately available funds; (ii) execute and deliver a closing or settlement statement prepared by the Title Company and approved by Buyer detailing the gross amount due from Buyer, after taking into account the allocation of closing costs under this Agreement; and (iii) execute and deliver any notices, affidavits, and other documents reasonably and customarily required by the Title Company or by applicable law for the Closing. Notwithstanding anything in this Agreement to the contrary, Buyer's obligation to purchase the Property is conditioned on the Title Company being prepared to issue the Title Policy for the Property as described in Section 5 hereof;

11. **Closing Costs.** Seller and Buyer shall pay the closing costs as follows:

(a) *Taxes.* The real and personal property taxes for the Property for the year in which the Closing occurs shall be prorated on a calendar year and per-diem basis as of the Closing Date (based on actual ad valorem taxes for the year preceding the Closing), with Seller paying for such taxes through the Closing Date and Buyer paying for such taxes thereafter. If this sale or Buyer's use of the Property after Closing results in the assessment of additional taxes, penalties or interest (the "**Roll Back Taxes**") for periods prior to Closing, the Roll Back Taxes will be the obligation of Buyer. Obligations imposed by this paragraph will survive Closing.

(b) *Fees and Costs.* Seller and Buyer shall split equally any and all customary closing costs, fees and other charges of the Title Company. Buyer and Seller shall pay their respective attorneys' fees.

(c) *Recording Fees.* Buyer shall pay the costs for recording the Deed. Seller shall pay the costs of recording any document to cure a Title Objection which Seller elects to cure, and any and all other recording costs shall be paid by Buyer, including for any financing.

(d) *Title Policy.* Buyer shall pay the costs to issue the Title Commitment and the premium for the basic Title Policy. Buyer shall pay the costs of any additional premiums for endorsements or extended coverage, including the costs associated with the removal of the so-called survey exception. Buyer shall pay all costs associated with any title costs for financing, including lender's title insurance premiums, if any.

(e) *Survey.* Seller shall pay the cost and expense of the Survey.

12. **Possession.** On the Closing Date, Seller shall deliver possession of the Property to Buyer, free, clear and discharged of possession or use and the right of possession or use by any and all individuals and entities except for the Permitted Exceptions.

13. **Commissions.** Both parties represent and warrant to each other that neither has dealt with any broker or finder in respect to the transaction contemplated hereby. Buyer and Seller covenant and agree that each will, to the extent permitted by law, indemnify and hold the other harmless from and against all liabilities, claims, demands and actions by third parties for brokerage, commission, finder's or other fees relative to negotiation or execution of this Agreement, or the purchase and sale of the Property, and any court costs, attorneys' fees or other costs or expenses arising therefrom, alleged to be due to the indemnifying party's acts. Such indemnities shall survive any termination or Closing of this Agreement.

14. **Risk of Loss.**

(a) ***Material Casualty.*** All risk of loss to the Property shall remain with Seller prior to Closing. If the Property is damaged by any casualty or other occurrence prior to the Closing, Seller shall promptly notify Buyer in writing (the “***Casualty Notice***”). The Casualty Notice shall include a description of the damage in reasonable detail, Seller’s estimate of the time and cost to repair the damage, and Seller’s good faith reasonable determination as to whether or not the casualty damage is covered by Seller’s insurance. If the Property is materially damaged prior to Closing and Seller is either unable or unwilling to restore the Property prior to Closing to substantially the same condition it was prior to the casualty, then at Buyer’s sole option, Buyer may (i) elect to terminate this Agreement by giving written notice of such election to Seller and the Title Company not later than the Closing Date, in which event all obligations of the parties hereunder shall terminate (other than those matters which expressly survive the early termination of this Agreement), and this Agreement shall otherwise have no further force and effect, or (ii) elect to take the Property as it then is, in which event the parties will proceed to Closing pursuant to the terms hereof without abatement of the Purchase Price. Buyer’s failure to give timely notice to terminate this Agreement as provided above shall be deemed to be an election to proceed to close the transaction in accordance with the terms of this Agreement.

