

CONTRACT TO SELL
(Surplus Real Property - Store No. RT [REDACTED])

THIS CONTRACT TO SELL (this “**Contract**”) is made and entered into by and between _____, **INC.**, a _____ corporation (“**Seller**”) and _____, a _____ corporation (“**Purchaser**”) as of the _____ day of June, 2018 (the “**Contract Date**”);

WITNESSETH:

WHEREAS, Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser, certain assets of Seller on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of Ten and no/100ths Dollars (\$10.00), paid in hand to Seller, and the mutual promises and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **CONVEYANCE**. Upon the terms and conditions hereinafter set forth, Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller that certain real property and any and all improvements thereon located in [REDACTED] County, State of [REDACTED] as described and outlined in red on **Exhibit A**, and the Terms and Conditions of Sale as **Exhibit B**, and **Addendum** attached hereto and made a part hereof (the “**Property**”)

2. **EARNEST MONEY**. On or before the date hereof Purchaser has delivered to GRS Group Title, (“**Closing Agent**”) an earnest money deposit in the amount of **Dollars (\$0.00)** (the “**Earnest Money**”), which shall be held by Closing Agent and applied to the Total Contract Price at Closing or otherwise disbursed in accordance with the terms of this Contract.

3. **CONTRACT PRICE AND PAYMENT**. The Total Contract Price (“**TCP**”) to be paid by Purchaser to Seller for the Property shall be **Dollars (\$0.00)**. The Total Contract Price includes Bid Price (“**Bid Price**”) of **\$0.00**, plus a 10% “**Buyer’s Premium**” (“**Buyer’s Premium**”) of **\$0.00**.

4. **CLOSING**.

(a) The consummation of the transactions contemplated hereunder (the “**Closing**”) shall be held on or before the date that is thirty (30) days after the Contract Date (the “**Closing Date**”). However, if such date falls on a legal holiday, on Saturday or Sunday, the Closing shall take place on the following business day. All recording fees and costs, intangible taxes, title examination fees, title insurance premiums, survey fees, transfer taxes, and fees and expenses of Purchaser’s attorney and/or the title company, if any, shall be paid by Purchaser.

(b) At the Closing, Purchaser shall deliver to Closing Agent or Seller the Total Contract Price (less a credit for the Earnest Money held by Closing Agent), and Seller shall deliver to Purchaser the following documents: a limited or special warranty deed or act of cash sale (the “**Deed**”) based on the legal description from Seller’s vesting deed conveying the Property, and reciting the provisions of Section 6 herein and shall be subject to the following “**Permitted Exceptions**”: (1) licenses, rights and easements, if any, with respect to public utilities or public transportation; (2) liens for ad valorem taxes not yet due and payable; (3) zoning and other ordinances affecting the Property; (4) matters that would be shown by a current, accurate ALTA survey of the Property; and (5) rights, liens, easements and other encumbrances which are a matter of public record.

(c) All real estate taxes, ad valorem taxes, personal property taxes and other charges attributable to the ownership or use of the Property shall be prorated as of the Closing Date based on the most recent tax bills.

(d) Notwithstanding any provision in this Contract to the contrary, Purchaser shall not be entitled prior to Closing, without first obtaining the prior written approval of Seller, which may be withheld in its sole discretion, to (i) rezone or replat the Property, (ii) restrict or limit the permitted uses of the Property, (iii) otherwise take any action which is irrevocable or binding on the Property or the owner of the Property, (iv) perform any invasive or subsurface testing upon the Property, or (v) create or allow any liens affecting the Property.

5. **DEFAULT.**

(a) In the event the transaction contemplated hereby is not closed because of Purchaser's default, Seller shall have the right to terminate this Agreement, whereupon the Earnest Money shall be retained by Closing Agent and Seller as liquidated damages for such default, and neither party hereto shall have any further rights or obligations hereunder except as expressly set forth herein to the contrary.

(b) In the event the transaction contemplated hereby is not closed because of Seller's default, then Purchaser's sole and exclusive remedy shall be to terminate this Contract upon written notice to Seller, in which event the Earnest Money shall be refunded promptly to Purchaser and neither party hereto shall have any further rights or obligations hereunder except as expressly set forth herein to the contrary.

6. **ACKNOWLEDGMENT.**

(a) Seller specifically disclaims all representations and warranties, either express or implied, regarding the Property or the compliance of the Property with applicable federal, state or local statutes, rules, regulations or ordinances. The Property shall be conveyed to Purchaser "AS IS", "WITH ALL FAULTS", in the same condition as on the date hereof, normal wear and tear excepted, without guaranties or warranties of any kind, express or implied, except as to Seller's limited warranty of title.

(b) As of the Closing Date, Purchaser shall assume all liability and responsibility for and shall indemnify and hold Seller and its officers, directors, employees, shareholders and agents harmless from and against any and all claims, demands, losses, expenses or damages, including, but not limited to, causes of action based on breach of contract, negligence, strict liability, or nuisance, which may be alleged against or incurred by Seller or such parties, arising out of or in any way related to Purchaser's use of the Property transferred at Closing, or to any present or future failure of the Seller or the Property to comply with any applicable federal, state or local ordinances, laws or regulations, or to the present or future condition of the Property, including without limitation, the presence of any hazardous or toxic substances, petroleum products, motor fuels, alcohol, lubricants or any components thereof, or any other contaminant or similar substance located on or about the Property, together with costs of cleanup or claims of third parties related thereto. Purchaser covenants not to sue or bring any action whatsoever against Seller or its officers, directors, employees, shareholders or agents arising out of or in connection with any such claims, demands, losses, expenses or damages.

(c) **The Deed shall contain restrictions**, which will run with the land and shall be effective for the longest time allowed by state law, and shall prohibit, on all or any portion of the Contract Property, without Seller's prior written consent, which consent may be withheld for any reason or no reason at all, a retail outlet for motor fuels or a convenience store. The term "retail outlet for motor fuels" shall include by way of illustration, but not by way of limitation, (i) a mobile dispensary or delivery service, and (ii) the provision of charging services or stations for electric vehicles, even if only temporarily located at the Property restricted thereby.

All of the provisions of this Section 6 shall be deemed covenants which touch and concern and run with the Property. In addition, all of the provisions in this Section 6 shall bind Purchaser's successors, assigns and heirs, survive the Closing of the purchase of the Property and shall be included in the Deed.

7. **MISCELLANEOUS.**

(a) This Contract constitutes the entire agreement between the parties hereto and no representation, promise or inducement not included herein shall be binding upon any party hereto. The terms "Seller" or "Purchaser" shall be construed in the plural and the appropriate gender will be read into all pronouns used herein to reference any of said parties whenever the sense of this Contract so requires. This Contract may not be changed orally, but only by agreement in writing signed by Purchaser and Seller.

(b) Notices given pursuant to this Contract shall be in writing, and shall be deemed delivered or received when actually rejected or received if sent to the mailing address set forth herein by either (i) personal delivery, (ii) certified mail, return receipt requested, (iii) by nationally recognized courier service, or (iv) by facsimile to the number given herein (with proof of confirmed transmission) so long as a copy of same is delivered by one of the methods described in (i) through (iii) as well.

(c) The provisions of this Contract shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors and assigns and the legal representatives of their estates, as the case may apply. Purchaser shall not assign this Contract without the prior written consent of Seller.

(d) Time is of the essence of this Contract.

(e) PURCHASER AGREES THAT FINANCING IS NOT A CONTINGENCY OF THIS CONTRACT AND THAT THIS CONTRACT IS PURSUANT TO A PUBLIC AUCTION AND IS IRREVOCABLE AND CANNOT BE WITHDRAWN BY PURCHASER.

(f) If either party files suit to enforce its rights under this Contract, the prevailing party shall be entitled to its costs and attorney fees related to such suit.

(g) This Contract shall remain in full force and effect and the purchase and sale of the Property contemplated herein, less any property taken by eminent domain or condemnation, shall be effected despite any condemnation affecting the Property.

(g) Seller and Purchaser each acknowledge that they have carefully reviewed and negotiated the terms of this Contract and that such terms shall not be construed against the drafting party.

(h) The terms and conditions of this Contract shall survive the termination of this Contract and shall not merge into the delivery of the Deed from the Seller herein to the Purchaser herein. The terms and conditions of this Contract shall be construed according to the laws of the State of Georgia. Jurisdiction and venue for any action evolving from this Contract shall lie exclusively in the Superior Court of Cobb County, Georgia and Purchaser hereby consents to such court's jurisdiction and venue.

8. **BROKERS.**

Auctioneer is acting as Seller's broker and shall be entitled to a commission by Seller in the event of Closing pursuant to a separate agreement between Auctioneer and Seller. Purchaser and Seller represent and warrant each to the other that neither has employed, retained or consulted any other broker, agent or other finder with respect to the Property or in carrying on the negotiations relative to the transaction contemplated in this Contract, unless Purchaser's Broker/Agent has submitted to Auctioneer the required BROKER REGISTRATION FORM prior to Auction Day.

(Signatures on Following Page)

IN WITNESS WHEREOF, the parties hereto set their respective hands and affix their seals the day and year indicated below.

SELLER:

_____, **INC.**, a _____
corporation

By: _____

Print Name: _____

Title: _____

Executed this _____ day of _____, 2018.

Seller's Address:

Attn: Corporate Counsel – Real Estate

200 Galleria Parkway S.E., Suite 900

Atlanta, GA 30339

Fax: 678-503-1120

PURCHASER:

By: _____

Print Name: _____

Title: _____

Executed this _____ day of June, 2018.

Purchaser's Address:

Email: _____

Phone: _____