

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (the "Agreement") by and between Thesea EvrIDGE & Michael Heath Wooten, each an individual (the "Seller"), and CREED COMMERCIAL DEVELOPMENT, LLC, a Texas limited liability company, and/or its assigns (the "Purchaser").

WITNESSETH THAT:

WHEREAS, Seller is the owner of the Property (as hereinafter defined), including ownership of the fee simple title to all that certain parcel of land commonly known as 1001 Main St., Marble Falls, Burnet County, Texas, being approximately 0.44 acres, which is outlined in red and is more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Land"); and

WHEREAS, Seller desires to sell to Purchaser the Property (as defined below), and Purchaser desires to purchase the Property from Seller (the "Transaction"), upon the terms and conditions selected by Purchaser in accordance with the provisions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the premises and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged by the parties hereto, Seller and Purchaser do hereby covenant and agree as follows:

1. **Agreement to Purchase and Sell.** Seller does hereby agree to sell to Purchaser and Purchaser does hereby agree to purchase from Seller, upon the terms and conditions hereinafter set forth, all right, title and interest in and to the following (collectively referred to herein as the "Property"): (a) the Land; (b) all buildings and improvements located on the Land; (c) all rights appurtenant to the Land, if any, including without limitation, all of Seller's right, title and interest in and to all streets, public or private, alleys and public or private ways adjoining or servicing the Land; and (d) all other rights, privileges, easements, licenses, appurtenances and hereditaments relating to the Property, if any.

2. **Purchase Price.** Subject to the prorations set forth herein, Purchaser shall pay to Seller, in consideration of the conveyance of the Property to Purchaser and as the purchase price therefor, the amount of EIGHT HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$825,000.00) (the "Purchase Price"). The Purchase Price shall be paid to Seller in cash or other readily available funds at Closing (as hereinafter defined).

3. **Survey.** Purchaser and Seller agree that prior to Closing (as hereinafter defined), Purchaser may obtain, at Purchaser's expense, a survey of the Property (the "Survey"), to be made by a surveyor duly licensed to perform such services within the State in which the Property is located, which Survey shall show by metes and bounds, the parametrical boundaries of the Land, all easements affecting the Land, all floodplain and required stream buffers, and be certified to Purchaser and Title Company. Seller shall convey title by general warranty deed, or the equivalent thereof, pursuant to Seller's vesting legal description less and except such conveyances or acquisitions as may have occurred during Seller's

ownership of the Property. Seller shall, however, upon request by Purchaser, execute a general warranty deed using the Purchaser's Survey legal description.

4. **Title Commitment.** Within ten (10) days after the Effective Date, or as soon as reasonably practical, Seller shall cause the Title Company to deliver to Purchaser, at Purchaser's expense, a current commitment for the issuance of an owner policy of title insurance (the "**Title Commitment**"), including true, correct and, to the extent reasonably available from the public records, legible copies of all instruments referred to in the Title Commitment as conditions or exceptions to title to the Land and the Improvements.

5. **Title to Property.** At Closing, Seller shall convey Good, Marketable and Insurable Fee Simple Title (as defined herein) to the Property to Purchaser by general warranty deed, or the equivalent thereof, which shall expressly be made subject only to Permitted Title Exceptions and matters approved or waived by Purchaser as provided below. "**Permitted Title Exceptions**" shall be (i) ad valorem taxes which are not yet due and payable and (ii) such matters as may be disclosed by a survey and/or an inspection of the Property and all matters shown on the Title Commitment as affecting the Property to which Purchaser does not specifically object or to which Purchaser waives or is deemed to have waived, its objection as provided herein. As used herein, "**Good, Marketable and Insurable Fee Simple Title**" shall mean such condition of title as is sufficient for a title insurance company licensed to do business in the state in which the Property is located to issue an Owner's Title Insurance Policy in current form at regular rates subject only to standard exceptions and the Permitted Title Exceptions. Notwithstanding the foregoing, Seller shall deliver any such affidavits and documentary evidence as are reasonably required by the Title Company and customarily delivered by sellers of real estate in the state in which the Property is located in order to issue the title insurance policy to Purchaser free and clear of matters other than the Permitted Title Exceptions. The Property shall not be subject to any mortgage, deed to secure debt, deed of trust, lien or other title exception or defect that is monetary in nature, and Seller hereby agrees to pay and satisfy of record any such title defects or exceptions prior to or at Closing at Seller's expense. As to any other title exceptions or defects not covered by this Section, such as easements or defective prior deeds, or as to matters of survey, Purchaser shall have the right to examine the Property and deliver notice to Seller in writing of any title objections within the Inspection Period (as defined hereinafter). If Purchaser fails to so notify Seller, Purchaser shall be deemed to have waived its right to object to any then-existing title or survey exceptions or defects. If Purchaser does so notify Seller, Seller shall then **ten (10) calendar days** after receipt of such notice, to cure or satisfy such objection. If, prior to Closing, the objection is not so satisfied by Seller, Purchaser, in Purchaser's sole discretion, shall have the right to the following remedies: (a) cure or satisfy such objection, (b) terminate this Agreement, in which case the entire Earnest Money shall be returned to Purchaser and this Agreement shall terminate and the parties shall be relieved of any further obligations hereunder, but for any obligations which expressly survive Closing pursuant to the terms of this Agreement, or (c) waive any title or survey objection that it may have made and accept said title or survey objections as Permitted Title Exceptions. For the sake of clarity, to the extent that Purchaser's efforts to cure or satisfy an objection require additional inspections, Purchaser shall be afforded the right to pursue such inspections and, in the event that Purchaser's efforts to cure or satisfy such objection are unsuccessful, Purchaser shall be entitled to pursue either of the remedies set forth in (b) and (c) above.