(b) ***Eminent Domain.*** In the event all or any material portion of the Land is taken by eminent domain or any eminent domain or condemnation proceeding is instituted (or notice of same is given) prior to Closing, Seller shall promptly notify Buyer in writing which shall include a description in reasonable detail of the property to be taken. In such event then at Seller’s sole option, Seller may elect to terminate this Agreement by giving written notice of such election to Buyer and the Title Company not later than the Closing Date, in which event all obligations of the parties hereunder shall terminate (other than those matters which expressly survive the early termination of this Agreement), and this Agreement shall otherwise have no further force and effect.

15. **Default and Remedies.**

(a) ***Default by Seller.*** In the event the Closing of the purchase and sale transaction provided for herein does not occur as herein provided by reason of any default of Seller, Buyer may, as Buyer’s sole and exclusive remedy, elect by notice to Seller within ten (10) days following the scheduled Closing Date, either of the following: (i) terminate this Agreement, whereupon Seller and Buyer will have no further rights or obligations under this Agreement (other than those matters which expressly survive the early termination of this Agreement); or (ii) seek the remedy of specific performance of the Agreement, and in either event, Buyer hereby waives all other remedies, including, without limitation, any claim against Seller for damages of any type or kind, including, without limitation, consequential or punitive damages. Failure of Buyer to make the foregoing election within the foregoing ten (10) day period shall be deemed an election by Buyer to terminate this Agreement, whereupon Seller and Buyer will have no further rights or obligations under this Agreement.

(b) ***Default By Buyer.*** In the event the Closing of the purchase and sale transaction provided for herein does not occur as herein provided by reason of any default of Buyer, Seller, as its sole and exclusive remedy, shall have the right to terminate this Agreement. Notwithstanding the foregoing, nothing contained herein will limit Seller’s remedies at law, in equity or as herein provided in the event of a breach by Buyer of any of the matters which expressly survive Closing or those matters which expressly survive the early termination of this Agreement.

(c) ***Consequential and Punitive Damages.*** Each of Seller and Buyer waive any right to sue the other for any consequential or punitive damages or lost profits for any matter or claim arising under this Agreement. This **Section 15(c)** shall survive Closing or early termination of this Agreement.

16. Miscellaneous.

(a) Intentionally left blank.

(b) Severability. If any provision of this Agreement shall be held to be void or unenforceable for any reason, the remaining terms and provisions hereof shall not be affected thereby.

(c) Time. Time is of the essence of this Agreement; *however*, if the terms of this Agreement provide for the performance of any act or the expiration of any time period on a Saturday, Sunday or federal holiday, the due date or the expiration date shall take place on the next date that is not a Saturday, Sunday or federal holiday.

(d) Binding Effect; Assignment. The provisions of this Agreement shall inure to the benefit of and bind the legal representatives, successors, and permitted assigns of the parties hereto. Buyer may not assign this Agreement without first obtaining Seller's prior written consent thereto, which can be withheld or denied in Seller's sole and absolute discretion. Any assignment in contravention of this Section shall be void. No assignment consented to by Seller shall release Buyer herein named from any obligation or liability under this Agreement. Any assignee shall be deemed to have made any and all representations and warranties made by Buyer hereunder, as if the assignee were the original signatory hereto.

(e) Amendment and Waiver. This Agreement may be amended only by an instrument in writing executed by Seller and Buyer, with a copy sent to the Title Company. Either Buyer or Seller may waive any requirement to be performed by the other, *provided* that said waiver shall be in writing and executed by the party waiving the requirement.

(f) Integrated Agreement. This Agreement, together with the Exhibits hereto, constitutes the entire agreement between Buyer and Seller relating to the sale and purchase of the Property, and there are no agreements, understandings, restrictions, warranties, or representations with respect to the Property between Buyer and Seller other than those set forth herein.

