

The Terms of Sale

8. The Parcels shall be sold pursuant to the terms of one or more asset purchase agreements, each substantially in the form of Exhibit 4 to the Motion (the “Agreement”), on an “as is,” “where is,” and “with all faults” basis and without representations or warranties of any kind, nature or description by the Debtor, its agents, or its estate, except to the extent set forth in the Agreement.

9. Subject to the Bankruptcy Court’s approval, all of the Debtor’s right, title and interest in and to the Parcels shall be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon and there against (collectively, the “Interests”) subject to and in accordance with § 363 of the Bankruptcy Code.

10. The Debtor does not believe that any of the Parcels to be sold are encumbered by liens. Pursuant to the Motion, all persons or entities who may have potentially asserted a lien on the Parcels were notified that they must notify the Bankruptcy Court of the existence of such lien and/or file an objection within fourteen (14) days of the service of the Motion. Any person or entity that did not file a notice of lien or objection, by the applicable deadline, is deemed to have admitted that it does not have a lien. If the Bankruptcy Court finds that any of the Parcels is subject to a lien, the Parcels will be sold free and clear of all liens, claims, encumbrances, and interests thereon, with such interests in the Parcels to be transferred, and to attach, to the net sale proceeds.

11. The Sale is subject to a Buyer’s Premium of five percent (5%), which will be added to the high bid and included in the total purchase price to be paid by the Successful Bidder(s) or Reserve Bidder(s).

Due Diligence

12. Prior to the Auction, the Debtor with the assistance of its Professionals will provide potential bidders with reasonable due diligence access and coordinate requests for

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additional information. The real estate auctioneer, Fox & Associates, Inc. t/a Tranzon Fox (“Tranzon”) will serve as the point of contact for all due diligence requests.

13. The Debtor, its Professionals, and the Consultation Parties are not responsible for, and will bear no liability with respect to, any information obtained by potential bidders in connection with due diligence.

Determinations by the Debtor

14. The Debtor is authorized in consultation with its Professionals and the Consultation Parties (a) to determine whether any potential bidder is a Qualified Bidder; (b) to coordinate the efforts of potential bidders in conducting their respective due diligence investigations; and (c) to negotiate requested changes, if any, to the sale agreement with the Successful Bidder (collectively, the “Bidding Process”).

15. The Debtor shall regularly apprise the Consultation Parties with respect to the Bidding Process and the Parcels.

Determination of “Qualified Bidder” Status

16. Any potential bidder desiring to participate in the Bidding Process must be deemed a “Qualified Bidder.” To be deemed a Qualified Bidder, a potential bidder must deliver to the auctioneer before bidding the required and advertised deposit amount in cash, certified check, bank check or in such manner as the Debtor or its attorney may accept in its sole discretion.

17. A person or entity that submits the proper deposit as outlined above shall be a “Qualified Bidder;” provided however that a person who is otherwise a Qualified Bidder, but who makes a bid which is conditional or qualified in any respect, shall not be deemed a Qualified Bidder.

18. The Debtor in consultation with its Professionals and the Consultation Parties reserves the right to reject any bid on any grounds, including but not limited to a bid that is inadequate, insufficient or contrary to the best interests of the Debtor and/or the estate.

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19. Pending the approval of all sales by the Bankruptcy Court, the deposits shall be held by the Debtor's counsel or a designated escrow company in a segregated escrow account.

Auction

20. The Auction will take place on **Tuesday, August 27, 2013 at the Wisp Resort Hotel ("Crawford Room") 296 Marsh Hill Road, McHenry, Maryland 21541, beginning at 1:00 p.m. (EDT)** or such other time or place as the Debtor agrees in consultation with its Professionals and the Consultation Parties.

21. The Debtor may adjourn the Auction at any time, continue the Auction from time to time, and re-open the Auction at any time prior to the commencement of the Sale Hearing, as determined in the Debtor's reasonable business judgment and in consultation with the Consultation Parties.

22. The Debtor may conduct the Auction in the manner that the Debtor determines in its reasonable business judgment, in consultation with its Professionals and the Consultation Parties, will result in maximizing the overall value of the Parcels to the Debtor's estate. The Debtor may adopt and modify rules for the Auction at the Auction that in the Debtor's reasonable business judgment, in consultation with its Professionals and the Consultation Parties, will better promote the goals of the Auction provided that such modifications are not materially inconsistent with any of the provisions of the Bid Procedures Order, the Bankruptcy Code, or any order of the Bankruptcy Court. All rules for the Auction shall provide that: (i) the Auction procedures must be fairly and evenly administered, and not intended to cause any participating Qualified Bidder to be disadvantaged in any material way with respect to the process as compared to any other participating Qualified Bidder; and (ii) the Consultation Parties and all participating Qualified Bidders (or their authorized representative) shall be entitled to be present for all bidding. Each bid by a Qualified Bidder at the Auction, if

Proposed auction procedures and sales contract. Subject to US Bankruptcy Court approval.

not inconsistent with the provisions of these Bid Procedures, shall be deemed to constitute a Qualified Bid.