6. **Earnest Money.** Purchaser and Seller have appointed Fidelity National Title Insurance Company, 4541 Bellaire Drive, Ste. 101, Fort Worth, Texas 76109, Attn: Lindsay Evans; Phone: 817-377-4100; E-Mail: levans@fidelity-usa.com as "**Escrow Agent**" to serve pursuant to the terms of this

Agreement. Within **ten (10) business days** from the Commencement Date (defined hereinafter) of this Agreement, Purchaser shall deliver to the Escrow Agent funds in the amount of TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) (together with all amounts held by Escrow Agent pursuant to this Agreement, the "**Earnest Money**"). The Earnest Money shall be held and disbursed by Escrow Agent in accordance with this Agreement and shall, except as otherwise provided herein, be credited against the Purchase Price payable by Purchaser pursuant to Section 2 hereof.

7. **Escrow Terms.** By signing below, Escrow Agent joins this Agreement for the sole purpose of being bound to perform under this Section 7 and Seller, Purchaser and Escrow Agent hereby agree that the Escrow Agent shall retain and apply the Earnest Money in accordance with the following directions:

(a) Escrow Agent shall hold the Earnest Money in its trust account for the benefit of the parties to be released only in the manner set forth below.

(i) Escrow Agent shall release the Earnest Money five (5) business days (the "**Objection Period**") following the date Escrow Agent receives notice from Seller or Purchaser, provided in a manner consistent with Section 20 below, stating that such party is entitled to receipt of the Earnest Money and containing satisfactory evidence (in the discretion of Escrow Agent) that such notice was also provided to Seller or Purchaser, as applicable (the "**Escrow Claim**"). On the expiration of the Objection Period, Escrow Agent shall promptly release the Earnest Money as directed by the requesting party. If Escrow Agent receives any notice of a dispute regarding any Escrow Claim prior to expiration of the Objection Period, Escrow Agent shall retain the Earnest Money until otherwise instructed pursuant to subsection (iii) or (iv) below;

(ii) Escrow Agent may release the Earnest Money in connection with a closing of the Transaction contemplated by the Purchase Agreement, in the manner instructed by a person who, upon satisfactory evidence (in the discretion of Escrow Agent), is determined to be the closing attorney, title agent, settlement agent, or disbursement agent assisting with such Transaction;

(iii) Escrow Agent may release the Earnest Money pursuant to joint written instructions offered by both Seller and Purchaser; or

(iv) Escrow Agent may release the Earnest Money pursuant to a valid order of a court, mediator, or arbitrator having competent jurisdiction over the parties to this Agreement and the subject matter hereof.

(b) Notwithstanding anything herein contained to the contrary, Seller and Purchaser shall have no right or authority to modify the terms and conditions of this Section 7, and the Escrow Agent shall not have the authority to pay over and disburse the Earnest Money except as in accordance with this Agreement.

(c) The Escrow Agent will be obligated to perform only such duties as are expressly set forth herein and need not take notice of any provisions of this Agreement outside of this Section 7. In case of conflicting demands upon the Escrow Agent, it shall be entitled, at its option, (i) to refuse to comply therewith as long as such disagreement continues and to make no delivery

or other disposition of any funds or property then held (and the Escrow Agent shall not become liable in any way for any such failure or refusal to comply with such conflicting or adverse claims or demands); and (ii) to continue to so refrain and to so refuse to act until all differences have been adjusted by agreement and the Escrow Agent shall have been notified thereof in writing signed by Purchaser or Seller, or (iii) to interplead the portion of Earnest Money in dispute with registry or custody of any court of competent jurisdiction.

(d) With respect to the subject matter hereof, Escrow Agent is not a party to, and shall not be bound by, any agreements between Purchaser and Seller except as identified in this Agreement.

(e) The Escrow Agent shall not be under any obligation to take any legal action in connection with this Agreement or for its enforcement, or to appear in, prosecute or defend any action or legal proceeding which, in its opinion, would or might involve it in any costs, expenses, loss or liability, unless and as if and as often as required by it, it shall be furnished with security and indemnity satisfactory to it against all such costs, expenses, losses or liabilities.

(f) The Escrow Agent is to be considered and regarded as a depository only, and shall not be responsible or liable (except for its failure to exercise due care) for the sufficiency, correctness, or validity of the Earnest Money or for the form, manner of execution, or validity of any instrument deposited in this Escrow, or as to the identity, authority, or rights of any person executing the same; and its duties hereunder shall be limited to the safe-keeping and investment of such money, instruments, and securities received by it as Escrow Agent and for the disbursement of the same in accordance with the written escrow instructions given it in accordance with this Agreement.

(g) Seller and Purchaser hereby indemnify the Escrow Agent against any cost, expense, loss, liability, or damage (including costs of litigation and counsel fees) arising from and in connection with the performance of its duties under this Agreement. Should any disputes arise with respect to this Agreement or the assets deposited hereunder, whether such disputes arise between the parties hereto and others, or merely between themselves, it is understood and agreed that the Escrow Agent may interplead such disputes and the parties hereto will hold the Escrow Agent harmless and indemnify it against all consequences and expenses which may be incurred by the Escrow Agent in connection therewith. In the event the Escrow Agent shall find it necessary to consult with counsel of its own choosing in connection with this Agreement, any expenses so incurred shall be on the account of Purchaser and shall be reimbursed by Purchaser, upon the Escrow Agent's request. Any such expenses that may be incurred in accordance with the above shall be a first lien against any funds on deposit or to be deposited in this account.

(h) On distribution of the Earnest Money pursuant to the terms of this Agreement, Escrow Agent shall be discharged from any further obligation under this Agreement. The Escrow Agent shall only be liable hereunder from its gross negligence or willful misconduct.

(i) Except in the event of (i) the Seller's default under this Agreement in which case Purchaser shall be entitled to a return of all Earnest Money and/or (ii) Closing, Ten Thousand and No/100 Dollars (\$10,000.00) of the Earnest Money shall be completely non-refundable and paid to Seller as independent consideration for this Agreement (the "**Independent Consideration**")

and shall be released to Seller at the end of the Inspection Period. Seller shall provide Escrow Agent instructions for payment of the Independent Consideration within ten (10) business days from the Commencement Date of this Agreement.

(j) Escrow Agent shall be entitled to collect its customary fees as consideration for its obligations in this Agreement.

8. Inspection of Property; Inspection Period.

(a) **Seller Due Diligence Materials.** Within ten (10) calendar days following the Effective Date (as hereinafter defined), Seller shall deliver to Purchaser any and all of the following documents that Seller has in its possession or that are otherwise reasonably available to Seller: (i) a copy of most recent title policy for the Property; (ii) a copy of the existing survey of the Property; (iii) a copy of any environmental report currently in its possession; (iv) a copy of all studies, surveys and other reports related to the Property; (v) a copy of any contracts or agreements affecting the Property, including any restrictive covenants, rights of first refusal, leases, and/or reciprocal ingress/egress or other easement agreements; (vi) all plans, plats and surveys including any existing civil, architectural, landscaping or other plans related to the Property; (vii) any soils, topographical or engineering studies which have been performed on the Property; (viii) all material related to sewer for the property; (ix) all other encumbrances of record affecting the Property; (x) copies of applicable organizational documents of the Seller and/or corporate resolutions evidencing the authority of the Seller's signer to this Agreement and the signer of documents in connection with Closing (collectively, the "Seller Due Diligence Materials").

(b) **Right of Inspection.** Purchaser and Purchaser's authorized representatives shall during normal business hours prior to Closing (as hereinafter defined) have the privilege of going upon the Property with its agents, employees or engineers as needed to inspect, examine, survey and otherwise do what Purchaser deems necessary in the engineering and planning for its intended use of the Property. Said privilege shall include the right, with 48 hours' notice to Seller, to make soil tests, borings, percolation tests, and repair same, to determine surface, subsurface and topographic conditions; provided, however, that Purchaser shall hold Seller harmless from any damages, but excluding consequential and indirect damages, incurred through the exercise of such privilege, including indemnification and defense from any and all expenses arising on account thereof including reasonable attorneys' fees incurred by Seller arising from or by reason of Purchaser's and/or Purchaser's Representatives' access to, or Inspections of, the Property, except to the extent such losses, costs, damages, liens, claims, liabilities, or expenses are caused by or resulting from: (a) any acts or omissions of Seller; (b) Seller's negligence; and/or (c) any pre-existing, dangerous, illegal, or defective condition at the Property. Notwithstanding the foregoing, Purchaser agrees that neither Purchaser nor Purchaser's authorized representatives shall interfere in any way with Seller's employees or customers or suppliers engaged in Seller's ongoing business located on the Property. For the limited purposes of the notice required under this Section 8(b), Purchaser and Seller agree that such notice may be accomplished by telephone call to the number provided to Purchaser or such other method as permitted under Section 20 below.

(c) **Inspection Period.** Purchaser shall have ninety (90) calendar days from the Commencement Date of this Agreement, within which to exercise the rights given to it in 8(b)

concerning the Right of Inspection (the "Inspection Period").

(d) Additional Inspection Periods. Purchaser shall have the right to extend the Initial Inspection Period by **two (2) thirty (30) calendar day** periods ("**Additional Inspection Period(s)**") and together with the Initial Inspection Period, collectively the "**Inspection Period**"), provided: (i) Purchaser is not in default of any provision of this Agreement; (ii) Purchaser gives Seller notice of its intent, pursuant to Section 20 of this Agreement, to extend the Inspection Period in writing on or prior to the expiration of the then current Inspection Period, and (iii) Purchaser delivers to the Escrow Agent the sum of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) for each extension (the "**Additional Earnest Money**"). The Additional Earnest Money delivered for the first Additional Inspection Period shall be refundable and applicable to the Purchase Price.

(e) Termination Within Inspection Period. Notwithstanding anything contained in any other provision of this Agreement, Purchaser shall have the right and option, in Purchaser's sole and absolute discretion, to terminate this Agreement at any time prior to the expiration of the Inspection Period by written notice to Seller and Escrow Agent, whereupon Escrow Agent shall deliver the Earnest Money and the Additional Earnest Money, if any, to Purchaser, less the Independent Consideration which shall be paid to Seller, and this Agreement shall thereupon terminate and be null, void and of no further force or effect, and neither Purchaser nor Seller shall have any further rights, duties or obligations hereunder this Agreement.

9. Closing and Closing Date. The consummation of the sale by Seller and the purchase by Purchaser of the Property (the "**Closing**") shall be held the later of (i) **thirty (30) calendar days** after the expiration of the Inspection Period, or (ii) five (5) days after receipt of the replat, if any, (the "**Closing Date**") at such specific time, date, and place decided by Purchaser. If the Closing Date shall fall on a weekend or official holiday, the Closing Date shall be extended to the next business day. Both parties agree that, to the maximum extent customary within the applicable jurisdiction, the Closing may occur electronically via an electronic closing. Through an electronic closing, each party will execute and deliver to the other party via facsimile or electronic mail delivery separate counterparts of each document that such party is required to execute and deliver at Closing pursuant to the terms of this Agreement and as required by the jurisdiction in which the property is located (each of which shall be deemed original, but all of which together shall constitute one and the same instrument).

10. Obligation to Prepare Closing Documents. Seller shall be responsible for preparing or obtaining from the Title Company all necessary Closing Documents (as hereinafter defined) and shall deliver draft copies of the same to the Purchaser and Title Company for review and final approval no less than five (5) business days prior to Closing. Purchaser's approval of draft Closing Documents may not be unreasonably conditioned, delayed, or withheld.

11. Closing Documents. At the Closing, Seller shall execute and deliver, or cause to be delivered, to Purchaser the following (collectively, the "Closing Documents"):

(a) a general warranty deed, or the equivalent thereof, conveying fee simple marketable and insurable record title to the Property to Purchaser free and clear of all liens, special assessments and encumbrances, excepting only the Permitted Title Exceptions;

(b) an affidavit which to the best of Seller's actual knowledge, information and belief

has as its subject matter averments that, with respect to the Property, there are no rights or claims of parties in possession of the Property; that there are no liens, or rights to a lien, for services, labor or materials furnished and/or imposed by law; and that there are no disputes concerning title to the Property;

(c) such affidavits or certificates as shall be required to establish that the Transaction contemplated hereby is not subject to the provisions of the Foreign Investment Real Property Tax Act of 1980, as amended, and all regulations promulgated pursuant thereto, and the withholding requirements of Section 1445(a) of the Internal Revenue Code, as amended;

(d) such certificates as may be requested to provide information as required by the Internal Revenue Code, as amended, to allow the person responsible for the closing of the Transaction contemplated hereby to prepare and file Form 1099-B;

(e) Owner Policy of Title Insurance on the Texas standard form, naming Purchaser as insured, in the amount of the Purchase Price, insuring that Purchaser owns good and indefeasible fee simple title to the Property, subject only to the Permitted Exceptions; with the exception for discrepancies in area and boundaries being deleted to the extent allowed by applicable regulation; with no exception for "rights of parties in possession" and with no exception for "visible or apparent easements" or for "public or private roads" or the like, except if reference is made in the Survey to a specified unrecorded exception shown on the Survey.

(f) such other documents as shall be reasonably requested by Purchaser or Purchaser's title insurer to evidence the authority of Seller to execute and deliver the general warranty deed, or the equivalent thereof, and other documents;

(g) such other commercial documents as may be reasonably deemed legally necessary by Purchaser or Purchaser's counsel to consummate the purchase and sale contemplated in this Agreement and as normally found in similar transactions in the state in which the Property is located; and

(h) if applicable, confirmation in writing from all Utility Companies providing service to the Property that disconnects of each utility, at the street, property line, or closest main, have been scheduled to take place no later than two (2) business days after Closing;

12. Expenses and Prorations.

(a) All real property ad valorem taxes applicable to the Property, if any, shall be prorated as of the Closing Date between Seller and Purchaser, said proration to be based upon the most recently available tax rate and valuation with respect to the Property; provided, however, that upon the issuance of the actual tax bills for such taxes for the year of the Closing, Purchaser and Seller shall promptly make such adjustments as may be necessary to insure that the actual amount of such taxes for the year of Closing shall be prorated between Purchaser and Seller as of the Closing Date.

(b) At the Closing, Seller shall pay the costs of the basic premium of the Title Policy, recording costs for the general warranty deed, applicable stamp or transfer taxes, one-half (1/2) of the

escrow fee charged by the Title Company, and Seller's attorneys' fees.

(c) Purchaser shall, at the closing, pay the recording fees for any loan documents, one-half (1/2) of the escrow fee charged by the Title Company, real estate commissions, the cost to of a new Survey (if required), the cost of any endorsements requested by Purchaser, and Purchaser's attorneys' fees.

(d) If, as of the Closing, any special assessment or assessments for improvements shall be or shall have been made against the Property, or any portion or portions thereof, then, whether or not any such assessment is then a lien on the Property, or any portion or portions thereof, or is payable prior to or at Closing, all unpaid installments of any such assessment (including those which are to become due and payable after Closing) shall be deemed due and payable prior to Closing and shall not be apportioned between Seller and Purchaser and shall be paid and discharged by Seller. Seller shall not be responsible for any special assessment or assessments for improvements arising as the result of or related to Purchaser's intended development of the Property, and the Purchaser shall be responsible for the same.

(e) Any remaining fees or costs shall be shared between Purchaser and Seller in accordance with local practice.

13. Warranties and Representations of Seller. To induce Purchaser to enter into this Agreement and to purchase the Property as herein provided, Seller does hereby expressly warrant and represent to Purchaser that, on the Effective Date of this Agreement and at all points between the Effective Date and the Closing:

(a) Seller is limited liability company duly organized, validly existing, and in good standing under with the laws of the State of Texas;

(b) Seller has not received any notice that the Property or any portion thereof is or will be subject to or affected by (i) any special assessments, whether or not presently a lien thereon, or (ii) any condemnation or similar proceeding which is currently underway and/or which has been disclosed to Purchaser;

(c) There are no actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the Property or any portion thereof or relating to or arising out of the ownership of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality, and that there is no proceeding pending for the reduction of the assessed valuation of the Property or any portion or portions thereof;

(d) Other than the Permitted Title Exceptions and this Agreement, there are no leases, contracts, or other agreements or instruments in force and effect that grant to any person whomsoever or any entity whatsoever any right, title, interest or benefit in or to all or any part of the Property or any rights relating to the use, operation, management, maintenance or repair of all or any part of the Property that will not be terminated upon sale;

(e) The Property has not been utilized as a landfill or similar dumpsite and no "toxic",

"poisonous" or "hazardous" wastes or materials (as those terms may be defined in any applicable environmental laws, rules and regulations), have been stored, deposited or dumped on the Property or any portion thereof;

(f) The individual(s) executing this Agreement on behalf of Seller have the full right, power and authority to so execute this Agreement and to bind and obligate Seller in accordance with the terms hereof, and that Seller has the full right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms hereof;

(g) There are no contracts, agreements or understandings of any kind or nature whatsoever with any governmental agencies or institutions, with any homeowners' association or group of property owners, with any zoning authorities or similar entities, or with any utility companies or suppliers which would in any manner limit Purchaser's development or use of the Property, other than listed in the Permitted Title Exceptions;

(h) The Property substantially complies with all federal, state, and local environmental laws, statutes, ordinances, rules and regulations and that there have been no violations of any such laws, statutes, ordinances, rules and regulations;

(i) Water, sewer, gas, electricity, telephone, and cable television utility lines are or will be available at the boundary of the Property prior to Closing at no additional cost to Purchaser;

(j) Each of the foregoing representations and warranties is materially true and correct as of the date hereof and will be materially true and correct as of the Closing Date, excluding however such that arises through the acts of the Purchaser.

14. **Covenants and Agreements of Seller.** Seller hereby further covenants and agrees that between the Effective Date and the Closing, Seller shall not, without the prior written consent of Purchaser, (a) materially change or alter the physical condition of the Property, including the removal of any trees, (b) convey, option or sell all or any interest in the Property, or (c) grant or otherwise create or consent to the creation of any easement, restriction, lease, assessment or encumbrance affecting the Property or any portion or portions thereof.

15. **Defaults.** In the event of the material inaccuracy of any of Seller's warranties made herein or in the event Seller fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements and obligations to be performed by Seller under the terms and provisions of this Agreement, then Purchaser shall be entitled to a refund of all Earnest Money paid under this Agreement, and may then elect to (a) seek specific performance, or (b) terminate this Agreement upon written notice to Seller and Escrow Agent pursuant to Section 20 of this Agreement. Upon any such termination, all rights and obligations created hereunder shall be deemed null and void and of no further force or effect but for the indemnities contained in Section 7, Section 8(b), and Section 19 herein. In the event Purchaser fails to comply with or perform any of the covenants, agreements or obligations to be performed by Purchaser under the terms and provisions of this Agreement, Seller's sole and exclusive remedy for any such default shall be to terminate this Agreement by written notice to Purchaser and Escrow Agent, whereupon Escrow Agent shall deliver to Seller the Earnest Money, as full liquidated damages for such default (the parties hereto acknowledging that it is impossible to more precisely estimate the damages to be suffered by Seller

upon Purchaser's default), whereupon this Agreement and all rights and obligations created hereby shall terminate and be null and void and of no further force or effect whatsoever. Neither party shall declare the other party in default unless the non-defaulting party has given the defaulting party written notice of the default pursuant to Section 20 of this Agreement, and the non-defaulting party has not cured the default within ten (10) business days after written notice.

16. **Assignment.** This Agreement shall be freely assignable, in whole or in part, by Purchaser with written notice to Seller; however, Purchaser shall not be released from any obligation or liability hereunder unless Seller agrees so in writing.

17. **Possession of Property.** Seller shall deliver to Purchaser full and exclusive possession of the Property on the Closing Date.

18. **Condemnation.** In the event any portion of the Property shall be taken, condemned or materially altered in a manner that would effect Purchaser's future development of the Property by any governmental authority or other person or entity prior to the Closing Date, or in the event Seller or Purchaser receives notice of a proposed taking prior to the Closing Date, Purchaser shall have the option of either (a) terminating this Agreement by giving written notice thereof to Seller, whereupon the Earnest Money shall be refunded to Purchaser and all rights and obligations created hereunder shall be null and void and of no further force or effect, or (b) requiring Seller to convey the remaining portion of the Property to Purchaser pursuant to the terms and provisions hereof with adjustment being made to the Purchase Price proportionate to the portion of the Property subject to the condemnation. If Purchaser elects alternative (b) above, the Property shall include such condemned land but Seller shall retain all of Seller's right, title and interest in and to any award made or to be made by reason of such condemnation. Seller and Purchaser hereby further agree that Purchaser shall have the right to participate in all negotiations with any such governmental authority relating to the Property or relating to the compensation to be paid for any portion or portions thereof condemned by such governmental authority or other entity.

19. **Broker.** Purchaser shall be solely responsible for and shall pay at Closing a commission to Robert Green of Rock One Realty Green Door Group (the "**Broker**") a commission equal to three percent (3%) of the Purchase Price at Closing pursuant to a separate agreement. Such commission shall be earned and payable if and only if the Closing is consummated, but not otherwise. Further, 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 the Broker. Except with respect to the Broker as addressed above, 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, though 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. This paragraph will survive Closing.

20. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given when (a) delivered by hand (with written confirmation of receipt); (b) received by the addressee if sent by a nationally recognized courier (with confirmation of delivery); (c) on the date sent by facsimile or e-mail, provided that a written notice outlining the substantive contents of such facsimile or e-mail, including reference to the date the facsimile

or e-mail was sent, are also transmitted by hand delivery (with written confirmation of receipt) or sent by nationally recognized courier (with confirmation of delivery) no later than **one (1) business day** after the e-mail or facsimile was sent; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 20):

To Seller at the following physical address:

Thesa Evridge & Michael Heath Wooten
406 Great Western
Horseshoe Bay, TX 78657
Telephone: 602-705-8811
Telephone : 830-220-0990
Email: evridge@me.com
Email: catchwaymore@gmail.com

To Purchaser at the following address:

Creed Commercial Development, LLC
Attn: Ben Sims
P.O. Box 7189
Tyler, Texas 75711
Telephone: 832-525-9720
Email: bens@creedllc.com

With a copy to:

Baker Monroe, PLLC
Attn: Justin P. Huston
1612 Summit Ave, Suite 100
Fort Worth, Texas 76102
Telephone: 817-632-6374
Email: jhuston@bamolaw.com
cc: Christopher Cava
Email: ccava@bamolaw.com

To Escrow Agent at the following address:

Fidelity National Title Insurance Company
Attn: Lindsay Evans
4541 Bellaire Drive, Ste. 101
Fort Worth, Texas 76109
Phone: 817-377-4100
Email: levans@fidelity-usa.com

If the deadline for any notice, request, consent, claim, demand, waiver or other communication

hereunder falls on a weekend or official holiday, said notice shall be due on the following business day. All notices, requests, consents or other communications required herein to be given to Escrow Agent shall be so given in accordance with this Agreement. Notice may be provided by either party by their respective legal counsel.

21. **Effective Date.** This agreement shall be effective as of the date last signed by the Purchaser or Seller (the "Effective Date").

22. **Commencement Date.** This Agreement shall be effective as of the Effective Date, provided however, if this Agreement is provided with incomplete information (i.e. incomplete exhibits and or incomplete addresses for notices (which must include, at a minimum, one physical mailing address, phone number, and email address for Seller) then the timeframes set forth in this Agreement shall not begin to run until the date that a complete Agreement is delivered to Purchaser in the manner proscribed in Section 20 hereof (the "Commencement Date").

23. **Confidentiality; Publicity.**

(a) Purchaser and Seller each agree to treat the terms of this Agreement and the information disclosed to it by the other party, or otherwise gained through the course of this Agreement, as confidential, giving it the same care as such party's own confidential information, and make no use of any such disclosed information not independently known to such party except in connection with the transactions contemplated hereby; provided, however, that either party may, without the consent of the other party, disclose such information: (i) to its partners, members, managers, employees, advisors, consultants, attorneys, accountants, prospective and actual investors, and lenders (collectively, the "Transaction Parties"), so long as any such Transaction Parties to whom disclosure is made shall also agree to keep all such information confidential in accordance with the terms hereof; and (ii) if disclosure is required by law or by regulatory or judicial process, provided that in such event, to the extent permitted by applicable law Purchaser shall notify Seller of such required disclosure, shall exercise all commercially reasonable efforts to preserve the confidentiality of the confidential information, including, without limitation, reasonably cooperating with the other party to obtain an appropriate order or other reliable assurance that confidential treatment will be accorded such confidential information by such tribunal and shall disclose only that portion of the confidential information which such party is legally required to disclose.

(b) Notwithstanding the foregoing, the confidentiality provisions of this Section 23 shall not apply to any information or document which: (x) is or becomes generally available to the public other than as a result of a disclosure in violation of this Agreement; or (y) subject to compliance with Section 23(a) above, is required by law or court order to be disclosed. In the event of a termination of this Agreement, each party shall promptly return all such confidential information to the other.

(c) Further notwithstanding the foregoing, at any point following the Effective Date, Purchaser shall be permitted to (i) identify the Property as a "Future Tidal Wave Location" on the Purchaser's website and (ii) erect a "Coming Soon" or other similar sign on the Property notifying the general public of the impending development or redevelopment of the Property into a Tidal Wave Auto Spa location. Purchaser shall bear all expense associated with the foregoing and shall

ensure that any sign erected on the Property is erected in a manner that complies with all laws, rules, regulations and/or ordinances effecting the Property. If for any reason Closing does not occur, Purchaser, at Purchaser's sole expense, agrees to promptly remove any signage installed pursuant to this Section 23(c).

(d) The terms of this Section 23 shall survive Closing or termination of this Agreement.

24. **General Provisions.** This Agreement and all amendments hereto shall be governed by and construed under the laws of the state in which the Property is located. No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, constitute a waiver of either party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by the party to be bound. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective personal representatives, heirs, successors and assigns. Time is of the essence of this Agreement, provided, however, if the Closing Date falls on a weekend or official holiday, the Closing Date shall be extended to the next business day. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all genders, the singular shall include the plural and vice versa. The headings inserted at the beginning of each paragraph are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. Seller and Purchaser do hereby covenant and agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at the Closing.

25. **Survival of Provisions.** All covenants, warranties and agreements set forth herein shall survive the Closing of the Transaction contemplated hereby and shall survive the execution or delivery of any and all deeds and other documents at any time executed or delivered under, pursuant to or by reason of this Agreement, and shall survive the payment of all monies made under, pursuant to or by reason of this Agreement for a period of **one (1) year**.

26. **Seller's Cooperation.** Seller agrees to cooperate with Purchaser in Purchaser's permitting process provided that (a) Purchaser's permitting process would not change Seller's status quo, including without limitation, zoning, if the sale contemplated herein does not close and (b) Purchaser agrees to hold Seller harmless for reasonable expenses incurred, including attorney's fees, in providing said cooperation.

27. **Execution by Parties.** If Seller shall fail to execute this Agreement and return to Purchaser no later than **5:00 P.M. Eastern on March 10, 2023**, then the aforesaid offer herein made by Purchaser shall expire as of said time and date. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. Electronic or facsimile signatures shall be acceptable for offer and acceptance.

28. **Tax Deferred Exchange.** Purchaser and Seller each acknowledge and agree that either may elect to proceed with the Transaction as part of one or more Internal Revenue Code of 1986, as amended, Section 1031 tax deferred exchange(s). In the event that Purchaser and/or Seller so elects, in their sole discretion, the

other party agrees to assist and cooperate in any such exchange, including, but not limited to, consenting to any assignment of this Agreement in connection therewith and executing any and all documents as are reasonably necessary in connection therewith. The non-electing party shall not be obligated to incur any liability, cost, or expense in connection with any such exchange.

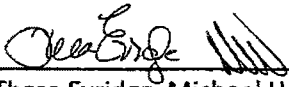
29. **OFAC.** Neither Seller nor Purchaser, nor any of their affiliates, nor, to Seller's or Purchaser's respective knowledge, any of their respective partners, members, shareholders or other equity owners, or to Seller's or Purchaser's respective knowledge, any of their respective employees, officers, directors, representatives or agents is, or is under investigation which may result in becoming, a person or entity with whom U.S. persons or entities are restricted from doing business with 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, or other governmental action and is not and will not assign or otherwise transfer this Agreement to, contract with or otherwise engage in any dealings of the Transaction or be otherwise associated with such persons or entities.

30. **Replat or Rezone.** Purchaser shall have the right, but not the obligation, to cause the Land to be replatted or rezoned at Purchaser's sole cost and expense. Prior to submitting the plat for final approval (the "**Replat**"), Seller shall have not less than five (5) days to review and reasonably approve the configuration of the Replat, which approval will be deemed granted absent Seller's written objections thereto within such five-day period. Once approved by Seller, Purchaser shall not be required to obtain further Seller approval unless a material change is made to the proposed lot as approved by Seller. Seller shall cooperate with Purchaser to obtain any necessary approvals, including the execution of such documents as Purchaser may reasonably request and as required by the City of Marble Falls. Purchaser shall use its best efforts to obtain all approvals in as timely a manner as possible. Receipt of the necessary approvals for the Replat shall be a condition of Closing.

[Signatures contained on the following pages]

IN WITNESS WHEREOF, Purchaser and Seller have set their hand and seal to this Agreement as of the date first above written.

SELLER:

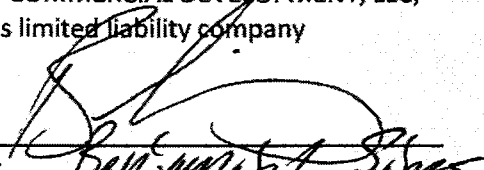
By: 
Thesa Evridge, Michael Heath Wooten
Date: 3/3/2023

Purchaser's Signature Contained on the Following Page

[PURCHASER COUNTERPART SIGNATURE PAGE FOR REAL ESTATE PURCHASE AGREEMENT]

PURCHASER:

CREED COMMERCIAL DEVELOPMENT, LLC,
a Texas limited liability company

By: 
Name: Benjamin L. Sims
Title: President
Date: 3/6/23

[ESCROW AGENT COUNTERPART SIGNATURE PAGE FOR REAL ESTATE PURCHASE AGREEMENT]

ESCROW AGENT:

By: Liz Boulanger
Name: Liz Boulanger
Title: Escrow Assistant
Date: 3/16/2023

EXHIBIT "A"

[Description of the Land]