(g) Choice of Law/Venue/Attorney Fees. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Each party hereby irrevocably and unconditionally consents, accepts, and agrees to submit to the exclusive jurisdiction of any state or federal court in Tarrant County, Texas with respect to any dispute, action, suit or proceeding arising out of, based upon, or relating to, this Agreement. If either party employs an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Agreement, the non-prevailing party in any final judgment or award agrees to pay the other party all reasonable costs, charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.

(h) Intentionally left blank.

(i) Notice. Any notices or other communications required or permitted by this Agreement shall be in writing and delivered personally, or by messenger or a nationally recognized overnight courier service, or by email, or alternatively, shall be sent by United States certified mail, return receipt requested. The effective date of any notice shall be (i) if by personal delivery, messenger or courier service, the date of delivery of the notice, (ii) if mailed, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as undeliverable, as the case may be, or (iii) if by email, on the date the email is sent if the email is sent prior to 5:00 p.m. Central

time or on the date after the email is sent if the email is sent after 5:00 p.m. Central time. Notices on behalf of either party may be given by the attorneys representing such party. The parties hereby designate the addresses set forth below as their respective notice addresses under the Agreement.

If to Seller:

Housing Channel

Attn: _____

E-mail: _____

With a copy to:

Attn: _____

E-mail: _____

If to Buyer:

City of Kennedale

405 Municipal Drive

Kennedale, Texas 76060

Attn: George Campbell, City Manager

E-mail: gcampbell@cityofkennedale.com

With a copy to:

Taylor, Olson, Adkins, SRalla & Elam, LLP

6000 Western Place, Suite 200

Fort Worth, Texas 76107

Attn: Drew Larkin, City Attorney

E-mail: dlarkin@toase.com

(j) Full Execution. This Agreement shall be deemed fully executed and binding upon Buyer and Seller if and when Buyer and Seller have executed this Agreement or separate counterparts. The Title Company's execution of this Agreement shall not be required for full execution of this Agreement but shall merely evidence the Title Company's acceptance of its obligations hereunder as set forth below.

(k) Non-Survival. Except as otherwise stated in this Agreement, all terms and provisions contained in this Agreement shall merge into the documents executed and/or delivered at Closing and shall not survive Closing.

(l) Limitation of Liability. In no event whatsoever shall Seller's liability (if any) under this Agreement and the Closing documents (including any such liability for attorneys' fees and expenses) exceed, in the aggregate, an amount equal to the Purchase Price. In addition, in no event whatsoever shall recourse be had or liability asserted against any of Seller's directors, employees, agents, directors, officers or other owners of Seller or their respective constituent partners.

(m) Waiver of Jury Trial. TO THE EXTENT PERMITTED BY APPLICABLE LAW, BUYER AND SELLER HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(n) Intentionally left blank.

(o) Sophistication of the Parties. Each party to this Agreement hereby acknowledges and agrees that it has consulted legal counsel in connection with the negotiation and preparation of this Agreement, that it is sophisticated and experienced in real estate transaction matters, and has bargaining power equal to that of the other parties hereto in connection with the negotiation and execution of this Agreement.

(p) Counterparts. This Agreement may be executed in any number of counterparts, and each counterpart hereof shall be deemed to be an original instrument, but all counterparts hereof taken together shall constitute one and the same instrument.

17. **Legal Notices.**

(a) Texas Real Estate Licensing Act. The Texas Real Estate License Act requires a real estate agent to advise Buyer that he should have an attorney examine an abstract of title to the Property being purchased; or a title insurance Policy should be obtained. Notice to that effect is, therefore, hereby given to Buyer.

(b) Annexation. If the Land is located outside the limits of a municipality, the Land may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Land is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Land for further information.

(c) Notice Regarding Possible Liability for Additional Taxes. Seller notifies Buyer under Section 5.010, Texas Property Code, as follows: If for the current ad valorem tax year the taxable value of the land that is the subject of this contract is determined by a special appraisal method that allows for appraisal of the land at less than its market value, the person to whom the land is transferred may not be allowed to qualify the land for that special appraisal in a subsequent tax year and the land may then be appraised at its full market value. In addition, the transfer of the land or a subsequent change in the use of the land may result in the imposition of an additional tax plus interest as a penalty for the transfer or the change.