23. Qualified Bids may be made for individual Parcels (“Individual Parcel Bids”) or any combination of Parcels (“Combination Bids”). Parcels will be auctioned in the order announced at the Auction. The Auction will begin with Individual Parcel Bids and conclude with All Combination Bids. The highest or otherwise best bid for each individual Parcel will be held in reserve until bidding with respect to all Parcel bids has concluded and the Debtor, in consultation with its Professionals and the Consultation Parties, have determined the Successful Bid(s).

24. With respect to any Parcel, the Auction will be conducted as follows:

- a. The Debtor, in consultation with its Professionals and the Consultation Parties, will determine the opening bid.
- b. Subsequent to the initial round of bidding, the Auction may continue, in the discretion of the Debtor in consultation with its Professionals and the Consultation Parties, with one or more subsequent rounds of bidding. The minimum overbid for any such subsequent rounds shall be determined by the Debtor in consultation with its Professionals and the Consultation Parties and announced on the record at the Auction.
- c. Upon conclusion of the bidding for any individual Parcel, the highest or otherwise best bid for such individual Parcel shall be held in reserve until determined by the Debtor, in consultation with its Professionals and the Consultation Parties, not to be a Successful Bid or Reserve Bid (as defined hereinbelow).

25. In addition, the Debtor shall determine, in consultation with its Professionals and the Consultation Parties, the next highest or otherwise best Qualified Bid(s) and designate such Qualified Bid(s) as the “Reserve Bid(s)” which shall proceed to closing in the event the Successful Bidder(s) fails to consummate the Successful Bid(s). A Qualified Bidder that submits the Qualified Bid that is designated as the Reserve Bid is a “Reserve Bidder.”

26. The Successful Bidder(s) each shall increase its respective Earnest Money Deposit within two (2) business days after the conclusion of the Auction so that the amount of the Earnest Money Deposit is equal to ten percent (10%) of the purchase price of its Successful Bid as applicable.

27. At the conclusion of the Auction, any and all key terms of the Successful Bid(s) and the Reserve Bid(s) shall be recited on the record to ensure the accuracy thereof and to aid in the final documentation of the sale.

28. All Qualified Bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to the Auction, and the construction and enforcement of the Successful Bid, as applicable.

29. Notwithstanding anything contained herein to the contrary, the Debtor reserves the right, in its business judgment, to make one or more modifications and/or adjournments to the Auction to, among other things: (i) facilitate discussions between the Debtor and individual Qualified Bidders; (ii) allow individual Qualified Bidders to consider how they wish to proceed; and (iii) give Qualified Bidders the opportunity to provide the Debtor with such additional evidence as the Debtor in its business judgment may require.

30. The Debtor intends that the bidding and Auction process be conducted in a good faith and fair manner and reserve its right to pursue any claims for collusion or other violations of the Bankruptcy Code that arise during the bidding and Auction process.

Sale Hearing

31. It is anticipated that the Sale Hearing will be held **on Thursday, August 29, 2013 at 2:00 p.m. (EDT) at the United States Bankruptcy Court for the District of Maryland (Greenbelt Division), 6500 Cherrywood Lane, Greenbelt, MD 20770**, and continue thereafter until completed. The Sale Notice will be served upon all Qualified Bidders,

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creditors and parties in interest. The Sale Notice will provide that all objections to the relief requested at the Sale Hearing shall be filed and served in the manner prescribed in the Motion.

32. At the Sale Hearing, the Debtor will seek entry of an order, among other things, authorizing and approving the sale of the Parcels to the Successful Bidder(s) on those terms and conditions under the Agreement in the form agreed to between the Debtor and each Successful Bidder. The Debtor also shall seek approval of the Reserve Bids as an alternative to the Successful Bids in the event that any Successful Bidder fails to consummate the sale.

Failure to Consummate Transaction

33. Following the Sale Hearing, if any Successful Bidder fails to consummate the closing of the transactions contemplated in the Agreement because of a breach or failure to perform on the part of such Successful Bidder, the Debtor will be authorized, but not required, to consummate the transactions contemplated in the Reserve Bid(s) with a Reserve Bidder without further order of the Court. In such case, the defaulting Successful Bidder's deposit shall be forfeited to the Debtor. Additionally, the Debtor shall be entitled to seek all available damages from such defaulting Successful Bidder.

34. Further, a Qualified Bidder shall forfeit its deposit if: (i) the bidder withdraws or modifies (in a manner determined by the Debtor to be less than favorable) its bid before the closing of the proposed sale transaction; (ii) the bidder is the Successful Bidder and (a) modifies or withdraws its Successful Bid without the Debtor's consent, (b) breaches the terms and conditions of the purchase agreement relating to the Successful Bid, or (c) fails or refuses to consummate the sale transaction as a result of the Successful Bidder's own breach under the purchase agreement relating to the Successful Bid; (iii) the bidder is the Reserve Bidder and (a) modifies or withdraws its Reserve Bid without the Debtor's consent, or (b) fails or refuses to consummate the sale transaction, in the event that the Reserve Bidder is declared the highest and best bid by the Debtor, or (iv) the Qualified Bidder illegally colludes with another person as to its

bid. Any forfeited deposit shall be retained by the Debtor as liquidated damages without further order of the Bankruptcy Court.

Return of Deposit

35. The deposit of a Successful Bidder shall be applied to such Successful Bidder's obligations under the Successful Bid upon closing of the transactions contemplated thereby. If a Successful Bidder fails to close, then such Successful Bidder shall forfeit its deposit.

36. The deposit of the Reserve Bidder shall be returned to the Reserve Bidder upon closing of the transactions contemplated by the Successful Bid; provided, however, if the Successful Bidder fails to close the transactions when and as provided in the Successful Bid, then the deposit of the Reserve Bidder shall be applied to the Reserve Bidder's obligations under the Reserve Bid upon closing of the transactions contemplated thereby. If a Reserve Bidder fails to close the transactions contemplated by a Reserve Bid, then such Reserve Bidder shall forfeit its deposit.

37. All other deposits of Qualified Bidders who are not a Successful Bidder or Reserve Bidder shall be returned at the conclusion of the Auction.

38. The Debtor reserves all rights regarding any return of deposits, and the failure by the Debtor to timely return any deposit shall not serve as a claim for breach of any bid or create any right or remedy beyond the return of the deposit.

Modifications

39. The Debtor, in its reasonable business judgment, in consultation with its Professionals and the Consultation Parties, may modify these Bid Procedures without Court approval at any time and in any manner that will best promote the goals of the Bidding Process, including but not limited to extending or modifying any of the dates described herein.

END OF BID PROCEDURES

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EXHIBIT 4

AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT FOR SALE AND PURCHASE, dated as of August __, 2013 (the "Execution Date"), is by and between D.C. DEVELOPMENT, LLC, a Maryland limited liability company ("Seller"), and _____ a _____ ("Purchaser"). As used herein, this "Agreement" shall mean this Agreement for Sale and Purchase together with any exhibits, schedules and/or addenda hereto, as the same may be amended from time to time.

RECITALS

WHEREAS, Seller (the "Debtor") along with certain of its affiliates filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Maryland, Greenbelt Division (the "Bankruptcy Court"). The Debtor's case is being jointly-administered under Case Number 11-30548-WIL (the "Bankruptcy Case");

WHEREAS, the Debtor is continuing in possession of its property and is operating and managing its business as a debtor-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on July __, 2013, the Bankruptcy Court entered that certain Order (I) Approving Bid Procedures in Connection with the Sale of Various Parcels of Unencumbered Real Property Free and Clear of Liens, Claims and Interest; (II) Establishing Date for Auction and Approving Related Procedures; and (III) Approving Form and Manner of Notice of Auction, (the "Bid Procedures Order");

WHEREAS, among the assets of Seller's bankruptcy estate are certain parcels of real property as more fully described in **Exhibit A** attached hereto and incorporated herein by reference (the "Parcels");

WHEREAS, Purchaser desires to purchase the Parcels from Seller, and Seller desires to sell, assign, transfer, convey and deliver to Purchaser all Seller's right, interest and title to the Parcels, all in the manner and subject to the terms and conditions set forth in this Agreement, the approval of the Bankruptcy Court and in accordance with § 363 of the Bankruptcy Code; and

WHEREAS, the transactions contemplated herein are subject, in all respects, to the consideration of higher and better bids, if any, and approval of the Bankruptcy Court, after notice and a hearing.

NOW, THEREFORE, in consideration of the foregoing and their respective representations, warranties, covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. RECITALS

The recitals are incorporated herein by reference.

2. SALE AND PURCHASE; ASSUMPTION OF LIABILITIES

a. **Sale and Purchase.** At the Closing, and upon the terms and conditions of this Agreement, Seller shall sell, assign, convey, transfer and deliver to Purchaser free and clear of all liens, claims, encumbrances and interests, and Purchaser shall purchase from Seller, the following assets (collectively, the "Acquired Assets"): Proposed auction procedures and sales contract. Subject to US Bankruptcy Court approval.

i. The Parcels. All of Seller's right, title and interest of every kind and nature owned by Seller in the Parcels, including without limitation:

(a) All of Seller's right, title and interest in and to all and any singular the estates, rights, privileges, easements, agreements and appurtenances belonging to or in any way appertaining to the Parcels specifically including, but not limited to, easements of record, if any;

(b) All of Seller's right, title, interest and estate, if any, in and to any land lying in the bed of any and all public or private streets, roads, avenues, highways, passageways (open or proposed) in front of or adjoining the Parcels;

(c) All other intangible rights of Seller pertaining to the ownership, operation and/or development of the Parcels and all public and private development or usage rights with respect to the Parcels;

(d) Any and all plans, specifications, studies, engineering, and the like related to the Parcels;

ii. The Joint Development Rights. All of Seller's rights under the Joint Development Agreement entered into with the purchaser of the Wisp Ski Resort; [and]

iii. Other Assets. DESCRIBE PERSONAL AND/OR INTANGIBLE PARCELS, IF ANY.

b. Assumption of Liabilities. At Closing, Purchaser shall assume solely those liabilities specifically set forth hereinbelow (collectively, the "Assumed Liabilities") and shall agree to pay, discharge, perform and otherwise satisfy such Assumed Liabilities in accordance with their respective terms, subject to any defenses or claimed offsets asserted in good faith against the obligee to whom such liabilities are owed. The Assumed Liabilities shall consist of the following:

i. All outstanding real property taxes or other fees due and payable with respect to the Parcels as further detailed in Section 8.; and

ii. All of Seller's obligations under the Joint Development Agreement entered into with the purchaser of the Wisp Ski Resort.

3. PURCHASE PRICE.

The purchase price shall equal _____ and No/100 Dollars (\$_____) (the "Purchase Price"). The Purchase Price shall be payable in cash or immediately available funds at Closing.

4. EARNEST MONEY DEPOSIT.

On the Auction Date, Purchaser delivered to Seller an earnest money deposit in the amount of \$_____ (the "Earnest Money Deposit"). Purchaser shall increase the Earnest Money Deposit within two (2) business days after the conclusion of the Auction so that the amount of the Earnest Money Deposit shall be ten (10%) of the Purchase Price or \$_____ (the "Increased Earnest Money Deposit"). The Earnest Money Deposit and Increased Earnest Money Deposit shall be held in escrow at _____ (the "Escrow Company") until delivered to either Seller or Purchaser in accordance with the terms of this Agreement.

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The Seller shall have no obligation to perform any term of this Agreement until the Increased Earnest Money Deposit is received.

The Increased Earnest Money Deposit shall be released to an account specified by Seller, or by the Bankruptcy Court, as the case may be, and credited against the Purchase Price at Closing. In the event that Closing does not occur and no Purchaser default hereunder has occurred and is continuing, the Increased Earnest Money Deposit shall be promptly returned to Purchaser.

5. NO FURTHER STUDY PERIOD.

a. Study Period. Purchaser acknowledges that it has an opportunity to complete its review and approve all aspects of the Parcels including documentation, at its sole cost and expense. After submitting its Qualified Bid pursuant to the Bidding Procedures, there shall be no ability to revoke or terminate the offer to purchase.

b. Due Diligence Materials. Purchaser shall use best efforts to ensure that all due diligence materials and the results of all tests or studies prepared by or on behalf of the Purchaser on the Parcels are either destroyed or returned to Seller if Purchaser is not the successful bidder at the auction.

6. CLOSING.

The consummation of the transactions contemplated by this Agreement (the "Closing") shall take place no later than five (5) days after entry of the Sale Order (the "Closing Date"), time being of the essence. All proceedings to be taken and all documents to be executed and delivered by the parties at the Closing shall be deemed to have been taken and executed simultaneously and no proceedings shall be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

7. OBLIGATIONS OF PARTIES AT CLOSING.

At the Closing, the parties hereto shall satisfy and perform the following:

a. Seller shall:

i. Deliver a special warranty deed, substantially in the form attached hereto as **Exhibit B**, conveying title to the Parcels from Seller to Purchaser subject to matters as are otherwise agreed upon by the parties and set forth in any addendum hereto.

ii. Deliver such other agreements, documents or instruments that Purchaser may reasonably request, the form and substance of which are reasonably acceptable to Seller.

b. Purchaser shall:

i. Pay the Purchase Price and any other amounts due pursuant to Section 8 by wire transfer of immediately available funds and release of the Increased Earnest Money Deposit to an account specified by Seller, or the Bankruptcy Court, as the case may be.

ii. Deliver such other agreements, documents or instruments that Seller may reasonably request, the form and substance of which are reasonably acceptable to Purchaser.

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8. CLOSING AND OTHER COSTS, ADJUSTMENTS AND PRORATIONS.

Seller and Purchaser shall each be responsible for the fees and expenses of their own attorneys, consultants, and other advisors. Notwithstanding anything to the contrary contained herein, Purchaser shall also pay (i) the real estate auctioneer's commission equal to five percent (5%) of the Purchase Price; (ii) any and all outstanding real property taxes, public utility fees or other fees due and payable with respect to the Parcels, (iii) any and all state, local or other documentary, transfer or sale taxes payable in connection with the delivery of any instrument or document provided in or contemplated by this Agreement or any agreement or commitment described or referred to herein and the charges for or in connection with recording the Deed, and (iv) the U.S. Trustee fee associated with the purchase.

9. REPRESENTATIONS AND WARRANTIES.

a. **Representations and Warranties of Seller.** Seller hereby represents and warrants to Purchaser as of the Execution Date and as of Closing as follows:

i. Authorization and Validity. Subject to notice and a hearing in the Bankruptcy Case, the consideration of higher and better bids, if any, and the Bankruptcy Court's entry of the Sale Order, (i) Seller has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder; and (ii) this Agreement constitutes Seller's valid and binding obligation, enforceable against Seller in accordance with its respective terms.

ii. No Conflict or Violation. The execution, delivery and performance by Seller of this Agreement do not violate or conflict with any provision of Seller's certificate of incorporation, bylaws, or similar organizational documents.

iii. Consents and Approvals. Other than such consents, waivers, authorizations or approvals that have been obtained, and subject to the Bankruptcy Court's entry of the Sale Order, no consent or approval of any other person or public authority is required in connection with the execution and delivery by Seller of this Agreement or the performance by Seller of its obligations hereunder.

b. **Representations and Warranties of Purchaser.** Purchaser hereby represents and warrants to Seller as of the Execution Date and as of Closing and shall provide proof of same upon request as follows:

i. Organization. Purchaser is a _____ duly organized, validly existing and in good standing under the laws of _____ and has all requisite corporate power and authority to own its properties and assets and to conduct its business as now being conducted.

ii. Qualification to Conduct Business. Purchaser is duly qualified to do business and is in good standing in every jurisdiction in which the character of the properties owned or leased by it therein or the nature of the business conducted by it makes such qualification necessary.

iii. Authorization and Validity. Purchaser has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement and the performance of Purchaser's obligations hereunder have been, or on the Closing Date will be, duly authorized by all necessary corporate action, and no other corporate proceedings on the part of Purchaser are necessary to authorize such execution, delivery and performance.

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iv. Due Execution. This Agreement has been duly executed by Purchaser and constitutes Purchaser's valid and binding obligations, enforceable against it in accordance with its terms, except as may be limited by bankruptcy or other laws affecting creditors' rights and by equitable principles.

v. No Conflict or Violation. The execution, delivery and performance by Purchaser of this Agreement does not (i) violate or conflict with any provision of Purchaser's organizational documents; (ii) violate any provision of law, or any order, judgment or decree of any court or Government applicable to Purchaser or any of its properties or assets; or (iii) violate or result in a breach of or constitute (with due notice or lapse of time or both) a default under any material contract to which Purchaser is party or by which Purchaser is bound or to which any of Purchaser's properties or assets is subject.

vi. Consents and Approvals. Other than such consents, waivers, authorizations or approvals that have been obtained, and subject to the Bankruptcy Court's entry of the Sale Order, no consent or approval of any other person or public authority is required in connection with the execution and delivery by Purchaser of this Agreement or the performance by Purchaser of its obligations hereunder.

vii. Adverse Actions. There is (a) no litigation, action, suit, proceeding, inquiry of investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or threatened, against Purchaser, nor is there any basis therefor; and (b) no unfavorable ruling or finding which would adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.

viii. Adequacy of Funds. Purchaser has cash on hand, existing availability under existing lines of credit, or other immediately available financial resources sufficient to pay the balance of the Purchase Price at Closing.

ix. Brokers. No one has acted, directly or indirectly, as a broker, finder or financial advisor for Purchaser in connection with the transactions contemplated hereunder and no one is entitled to any fee or commission or like payment in respect thereof which would be payable by Seller.

x. OFAC. Purchaser is not acting, directly or indirectly for, or on behalf of, any person, group, entity or nation named by any federal executive order (including the September 24, 2001, Executive Order Blocking Parcels and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (the "Executive Order") or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity or nation pursuant to any law that is enforced or administered by the Office of Foreign Assets Control ("OFAC"), and is not engaging in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of, any such person, group, entity or nation. Purchaser is in compliance with all laws, statutes, rules and regulations of any federal, state, local or other public authority in the United States of America applicable to Purchaser and all beneficial owners of Purchaser with respect to or arising out of the requirements of the Executive Order and other similar requirements contained in the rules and regulations of OFAC and in enabling legislation or other federal executive orders in respect thereof.

c. **Warranties Are Exclusive.** The parties acknowledge that the representations and warranties contained in this Section are the only representations or warranties given by the parties and that all other express or implied warranties are disclaimed. Without limiting the foregoing, Purchaser acknowledges that the Parcels are conveyed "AS IS", "WHERE IS" and "WITH ALL FAULTS" and that all warranties of merchantability or fitness for a particular

Proposed auction procedures and sales contract. Subject to US Bankruptcy Court approval.

purpose are disclaimed. WITHOUT LIMITING THE FOREGOING, PURCHASER ACKNOWLEDGES THAT NEITHER SELLER NOR ANY OF ITS AGENTS, ATTORNEYS, ADVISORS OR RELATED PERSONS HAVE MADE ANY REPRESENTATION OR WARRANTY CONCERNING ANY (A) USE TO WHICH THE PARCELS MAY BE PUT, (B) FUTURE REVENUES, COSTS, EXPENDITURES, CASH FLOW, RESULTS OF OPERATIONS, FINANCIAL CONDITION OR PROSPECTS THAT MAY RESULT FROM THE OWNERSHIP, USE OR SALE OF THE PARCELS, (C) THE EXACT LEGAL BOUNDARIES OF ANY PARCELS, (D) THE SUFFICIENCY OF ANY EXISTING EASEMENTS OR OTHER ENTITLEMENTS RELATING TO THE PARCELS OR (E) OTHER INFORMATION OR DOCUMENTS MADE AVAILABLE TO PURCHASER OR ITS AFFILIATES OR REPRESENTATIVES. With respect to the Parcels being purchased, Purchaser acknowledges that it is offering to purchase no more than what is owned by the Seller, subject to all restrictions. Purchaser further acknowledges that Purchaser has conducted, or has had an adequate opportunity to conduct, all necessary due diligence related to the Parcels, and all such other matters relating to or affecting any of the foregoing. In proceeding with the transactions contemplated in this Agreement, except for any representations and warranties expressly set forth in Section 9(a), Purchaser is doing so based solely upon its own due diligence and review, all of which has been completed to the satisfaction of Purchaser, and Purchaser has not relied upon any oral or written statements, representations or guaranties whatsoever, whether express or implied, made by Seller or its agents and representatives or any other person.

10. COVENANTS.

a. **Covenants of Seller.** Seller covenants to Purchaser that, during the period from the Execution Date through and including Closing or the earlier termination of this Agreement:

i. Cooperation. Seller shall use commercially reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary or proper, consistent with applicable law, to consummate and make effective as soon as possible the transactions contemplated hereby.

ii. Bankruptcy Court Matters. Seller shall:

a. Promptly provide Purchaser with drafts of all documents, motions, orders, filings, pleadings and service lists that Seller is required to, or that are prudent to file with the Bankruptcy Court that relate to the consummation or approval of this Agreement and will provide Purchaser with reasonable opportunity to review and comment on such before service and filing; provided, however, that Seller shall not be required to provide to Purchaser any non-public, confidential information relating to third party bidders or their bids.

b. Use commercially reasonable efforts to obtain entry of the Sale Order by the Bankruptcy Court as soon as reasonably practicable.

c. Promptly provide Purchaser with written notice and copies of any notice of appeal, motion or application filed in connection with any appeal from or application for reconsideration of, any of such orders and any related briefs.

b. **Covenants of Purchaser.** Purchaser covenants to Seller that, during the period from the Execution Date through and including Closing or the earlier termination of this Agreement:

i. Cooperation. Purchaser shall use commercially reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary or proper,

Proposed auction procedures and sales contract. Subject to US Bankruptcy Court approval.

consistent with applicable law, to consummate and make effective as soon as possible the transactions contemplated hereby.

11. **BANKRUPTCY COURT MATTERS.**

a. **Competing Transaction.** This Agreement is subject to entry of the Sale Order by the Bankruptcy Court. Until the transaction contemplated by this Agreement is consummated, Seller is permitted to cause its representatives and affiliates to initiate contact with, solicit or encourage submission or any inquiries, proposals or offers by, any person (in addition to Purchaser) in connection with any sale or other disposition of the Parcels. In addition, Seller shall have the responsibility and obligation to respond to any inquiries or offers to purchase all or any part of the Parcels and perform any and all other acts related thereto which are required under the Bankruptcy Code, the Bid Procedures Order, the Sale Order or other applicable law, including, without limitation, supplying information relating to the Parcels to prospective purchasers.

b. **Bankruptcy Court Filings.** Purchaser agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining entry of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by Purchaser under this Agreement and demonstrating that Purchaser is a “good faith” purchaser under § 363(m) of the Bankruptcy Code. Purchaser shall not, without the prior written consent of Seller, file, join in, or otherwise support in any manner whatsoever any motion or other pleading relating to the sale of the Parcels hereunder. In the event the entry of the Sale Order shall be appealed, Seller and Purchaser shall use their respective reasonable efforts to defend such appeal.

c. **Sale Order.** The parties shall not be obligated to close under this Agreement unless the Bankruptcy Court has entered an order approving this Agreement and the transactions contemplated hereby free and clear of any lien, claim, encumbrance, or other interest and containing a finding of good faith pursuant to 11 U.S.C. §363(m) (the “**Sale Order**”), such Sale Order is in full force and effect at Closing, and no order staying, reversing or vacating the Sale Order shall be in effect at Closing.

d. The terms and provisions of the Sale Order (i) shall remain in full force and effect upon the dismissal of the Bankruptcy Case or a conversion of the Bankruptcy Case to chapter 7 of the Bankruptcy Code and (ii) shall be binding on all creditors and parties in interest.

12. **CONDITIONS OF TERMINATION.**

This Agreement may be terminated only in accordance with this Section. This Agreement may be terminated at any time before the Closing as follows:

a. By mutual consent of Seller and Purchaser;

b. By Seller, by notice to Purchaser, if Seller has previously provided Purchaser with notice of any material inaccuracy of any representation or warranty contained in Section 9(b), or of a material failure to perform any covenant or obligation of Purchaser contained in this Agreement to which Purchaser is party, and Purchaser has failed, within three (3) business days after such notice, to remedy such inaccuracy or perform such covenant or provide reasonably adequate assurance to Seller of Purchaser’s ability to remedy such inaccuracy or perform such covenant or obligation; provided, however, that Seller shall not have the right to terminate this Agreement under this subsection if Seller is then in material breach of this Agreement; or

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c. By Purchaser, by notice to Seller, if Purchaser has previously provided Seller with notice of any material inaccuracy of any representation or warranty of Seller contained in Section 9(a) or a material failure to perform any covenant or obligation of Seller contained in this Agreement, and Seller has failed, within three (3) business days after such notice, to remedy such inaccuracy or perform such covenant or provide reasonably adequate assurance to Purchaser of Seller's ability to remedy such inaccuracy or perform such covenant; provided, however, that Purchaser shall not have the right to terminate this Agreement under this subsection if Purchaser is then in material breach of this Agreement;

13. EFFECT OF TERMINATION; REMEDIES.

a. In the event of termination in accordance with Section 12, this Agreement shall become null and void and have no effect (other than Sections 11, 12, 13, 14, 15 and 18, which shall survive termination), with no liability on the part of Seller, Purchaser, or their respective officers, directors, and affiliates, with respect hereto, except for any liability provided for in this Section.

b. If this Agreement is terminated pursuant to Section 12(b) then within two (2) business days after such termination, Escrow Company shall distribute the same to Seller, together with interest earned thereon, if any, by wire transfer of immediately available funds to an account designated in writing by Seller.

c. In the event that either party fails or refuses to close hereunder and such failure or refusal to close is not due to the non-fulfillment of a condition hereunder to such party's obligation to close and/or an Alternate Sale has not been approved by the Bankruptcy Court, then the other party shall have all rights and remedies available under applicable law and at equity, including, but not limited to, the right to pursue specific performance of this Agreement.

d. Prior to the Closing, the parties' sole and exclusive remedies for any claim arising out of or in connection with this Agreement shall be termination in accordance with Section 12, and obtaining the remedies provided in this Section. The failure by either Seller or Purchaser to pursue or foreclose on any right or remedy against the other party, by itself, shall not constitute a waiver, and any waiver hereunder shall be effective only if made in a writing signed by the party charged with such waiver.

14. NOTICES.

All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if hand delivered, sent by overnight delivery service or sent by United States certified mail, postage prepaid, return receipt requested, to the proper party at the following address:

If to Seller: DC Development, LLC
212 Marsh Hill Road
McHenry, Maryland 21541
Attn: Karen Myers, Gary Daum, and
Steve Richards

With a copy to: Yumkas, Vidmar & Sweeney, LLC
2530 Riva Road, Suite 400
Annapolis, Maryland 21401
Phone: 443-569-0758
Fax: 410-571-2798
Attn: James A. Vidmar

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If to Purchaser:

With a copy to:

Any notice shall be deemed to have been given and received on the date of delivery (in the case of hand delivery), on the next business day after deposit with the overnight delivery company (in the case of overnight delivery) or on the date indicated on the return receipt or signed receipt (in the case of certified mail). The addresses for notices or the individuals to whom notices are to be given may be changed by notice from either party.

15. FOREIGN INVESTMENT IN REAL PARCELS TAX ACT.

The Foreign Investment in Real Parcels Tax Act, (“**FIRPTA**”), IRC 1445, requires that every purchaser of U.S. real Parcels must, unless an exemption applies, deduct and withhold from Seller’s proceeds ten percent (10%) of the gross sales price. The primary exceptions which might be applicable are: (a) Seller provides Purchaser with an affidavit under penalty of perjury, that Seller is not a “foreign person”, as defined in FIRPTA, or (b) Seller provides Purchaser with a “qualifying statement”, as defined in FIRPTA, issued by the Internal Revenue Service. Seller and Purchaser agree to execute and deliver as appropriate, an instrument, affidavit and statement, and to perform any acts reasonably necessary to carry out the provisions of FIRPTA and regulations promulgated thereunder.

16. COMPLIANCE.

The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, Parcels or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment In Real Parcels Tax Act, the comprehensive Environmental Response Compensation and Liability Act, and The Americans With Disabilities Act.

17. MISCELLANEOUS.

a. In the event that a time period ends on a day which is a Saturday, Sunday or legal holiday, then such time period shall automatically be deemed to end on the next day thereafter which is not a Saturday, Sunday or legal holiday. Time shall be of the essence with respect to this Agreement.

b. If any term or condition of this Agreement be invalid or unenforceable, the remainder shall not be affected thereby.

c. All addenda, exhibits and schedules hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. This Agreement together with the addenda, exhibits, schedules and other documents referred to herein, constitutes the entire agreement and understanding between the parties concerning the subject matter hereof, supersedes all prior agreements, whether written or oral, regarding the subject matter hereof, and may not be modified or amended except in writing signed by all the parties hereto.

d. Except to the extent federal bankruptcy law governs, this Agreement shall be governed by and construed in accordance with the laws of the State of Maryland without reference to any conflict of laws rules.

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e. Purchaser and Seller shall at the time of Closing execute such other papers and documents as may be necessary or desirable in order to close this transaction.

f. The provisions of this Agreement shall not merge into the documentation from this transaction and shall survive the Closing of this transaction and the execution and delivery of the deed pursuant hereto.

g. The provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

h. Whether or not Closing occurs, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring the costs or expenses.

i. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by email and/or fax.

j. Each of the parties shall execute such documents and other papers and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated hereby. Each party shall use its best efforts to fulfill or obtain the fulfillment of the conditions to the consummation of the transactions contemplated by this Agreement, including, without limitation, the execution and delivery of any document or other papers, the execution and delivery of which are conditions precedent to the consummation of the transactions contemplated by this Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement for Sale and Purchase as of the day and year first above written.

SELLER:

_____, subject to
Bankruptcy Court approval

By: _____
Name:
Title:

PURCHASER:

By: _____
Name:
Title:

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EXHIBIT A

Legal Description