END OF PAGE – CONTINUED ON NEXT PAGE

SIGNATURE PAGE

Seller and Buyer have executed this Agreement on the dates which follow below their respective signatures. Any reference herein to the “*Effective Date*,” “the date of this Agreement” or “the date hereof” shall be the date on which the Title Company executes this Agreement below, acknowledging receipt a fully executed copy of this Agreement.

SELLER:

{ Insert Legal name }

a _____

By: _____

Name: _____

Its: _____

Date: _____, 2020

BUYER:

CITY OF KENNEDALE, TEXAS

a Texas home rule municipality

By: _____

Brian Johnson, Mayor

Date: _____, 2020

TITLE COMPANY:

The Title Company acknowledges receipt of this Agreement fully executed by Seller and Buyer on _____, 2020.

Fidelity National Title Company – The Baker Firm, PLLC

By: _____

EXHIBIT A
PROPERTY

DRAFT

of title to the Property and, promptly following request by Grantor, will execute and deliver to Grantor a deed in form of this deed (excluding the terms and conditions of this paragraph, any other paragraphs pertaining to the Possibility of Reverter, and the paragraphs pertaining to the reservation of the mineral interest). The occurrence of any one or more of the following conditions, which shall be conditional limitations upon the estate conveyed to Grantee hereunder, shall be referred to herein collectively as “*Reversion Events*” and each individually as a “*Reversion Event*”:

- (a) Grantee has failed to receive certificate of occupancy from the City of Kennedale for six affordable housing single family homes on the Property (“*Permitted Use*”), in compliance with the requirements described in the Performance Agreement executed by and between Grantor and Grantee on [REDACTED]. For purposes of this Special Warranty Deed, “affordable housing” has the meaning described by 42 U.S.C. Section 12745, as amended;
- (b) the Property at any time is not used, or ceases to be used, exclusively for the purposes of Permitted Use, and Grantor gives Grantee written notice of such condition and sixty (60) days following the giving of such notice such condition continues to exist; or
- (c) if any of the six affordable housing homes are removed from the Property by Grantee.

It is the express intention of Grantor and Grantee that Grantor is conveying to Grantee an estate in fee simple determinable in and to the Property and that the provisions of this Special Warranty Deed shall constitute conditional limitations upon the estate conveyed herein and not a covenant or a right of re-entry for breach of condition subsequent. Neither the occurrence of a Reversion Event or other condition due to an act or failure to act by a third party, nor impossibility or inability of Grantee to prevent the occurrence of a Reversion Event or other condition, shall excuse such occurrence of a Reversion Event or condition to prevent the termination of the determinable fee estate conveyed hereby in accordance with the terms hereof.

The rights of reversion reserved herein shall terminate and shall be of no further force or effect 21 years less one day after the death of the last survivor of any of the descendants of Queen Elizabeth II of England living on the date of execution of this Special Warranty Deed. The Possibility of Reverter and all other rights retained or reserved by Grantor in this Special Warranty Deed shall be the property of and shall inure to the benefit of Grantor, its successors and assigns, and are not appurtenant to any tract of property (other than the Property). All provisions of this Special Warranty Deed applicable to Grantor and Grantee shall be applicable to their respective successors and assigns.

All taxes and other assessments assessed against the Property for the year _____ have been prorated or otherwise settled between the parties, and Grantee assumes and agrees to pay such taxes and assessments in full. If this Special Warranty Deed or Grantee’s use of the Property after the date hereof results in additional taxes or assessments for periods before the date hereof, such taxes and assessments shall be the obligation of and paid by Grantee.

TO HAVE AND TO HOLD the Property, subject to the matters set forth above, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever; and Grantor does hereby bind Grantor and Grantor’s heirs, successors, and assigns to WARRANT AND FOREVER DEFEND, all and singular, the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise.