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ATTORNEY FOR  
PALMER VILLAGE, LLC

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BEFORE THE ZONING HEARING BOARD  
OF WORCESTER TOWNSHIP

CHALLENGE OF PALMER VILLAGE, LLC TO :  
THE SUBSTANTIVE VALIDITY OF THE ZONING :  
ORDINANCE OF WORCESTER TOWNSHIP :

ZHB  
NO. 2021- 02

**SUBSTANTIVE CHALLENGE**

Palmer Village LLC, by and through its attorneys, Hamburg, Rubin, Mullin, Maxwell and Lupin hereby submits this Substantive Validity Challenge under Section 916.1 (a) (1) of the Pennsylvania Municipalities Planning Code ("MPC"), 53 P.S. Section 10916.1 (a) (1), to the substantive validity of the Worcester Township ("Township") Zoning Ordinance ("Zoning Ordinance") on the basis that the Zoning Ordinance unlawfully excludes several legitimate uses in the Township and avers in support thereof:

1. Palmer Village, LLC ("Palmer") is a Pennsylvania limited liability company with its principal place of business located at c/o Hamburg, Rubin, Mullin & Maxwell Corporation Service, Inc., 375 Morris Road, P.O. Box 1479, Lansdale, Pennsylvania 19446.

2. Worcester Township is a Township of the Second Class of the Commonwealth of Pennsylvania located in Montgomery County with an address of 1721 South Valley Forge Road, P.O. Box 767, Worcester, PA 19490.

3. Pursuant to Section 916.1(a)(2) of the MPC:

A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge . . . to the zoning hearing board.

4. Pursuant to Section 107 of the MPC, a landowner is defined as:  
[T]he legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

5. Palmer is the equitable owner of all that certain real property consisting of 55.8 acres situated at the northeast intersection of Skippack Pike and Valley Forge Road in the Township (the "Property") pursuant to a certain Agreement, a partially redacted copy of which is attached hereto as Exhibit "A" and made a part hereof. Palmer is therefore entitled to submit a challenge to the Zoning Ordinance pursuant to Section 107 of the MPC.

6. The Property is split-zoned, being located partially in the C Commercial District and partially in the LPD Land Preservation District.

7. Palmer challenges the substantive validity of the Zoning Ordinance and the Worcester Zoning Map ("Map") for the following reasons:

A. Research Facilities

1. Research facilities are permitted to be located in the Township only in the R-AG-175 Agricultural District (the "R-AG-175 District") and in the IR Industrial Research District (the "IR District").

2. The R-AG-175 District requires a minimum lot area of twenty-five (25) acres.

3. The entire R-AG-175 District consists of nine (9) parcels which are accessed by a single local road identified as Wanda Lane.

4. Each of the parcels in the R-AG-175 District is currently improved with a single-family dwelling.

5. The R-AG-175 District requires a 300-foot setback for front, rear and side yards for research facilities under the provisions of Section 150-29 D of the Zoning Ordinance.

6. The aggregate lot area for the nine parcels comprising the entire R-AG-175 District is 13.5 acres.

7. The IR District requires a minimum lot area of fifty (50) acres.

8. The entire IR District consists of a single parcel of land which is traversed by two (2) branches of the Zacharias Creek.

9. The Zoning Ordinance excludes from lot area calculation any area within a floodplain, wetlands or land within any water of the Commonwealth and excludes any land within the right-of-way of Morris Road which abuts the single IR District parcel and excludes land within the right of way of Wanda Lane which abuts most, if not all, of the R-AG-175 District parcels.

10. The minimum lot size requirement of the R-AG-175 District and the IR District combined with the extremely limited area zoned in the respective districts serve to effectively exclude the research facility use from the Township.

11. The excessive minimum lot size requirements and excessive setback requirements of the Zoning Ordinance for a research facility use bear no substantial relationship to the protection of the public health, safety and welfare, are unduly restrictive, confiscatory, and exclusionary and are not a legitimate exercise of police power.

B. Hotel

1. Hotels are defined in the Zoning Ordinance as buildings “used for the purpose of furnishing for compensation more or less temporary lodging to the public, with or without meals, and having lodging accommodations for ten (10) or more persons.”

2. Hotels are permitted by special exception in the C Commercial District.

3. Pursuant to Section 150–118 of the C Commercial District, no building may contain a gross building area greater than 6,500 square feet.

4. The maximum height permitted in the C Commercial District is thirty (30) feet, not exceeding two (2) stories.

5. The unduly restrictive maximum building area and maximum building height imposed by the Zoning Ordinance effectively serve to exclude the hotel use from the Township, bear no substantial relationship to the protection of the public health, safety and welfare, and are confiscatory, exclusionary and are not a legitimate exercise of the police power.

C. Indoor Recreational Facilities

1. Indoor recreational facilities, including but not limited to, ice skating rinks, bowling alleys, indoor shooting ranges, indoor amusement centers, indoor soccer fields, indoor field hockey fields, indoor hockey rinks, and indoor golf facilities are permitted by special exception in the R-AG-175 District.

2. The R-AG-175 District requires a minimum lot area of twenty-five (25) acres.

3. The entire R-AG-175 District consist of nine (9) parcels which are accessed by a single local road identified as Wanda Lane. The aggregate lot area for the nine parcels is 13.5 acres.

4. Each of the parcels in the R-AG-175 District is currently improved with a single-family dwelling.

5. The R-AG-175 District requires a 300-foot setback for front, rear and side yards under the provisions of Section 150-29 D of the Zoning Ordinance for indoor recreational facilities.

6. The Zoning Ordinance excludes from lot area calculation any area within a floodplain, wetlands or land within any water of the Commonwealth and excludes any land within the right-of-way of Wanda Road which abuts most of the R-AG-175 District parcels.

7. The minimum lot size of the R-AG-175 District combined with the extremely limited area zoned in the R-AG-175 District serves to effectively exclude the indoor recreational facility use from the Township.

8. The excessive minimum lot size requirements and excessive setback requirements of the Zoning Ordinance for indoor recreational facilities uses bears no substantial relationship to the protection of the public health, safety and welfare, are unduly restrictive, confiscatory, and exclusionary and are not a legitimate exercise of police power.

D. Clinics

1. Clinics are not expressly permitted in any zoning district of the Township.

2. Clinics are expressly prohibited in the REO Residential Office District [Section 150-90 1E (4)], the C Commercial District [Section 150 – 112 D], the SC Shopping Center District [Section 150-120 D] and the Cedars Village Overlay District [Section 150-146.22A (6)].

3. Clinics are permitted by implication in the LI-Limited Industrial District pursuant to the provisions of Section 150-28 F which permits legitimate uses “not otherwise permitted expressly or by implication elsewhere in this Zoning Code when authorized as a conditional use by the Board of Supervisors and after the imposition of conditions designed to eliminate (to the extent reasonably possible) adverse effects upon neighboring properties and the general public health, safety and welfare.”

4. The minimum lot area in the LI District is ten (10) acres per building.

5. The entire LI District consists of four (4) parcels straddling Trooper Road.

6. The LI District is surrounded by the AGR Agricultural District in which the primary permitted uses are agriculture and single-family residential.

7. Section 150-130D of the Zoning Ordinance requires setbacks of two hundred feet (200') for all yards.

8. Clinics are alternatively permitted by implication in the IR District pursuant to the provisions of Section 150-134.2 D.

9. The minimum lot area in the IR District is fifty (50) acres.

10. The entire IR District consists of a single parcel and is traversed by two (2) branches of the Zacharias Creek.

11. The Zoning Ordinance excludes from lot area calculation any area within a floodplain, wetlands or land within any water of the Commonwealth and excludes any land within the right-of-way of Morris Road which abuts the single IR Industrial Research District parcel and excludes land within the right of way of Trooper Road which abuts all of the LI District parcels.

12. The excessive minimum lot size requirements and excessive setback requirements of the Zoning Ordinance for clinic uses effectively serve to exclude the clinic use from the Township, bear no substantial relationship to the protection of the public health, safety and welfare, are unduly restrictive, confiscatory, and exclusionary and are not a legitimate exercise of police power.

E. Department Stores and Supermarkets

1. Pursuant to Section 150-153 B (8) of the Zoning Ordinance, specific parking requirements are established for department stores and supermarkets which are separate and distinct from parking requirements for other retail uses.

2. Department store uses and supermarket uses are not defined in the Zoning Ordinance.

3. As evidenced by the specifically designated parking requirements expressly provided in the Zoning Ordinance, a department store is a legitimate use, distinct from general retail, commonly defined as a large store under one roof stocking many varieties of goods in different departments, each selling a particular set of merchandise.

4. As evidenced by the specifically designated parking requirements expressly provided in the Zoning Ordinance, supermarkets are a legitimate use, distinct from general retail, defined as large self-service stores selling foods, beverages and household goods, organized into sections.

5. Despite the express provision of distinct parking requirements in the Zoning Ordinance, no district in the Zoning Ordinance expressly permits department stores or supermarkets.

6. There are no department stores or supermarkets located within Worcester Township.

7. The C Commercial District permits retail stores; however, any building is limited, pursuant to the provisions of Section 150-118 B(1), to no greater than 6,500 square feet.

8. The above referenced building area limitation effectively excludes a department store or a supermarket from the C Commercial District.

9. The SC Shopping Center District applies to only two parcels in the Township which are already improved with a strip center primarily occupied by smaller retail and restaurant uses.

10. The two parcels in the SC Shopping Center District comprise an aggregate lot area of 1.2 acres.

11. The SC Shopping Center District limits gross building area to no greater than 19,000 square feet.

12. The above referenced building area limitation in the SC Shopping Center District effectively excludes department stores and supermarkets from the SC Shopping Center District.

13. The LI District by implication permits department stores and supermarkets.

14. The minimum lot area in the LI District is ten (10) acres per building.

15. The entire LI District consists of four (4) parcels straddling Trooper Road.

16. The LI District is surrounded by the AGR-Agricultural District in which the primary permitted uses are agriculture and single-family residential.

17. Section 150-130D of the Zoning Ordinance requires setbacks of two hundred feet (200') for all yards.

18. Department stores and supermarkets are alternatively permitted by implication in the IR District pursuant to the provisions of Section 150-134.2 D.

19. The minimum lot area in the IR District is fifty (50) acres.

20. The entire IR District consists of a single parcel and is traversed by two (2) branches of the Zacharias Creek.

21. The Zoning Ordinance excludes from lot area calculation any area within a floodplain, wetlands or land within any water of the Commonwealth and excludes any land within the right-of-way of Morris Road which abuts the single IR Industrial Research District parcel and excludes land within the right of way of Trooper Road which abuts all of the LI District parcels.

22. The excessive minimum lot size requirements, excessive setback requirements, and unduly restrictive building area limitations of the Zoning Ordinance for the department store use and supermarket use effectively serve to exclude these uses from the Township, bear no substantial relationship to the protection of the public health, safety and welfare, are unduly restrictive, confiscatory, and exclusionary and are not a legitimate exercise of police power.

8. A zoning ordinance which draws an arbitrary distinction is invalid. *Appeal of Atl. Richfield Co.*, 468 A.2d 1208 (Pa. Cmwlth. 1983). *See also, Christ United Methodist Church v. Municipality of Bethel Park*, 428 A.2d 745 (Pa. Cmwlth. 1981)(affirming decision of lower court, which held that a zoning ordinance improperly prohibited lawful group homes and reversed underlying decision of zoning hearing board, which denied applicant's request for an occupancy permit for the group home).

9. A municipality may not totally exclude a lawful, legitimate use from its borders. *See, Adams Outdoor Advertising L.P. v. Zoning Hearing Board of Smithfield Twp.*, 909 A.2d 469, 477 (Pa. Cmwlth. 2006); *J.B. Steven, Inc. v. Board of Commissioners of Wilkins Township*, 654 A.2d 135 (Pa. Cmwlth. 1995); *Daikeler v. Zoning Hearing Board of Adjustment of Montgomery Township*, 275 A.2d 696 (Pa. Cmwlth. 1971).

10. Research facilities, hotels, indoor recreational facilities, clinics, department stores and supermarkets are legitimate uses under Pennsylvania law and must be afforded some reasonable use in the Township.

11. The total exclusion, *de jure* and *de facto*, of research facilities, hotels, indoor recreational facilities, clinics, department stores and supermarkets is invalid and unconstitutional under Pennsylvania law.

12. The sole remedy for a total exclusion of a legitimate use is to allow the use somewhere in the municipality and equity dictates that the party identifying the unlawful prohibition must receive that remedy. *H.R. Miller Company, Inc. v. Board of Supervisors of Lancaster Township*, 605 A.2d 321, fn. 5 (Pa. 1992).

13. Thus, a landowner who prevails in challenging an unconstitutional provision in a zoning ordinance is thereafter entitled to site-specific relief. *Allegheny Energy Supply Co., LLC v. Township of Blaine*, 829 A.2d 1254, 1256 (Pa. Cmwlth. 2003).

14. As the successful challenger to the substantive validity of the Zoning Ordinance, Palmer Village, LLC is entitled to construct, operate, and maintain a research facility, hotel, indoor recreational facility, clinic, department store and/or a supermarket on the Property. *Casey v. Zoning Hearing Board of Warwick Township*, 328 A.2d 464, 469 (Pa. 1974). See also, *Fernley v. Board of Supervisors of Schuylkill Township*, 502 A.2d 585, 596 (Pa. 1986).

15. Once an ordinance has been determined to be unconstitutionally exclusionary, the successful challenger must be permitted to develop the land as proposed, regardless of how the land is currently zoned, and any subsequently enacted amendatory ordinances are not to be given effect for the purpose of fashioning appropriate relief. *Adams Outdoor Advertising, Ltd. v. Borough of Coopersburg Zoning Hearing Board*, 625 A.2d 768 (Pa. Cmwlth. 1993) (citing *Casey*, *supra*).

16. Palmer Village, LLC is not required to submit proposed plans or other materials when challenging the substantive validity of the Zoning Ordinance under Section 916.1(a)(1) of the MPC. *Budco Theatres, Inc. v. ZHB of Springettsbury Township*, 632 A.2d 1072 (Pa. Cmwlth. 1993).

17. The suitability of the Property for research facilities, hotels, indoor recreation facilities, clinics, department stores and supermarkets is not relevant to the constitutional invalidity of a municipal-wide prohibition on these uses. *In re: Friday*, 381 A.2d 504 (Pa. Cmwlth. 1978).

18. In order to defeat a successful challenger's right to site-specific relief, a municipality must demonstrate that conditions or aspects of the development plan render the project "impossible to safely execute." *Allegheny Energy Supply Co., Inc. v. Township of Blaine*, 829 A.2d 1254, 1262 (Pa. Cmwlth. 2003) (citing *Appeal of Harbucks, Inc.*, 560 A.2d 851, 855-56 (Pa. Cmwlth. 1989)).

19. A municipality cannot meet its burden by merely speculating as to possible harm, but instead must show a high degree of probability that it will substantially affect the health and safety of the community. *Blaine, supra*; *Rural Area Concerned Citizens, Inc. v. Fayette County ZHB*, 646 A.2d 717, 722 (Pa. Cmwlth. 1994).

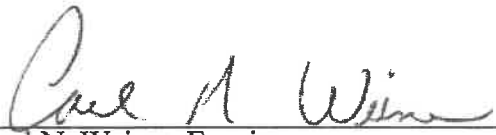
20. A municipality must provide evidence that there is more than a mere speculation of harm. *In re: Martin*, 529 A.2d 582, 583 (Pa. Cmwlth. 1987).



**WHEREFORE**, Palmer Village LLC respectfully requests the Zoning Hearing Board of Worcester Township to determine that (i) Palmer Village's Challenge has merit; (ii) the Worcester Township Zoning Ordinance is invalid and unconstitutional for excluding research facilities, hotels, indoor recreational facilities, clinics, department stores and supermarkets in the Township; (iii) declare Palmer Village LLC the successful challenger; and, (iv) recommend that Palmer Village LLC should be granted site-specific relief.

Respectfully submitted,

HAMBURG, RUBIN, MULLIN,  
MAXWELL & LUPIN

By:   
Carl N. Weiner, Esquire  
Attorney for Appellant

Date: 3/25/2021

Exhibit "A"

## AGREEMENT

**THIS AGREEMENT** made effective and deemed fully executed as of April 18, 2018, and entered into by and between **BRUCE B. PALMER, WAYNE L. PALMER, ROBERTA P. BODY, AND NANCY A. PALMER AND STEPHEN T. PALMER, III, TRUSTEES OF THE STEPHEN T. PALMER, JR. RESIDUARY TRUST CREATED UNDER PARAGRAPH SECOND.B.2 OF THE FIRST AMENDMENT TO THE STEPHEN T. PALMER, JR. REVOCABLE LIVING TRUST DATED 2/27/07 AS AMENDED 1/22/10 FOR THE BENEFIT OF NANCY A. PALMER**, hereinafter referred to as "Seller",

AND

**PALMER VILLAGE LLC**, or its nominee, hereinafter referred to as "Buyer".

### WITNESSETH:

The parties hereto, in consideration of the mutual covenants and promises contained herein, intending to be legally bound hereby, agree upon the sale by Seller to Buyer of the following property: All that certain property located on both sides of Skippack Pike and on or near the northeast corner of the intersection of Valley Forge Road and Skippack Pike, in the Township of Worcester, County of Montgomery, Commonwealth of Pennsylvania, being Tax Parcel Nos. 67-00-03233-00-4, 67-00-03427-00-7 and 67-00-03424-00-1 containing approximately 55.867 acres (the "Tract").

1. **PURCHASE PRICE** – The purchase price shall be [REDACTED]

[REDACTED] (the "Purchase Price").

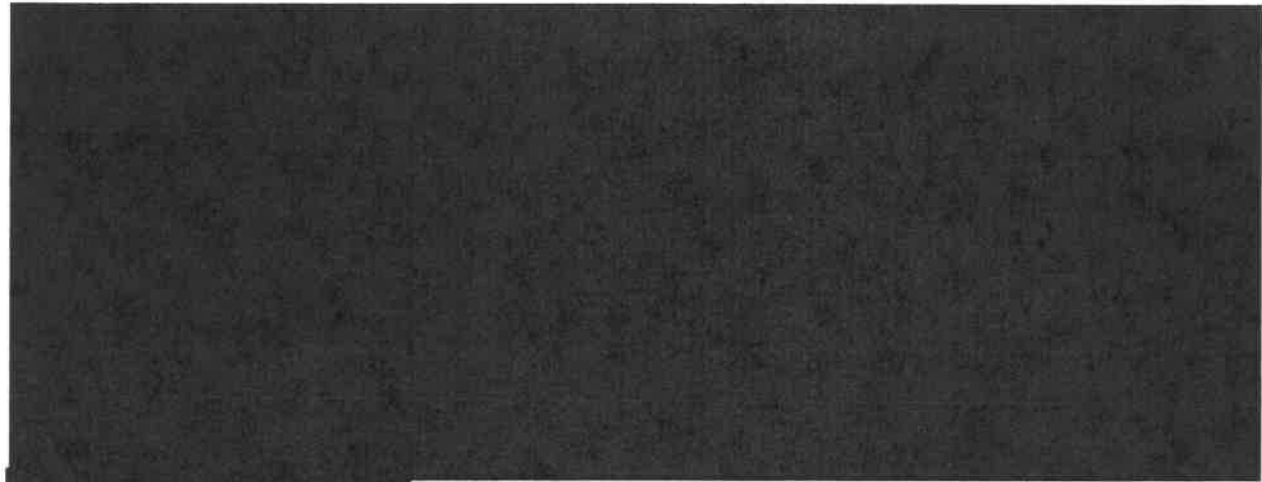
2. **PAYMENT OF PURCHASE PRICE** –

(a) [REDACTED] shall be paid by Buyer upon complete execution of this Agreement to be held in escrow under and pursuant to the terms of the Act of Assembly by Security Abstract of PA, Inc. (the "Initial Deposit"). This Initial Deposit shall be placed in an interest-bearing account with the interest earned thereon paid to the Seller if Buyer defaults under the terms of this Agreement; otherwise, interest will be paid to the Buyer. If Buyer does not terminate this Agreement in accordance with its terms prior to the expiration of six (6) months from the date of its execution, the [REDACTED] Initial Deposit shall become nonrefundable, but a credit against the Purchase Price.

(b) At settlement the Buyer shall pay to Seller the Initial Deposit plus the balance of the Purchase Price. In the event that Buyer elects to extend the date called for

settlement as provided herein Buyer, at the expiration of one (1) year from the execution of this Agreement, shall deposit the additional sum of [REDACTED] (the "Additional Deposit"), which Additional Deposit is nonrefundable, but a credit against the Purchase Price.

**3. SETTLEMENT** – Settlement shall be held at such time as Buyer obtains final and unappealable subdivision and land development approval for the development of the Tract as described in the paragraph entitled Conditions Precedent. [REDACTED]



[REDACTED] Such settlement shall be accomplished between the hours of 10 a.m. and 3 p.m. in the office of the title company insuring Buyer's title.

**4. INTENDED USE** – Buyer intends to develop the Tract in accordance with the Plan (the "Plan") attached hereto as **Exhibit "A"** (the "Intended Use").

**5. DUE DILIGENCE PERIODS** –

(a) Buyer shall have a period of [REDACTED] calendar months from the date of complete execution of this Agreement to perform tests, studies, make inquiries and otherwise satisfy itself that the proposed transaction will be possible. Buyer shall have the right to terminate this Agreement at any time during this [REDACTED] month Due Diligence Period for any reason and for no reason in its sole discretion by delivery of written notice of such termination to Seller prior to the expiration of [REDACTED] month Due Diligence Period.

(b) Buyer shall have a period of [REDACTED] from the date of complete execution of this Agreement for the sole purpose of determining whether or not Buyer will be able to obtain highway occupancy permits for its proposed uses, with the Township allowing Buyer to use its Act 209 highway contribution for road improvements. Buyer shall have the

right to terminate this Agreement at any time during the [REDACTED] Due Diligence Period if Buyer determines that Buyer will not be able to obtain highway occupancy permits for its proposed uses, with the Township allowing Buyer to use its Act 209 highway contribution for road improvements, by delivery of written notice of such termination to Seller prior to the expiration of the [REDACTED] Due Diligence Period.

(c) In the event Buyer shall fail to give such timely notice of termination then the Buyer shall be deemed to have waived these conditions and this Agreement shall remain in full force and effect (subject nevertheless to other conditions and contingencies set forth herein). In the event that Buyer shall terminate this Agreement pursuant to Paragraph 5(a) or 5(b), this Agreement shall be null and void, the Initial Deposit plus interest shall be promptly returned to Buyer and the parties hereto shall be released from any and all further liability or obligation hereunder (except for any obligation which expressly survives settlement or earlier termination of this Agreement).

6. **TITLE** – Title shall be good and marketable and such as will be insured by any reputable title insurance company of Buyer's selection at regular premiums. Buyer shall deliver to Seller a copy of the title report for the Tract within thirty (30) days from the complete execution of this Agreement, together with a written list of all objections to title that are disclosed in the title commitment and disapproved by the Buyer (the "Title Objections"). In the event that there are Title Objections which the Seller cannot or will not clear within thirty (30) days after notification of same by the Buyer to Seller, the Buyer shall have an option for a like period of time to clear such Title Objections. If neither party can clear the Title Objections then, unless Buyer shall elect to accept the title that Seller is able to convey without abatement of the Purchase Price, either party may elect to terminate this Agreement. However, should any Title Objection consist of an unpaid lien of a defined or definable amount which the Seller should have discharged, the Buyer may pay such amount and deduct the amount thereof from the Purchase Price to be paid at settlement. Seller warrants that Seller is the only holder of legal title to the Tract, and that there are no holders of an equitable interest or title to the Tract, that the Seller is under no restriction which would prohibit or prevent its conveyance of title as herein required, that all persons beneficially interested in Seller or the Tract have consented to the execution of this Agreement, and that it will do nothing or suffer anything which would impair or hinder its ability so to convey.

7. **DEED** – At settlement Seller shall deliver a duly executed recordable special warranty Deed or Deeds, sufficient to vest in the Buyer or Buyer's nominee fee simple good and marketable title to the Tract as hereinabove set forth including any and all interest of the Seller in the beds of roads abutting the Tract. All state and local real estate transfer taxes shall be borne equally by the parties, and in no event shall Seller be required to pay more than one percent (1%) transfer tax on the Purchase Price. However, Seller agrees to cooperate within Buyer in minimizing the transfer tax to be paid by Buyer in the event of any assignments.

8. **POSSESSION** – Seller shall deliver possession of the Tract to Buyer at settlement free of all leases or other occupancies.

9. **ADJUSTMENTS** – Water and sewer charges, and rents, if any, shall be adjusted and apportioned as of the date of settlement. Real estate taxes shall be adjusted on the basis of the fiscal year for which assessed. Except for noting that a public sewer main is located behind the shopping center that is located across Skippack Pike from a portion of the Tract, Seller makes no representation as to the availability of public sewer, or the capacity therefor, with respect to the Tract.

10. **ITEMS INCLUDED** – All plumbing, heating, and lighting fixtures, and systems appurtenant thereto, and forming a part thereof, as well as all ranges and other permanent fixtures, together with screens, shades, venetian blinds, and awnings, if any and all trees, shrubbery, and plants now in or on the Tract herein intended to be conveyed, unless specifically excepted in this Agreement, are included in this sale and Purchase Price and shall become the property of the Buyer at the time of settlement of this transaction. Seller shall not be obligated to demolish any of the improvements on the Tract.

**11. CONDITION OF THE TRACT**

(a) BUYER WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH SELLER THAT BUYER IS PURCHASING THE TRACT IN ITS "AS-IS" CONDITION AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, WHETHER EXPRESS OR IMPLIED, OF ANY KIND, NATURE OR TYPE WHATSOEVER FROM OR ON BEHALF OF SELLER EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED IN THIS AGREEMENT.

(b) BUYER ACKNOWLEDGES AND AGREES WITH SELLER THAT WITH RESPECT TO THE TRACT SELLER HAS NOT MADE AND WILL NOT MAKE ANY WARRANTIES OR REPRESENTATIONS EXPRESSED, STATUTORY OR IMPLIED INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR

USE OR WITH RESPECT TO THE VALUE, PROFITABILITY OR MARKETABILITY OF THE TRACT EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED IN THIS AGREEMENT.

**12. ASSESSMENTS** – The Seller represents and warrants that no work for municipal improvements or levies has been commenced in connection with the Tract or on any road immediately adjacent thereto which remains unpaid. Any such notices or ordinances filed prior to settlement are to be complied with at the expense of the Seller.

**13. CONDEMNATION** – The Seller represents and warrants that it has no knowledge of any action or proceeding pending or instituted in eminent domain or for condemnation of any part of the Tract. Upon learning of any such action or proceeding Seller shall give Buyer immediate written notice thereof. Should all or a material part of the Tract be taken by condemnation or eminent domain prior to settlement this Agreement may be terminated at the election of Buyer upon written notice to Seller within thirty (30) days of receipt by Buyer of Seller's written notice of such action or proceeding. If Buyer does not elect to so terminate, then this Agreement shall remain in full force and effect. Buyer agrees that Seller shall be entitled to an amount not to exceed the agreed upon Purchase Price for the Tract and Buyer shall be entitled to any sums paid in excess of the Purchase Price in compensation for Buyer's work done in increasing the value of the real estate. If the part taken is not a material part of the Tract, this Agreement may not be terminated but the Buyer shall be allowed a reduction in the Purchase Price only up to the proceeds actually received by Seller from the condemnation as above to compensate Buyer for the part or parts taken. For the purpose of this Agreement a "material" taking shall be deemed to be more than ten percent (10%) of the acreage to be conveyed hereunder.

**14. TERMINATION** – If, at any time prior to the time prior to the expiration of [REDACTED] from the date of execution of this Agreement, Buyer shall, in Buyer's sole opinion, determine it unlikely that the conditions to Buyer's obligation to make settlement hereunder will be satisfied in a manner which Buyer shall deem reasonably conducive to a successful development, Buyer may terminate this Agreement upon fifteen (15) days' written notice to Seller. If Buyer elects to terminate this Agreement as herein provided within [REDACTED] of the complete execution of this Agreement by Buyer and Seller, all monies paid or deposited on account hereunder shall be refunded to Buyer promptly and upon the making of such refund this Agreement shall terminate and neither party shall thereafter have any rights

hereunder against the other (except for any obligations which expressly survive settlement or the earlier termination of this Agreement). If the termination is made after [REDACTED] then all monies paid or deposited on account shall be paid to Seller, and this Agreement shall terminate and neither party shall thereafter have any rights hereunder against the other (except for any obligations which expressly survive settlement or the earlier termination of this Agreement). Upon the termination of this Agreement for any reason, all of the Work Product generated by the Buyer or Buyer's agents or consultants (including but not limited to its engineers, traffic engineers, planners, architects, geologists, environmental and radon consultants) (the "Consultants") shall become the property of the Seller, free and clear. Buyer shall obtain from the Consultants a letter of authorization permitting Seller to receive and use their Work Product for Seller's benefit should this Agreement be so terminated. As used herein, Work Product shall include, but shall not be limited to, all applications, plans, reports, studies, responses to review letters, calculations, renderings, elevations and schematics prepared or generated by Buyer or Buyer's agents in pursuit of the Approvals and Permits and the consummation of this Agreement.

**15. DEFAULT** – Should Buyer default in the performance of the within Agreement, all sums paid by Buyer to Seller, including but not limited to, the [REDACTED] Initial Deposit and the [REDACTED] Additional Deposit with interest and any Extension Payments paid by Buyer to Seller shall be paid over and/or retained by Seller as liquidated damages, and not as a penalty, as Seller's sole and exclusive remedy at which point this Agreement shall become null and void and all parties shall have no further liabilities or obligations hereunder (except for any obligation which expressly survive settlement or the earlier termination of this Agreement). No default shall be deemed to have occurred under this Agreement unless the party alleging the default has given written notice of the default to the other party and the alleged default has not been cured within fifteen (15) days of said notice.

Should Seller default in the performance of the within Agreement, Buyer shall be permitted as Buyer's sole and exclusive remedy to either (i) terminate this Agreement and receive a refund of all sums paid by Buyer to Seller, including but not limited to, the [REDACTED] Initial Deposit and the [REDACTED] Additional Deposit with interest and any [REDACTED] [REDACTED] paid by Buyer to Seller as liquidated damages and Seller and Buyer shall thereupon be released from all liability hereunder (except for any obligation which expressly survive



settlement or the earlier termination of this Agreement) and this Agreement shall become null and void or (ii) pursue an action for specific performance. Notwithstanding anything to the contrary contained in this Agreement, Seller shall not be deemed to be in default of its obligations under this Agreement or otherwise be in breach of this Agreement unless and until Buyer has provided Seller with written notice of such default or breach and Seller has failed to cure such default or breach within ten (10) days after the date of such notice.

**16. ROLLBACK TAXES** – Seller agrees to pay all back taxes, penalties, interest, or other costs involved as a result of the real estate involved in this transaction having been subject to Act 515, Act 319, or any similar act. It being the intent of the parties that Buyer's obligation shall be for taxes from the date of settlement only at a normal rate. Within six (6) months of the date of this Agreement, the Buyer shall cause its title company to compute the total amount of rollback taxes, including any penalties and interest, that will become due and owing due to the development contemplated by this Agreement. The Buyer shall immediately convey that calculation, and its supporting data, to the Seller in writing.

**17. ALLOCATION OF PURCHASE PRICE** – The purchase price shall be allocated among the various classes of property purchased as may be agreed between Buyer and Seller prior to settlement.

**18. ZONING CERTIFICATION** – Seller, to the best of Seller's knowledge, in accordance with the provisions of the Act of May 11, 1959, Public Law 303, as amended, states as follows:

(a) that the zoning classification of the above-described property is LPD Land Preservation District, C-Commercial District and R-75 Residential District;

(b) that there is not outstanding any notice of any uncorrected violation of the housing, building, safety or fire ordinances of this municipality.

(c) that a portion of the Tract is, and has been, used for non-conforming industrial and office uses. Seller makes no representation as to the Buyer's ability to utilize that non-conforming portion of the Tract for anything other than uses permitted by the municipality's ordinances for the respective zoning districts set forth in subparagraph (a) above.

**19. SITE TESTING** – Prior to settlement, Buyer shall have the right to make test borings and to have engineers, surveyors, and others enter upon the property for the purpose of studies, topographical maps, and other surveys required by Buyer. Buyer shall also have the right

to accomplish minor site clearance in order to complete an aerial topographical survey with the understanding that no large trees will be removed from or destroyed on the Tract, and that any work performed on the Tract will be limited to the removal and disposal of brush and undergrowth. Buyer or its contractor shall maintain liability insurance in the amount of at least \$2,000,000.00 to protect Seller from any claim resulting from Buyer's entry onto the Tract and Buyer agrees to indemnify and hold Seller harmless from any claim or cause of action as a result of said entry, which indemnification obligation shall survive settlement or termination of this Agreement and shall be unlimited in duration. In the event that for any reason settlement does not occur hereunder, Buyer will deliver to Seller all Work Product generated by Buyer or Buyer's agents or consultants during the term of the within Agreement, for use by the Seller, at no cost to the Seller. Buyer hereby acknowledges that Seller has provided Buyer with all of Seller's documentation relating to Cumberland Farms' effort and obligation to remediate the ground water on the Tract in accordance with the Pennsylvania Department of Environmental Protection's ("PaDEP") Corrective Action Process. Seller makes no representation as to the impact of petroleum impacted soil and/or groundwater on the Tract. Seller shall immediately provide Buyer with copies of any additional communication received from PaDEP on the Cumberland Farms portion of the Tract. A copy of the document received to date by Seller pertaining to Cumberland Farms soil and groundwater contamination is attached hereto at **Exhibit "B,"** which is hereby incorporated herein by reference.

**20. RADON TESTING** – Buyer, at Buyer's expense, may have the Tract tested for the presence of radon gas. Any such testing shall be performed within twelve (12) months of the date of this Agreement. Buyer shall provide a copy of all radon reports to Seller immediately upon their receipt. In the event that radon gas is determined to be present on the Tract at a level higher than what is considered safe by the Environmental Protection Agency, Buyer, at Buyer's option, may terminate this Agreement in writing. If such termination notice is delivered to Seller within six (6) months of the complete execution of this Agreement, Buyer may obtain a refund of the Initial Deposit. If said termination notice is delivered more than six (6) months from the date of the complete execution of this Agreement, Buyer shall not be entitled to a refund of the Initial Deposit (or the Additional Deposit if previously paid).

**21. ADVERTISING** – Buyer has the right to advertise and put signs and a sales trailer on the property subsequent to obtaining preliminary land development approval from

Worcester Township subject to Buyer obtaining all permits and approvals required to erect such signage from any and all governmental entities.

**22. SELLER'S ACCEPTANCE** – This Agreement is subject to acceptance by Seller within ten (10) days of the date of this Agreement.

**23. SURVIVAL** – All provisions of this Agreement shall merge into the Deed upon delivery of the same at settlement provided however that Buyer's indemnification obligations shall survive settlement or termination of this Agreement and shall be unlimited in duration. The parties may agree in writing to allow any provision hereof to survive the delivery of the Deed at settlement.

**24. CONDITIONS PRECEDENT** – It is understood that the Buyer's obligations to proceed to settlement hereunder are contingent upon the following conditions (the "Conditions Precedent") , any or all of which the Buyer shall have the right to waive in whole or in part. If any such conditions have not been satisfied or waived by the date called for settlement, Buyer may elect to terminate this Agreement:

(a) All necessary preliminary and final written approvals and permits from all federal, state, county, and local municipal and township bodies having jurisdiction of said matters including approval by the Pennsylvania Department of Labor and Industry, Pennsylvania Department of Transportation, Pennsylvania Department of Environmental Protection, U.S. Army Corps of Engineers, county and local Boards of Health, county, regional, and local Planning Commissions, municipal or public utility providers of electric power and residential gas, sewer and water, and local municipalities or any of their agencies for the development of the Tract in accordance with the Intended Use (the "Approvals and Permits"). Buyer shall not initiate or agree to any change in zoning classification, zoning regulations or subdivision and land development regulations for the Intended Use for the subject Tract which are inconsistent with the foregoing without the Seller's prior written consent, which consent shall not be unreasonably withheld. Buyer at its own cost and expense shall apply in writing for the Approvals and Permits, shall complete such applications, shall pay application fees and other charges and deliver plans, specifications, and materials as the addressee of any such application requires and pursue each application in good faith and with reasonable due diligence, making such necessary supplements and amendments thereto as are required.

(b) That Buyer has obtained a Phase I Environmental Study indicating that there is no hazardous substance present on the Tract. Buyers shall perform any such Phase I Environmental Study within [REDACTED] of the complete execution of this Agreement, and shall immediately provide Seller with a copy of the Phase I report upon its receipt. Because of the change in rules and regulations concerning environmental conditions, Buyer believes it will have to perform a Phase II Study involving the prior petroleum usage at the intersection of Skippack Pike and Valley Forge Road. Buyer shall be responsible for removal of those tanks if required. However, Seller shall be responsible for removal of up to five (5) existing tanks located on the Tract that currently store fuel and/or diesel oil, and shall have those tanks removed and any issues caused by them resolved prior to Settlement. Buyer shall be responsible for the removal of eight (8) underground tanks located on the subject Property that have not been removed but have been closed in place with inert material in accordance with the then prevailing regulations.

(c) That there does not exist on the Tract any endangered species or plants, which are required to be protected pursuant to any federal, state, county, or municipal statute or regulation.

(d) Notwithstanding the failure of any of the Conditions Precedent and provided that Buyer has not terminated this Agreement within [REDACTED] of the complete execution of this Agreement, the [REDACTED] Initial Deposit and the [REDACTED] Additional Deposit with interest and any Extension Payments actually paid by Buyer to Seller shall be nonrefundable even if the Conditions Precedent have not been satisfied.

Buyer shall exercise Buyer's best efforts to bring about the satisfaction of the Conditions Precedent but shall not be obligated to institute litigation or appeal procedures in the event that any one or all of the conditions are approved by the appropriate authority and an appeal from that decision is taken, Buyer shall not be responsible for taking further appeals in the event any action is declared invalid. All of the approvals mentioned in the Conditions Precedent shall be final approvals by the appropriate township, county, or state agency or office and shall not be deemed final until any and all appeal periods have lapsed. At no cost to Seller, Seller will cooperate fully with Buyer and agrees to execute and join in, and hereby consents to the filing and processing of all documents required in connection with the applications for obtaining satisfaction of the Conditions Precedent. Seller agrees that subsequent to the execution of this Agreement and prior

to settlement or termination of this Agreement, as the case may be, Seller will not enter into any agreement or understanding with any governmental agency, municipality, or authority or any person, persons, partnership, corporation, or other entity which may affect in any way the proposed development of the subject tract without the written consent of Buyer. Buyer may negotiate in good faith with the various regulatory agencies for relief from any costs normally associated with subdivision and development of residential land such as curb and sidewalk construction, provided that such negotiations and any subsequent agreement with regard to those negotiations does not materially impact the value of the Tract.

**25. ASSESSMENT APPEAL** – During the term of this Agreement, Buyer shall have the right to dispute and appeal the real estate assessment for the subject tract. Seller agrees to give Buyer notice of any change in the assessment.

**26. ASSIGNMENT** – This Agreement shall bind and inure to the benefit of the legal representatives, successors, and assigns of the respective parties hereto. The Buyer shall not assign this Agreement, or any of its rights or obligations hereunder, without the prior written consent of the Seller, which consent shall not be unreasonably withheld. At settlement there may be two different purchasers, one for the commercial portion and one for the residential portion. In that case, new agreements shall be entered into in order to avoid the imposition of additional transfer taxes. The agreements will not in any way affect the Seller monetarily.

**27. RISK OF LOSS** – The risk of loss by fire or other casualty under this Agreement shall remain with Seller. The Intended Use includes demolition of all existing improvements on the Tract and any insurance proceeds payable to or received by Seller as a result of any fire or other casualty shall be retained by Seller and Seller shall not be required to restore any damaged improvements on the Tract, provided however that Seller shall be obligated to comply with the requirements of the fire marshal or other governmental officials regarding safety and clean up following any fire or other casualty, nor shall such insurance proceeds be deducted from the Purchase Price.

**28. HAZARDOUS SUBSTANCES AND UNDERGROUND STORAGE TANKS** – Seller represents that to the best of Seller's actual knowledge, information and belief, without duty of further inquiry (a) no hazardous substance (as defined in Section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA")), 42 U.S.C. 9601 (14), as amended by the Superfund Amendments and Re-authorization Act of 1986

(Pub. L. No. 99-499, 100 Stat. 1613 (1986) (“SARA”)) is present on the Tract; (b) no hazardous waste, residual waste or solid waste as those terms are defined in Section 103 of the Pennsylvania Solid Waste Management Act, 35 P.S. 6018.103 and/or 25 Pa. Code 75.260 and 75.261 is present on the Tract; and (c) Seller has not been identified in any litigation, administrative proceedings or investigation as a responsible party for any liability under the above-referenced laws. Seller will not use, generate, treat, store, dispose of, or otherwise introduce any hazardous substances, hazardous waste, residual waste, or solid waste (as defined above) into or on the Tract and will not cause, allow or permit anyone else to do so. Seller represents that to the best of Seller’s actual knowledge, no underground storage tanks exist on the Tract except as otherwise identified in this Agreement. Buyer hereby acknowledges that Seller has informed Buyer that (A) there are eight (8) underground tanks located on the Tract that have not been removed, but have been closed in place with inert material in accordance with the then-prevailing regulations, which eight (8) underground storage tanks shall be removed by Buyer at Buyer’s expense, and (B) there are up to five (5) active underground storage tanks located on the Tract that currently store fuel and/or diesel oil, which active underground tanks shall be removed by Seller at Seller’s expense prior to Settlement .

**29. PLANS AND SURVEYS** – Seller agrees to provide Buyer any and all plans, studies or reports in Seller’s possession relating to the property immediately upon their receipt, in order to make it easier for Buyer to promptly proceed with the Agreements contained herein.

**30. SELLER’S COOPERATION** – Seller agrees, upon the request of Buyer, to appear at meetings or hearings to support Buyer’s applications for approvals to fulfill the Conditions Precedent. Seller agrees not to oppose or in any fashion hinder Buyer’s applications for approvals. Seller’s cooperation shall not mean that Seller shall be required to expend any sums of money in providing the cooperation.

**31. GOVERNMENTAL REQUIREMENTS** – Seller hereby acknowledges that (1) Buyer’s proposed future use of the Tract will require certain environmental permits, including but not limited to a permit for discharge of fill material pursuant to 25 Pa. Code Chapter 105 and an erosion and sedimentation control permit pursuant to 25 Pa. Code Chapter 102 (the “Environmental Permits”) and (2) the Environmental Permits require, among other things, execution and recording of a declaration of restrictive covenants limiting activities on and use of certain wetland areas that are protected by law and which will not be subject to discharge

pursuant to the Environmental Permits (the "Declaration"). If required prior to settlement, Seller shall execute and record the Declaration in accordance with the Environmental Permits, however, Seller shall not be required to execute or record the Declaration unless it is in form and substance satisfactory to Seller and is conditioned upon Seller's right to cause such recording to be removed from the land records if Settlement is not completed. Seller's agreement to execute and record the Declaration shall not be unreasonably withheld. In the event that the Seller so reasonably withholds its consent to execute and record the Declaration, either party may terminate this agreement by providing written notice to the other party provided, however, that in such event any payments made by Buyer to Seller which are nonrefundable shall remain nonrefundable. Seller shall otherwise cooperate with Buyer as necessary to comply with the Environmental Permits.

**32. FOREIGN PERSON** – Seller hereby certifies that Seller is not a foreign person as defined by Section 1445(f)(3) of the Internal Revenue Code of 1986 as amended.

**33. CONSTRUCTION** – This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania. This Agreement was drafted by the Buyer as a matter of convenience and shall not be construed for or against either party on that account. The titles of the paragraphs are inserted only as a matter of convenience and for reference and in no way shall alter the content or the intent of any provision thereof. It is understood that the singular hereinbefore stated with respect to either the Seller or Buyer shall include the plural thereof. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person or persons, corporation or corporations, may require.

**34. BROKER** – Seller hereby agrees to pay Tornetta Realty Corp. a sales commission in the amount negotiated by them, pursuant to a separate agreement. It is expressly understood and agreed between the parties that the within-named agent, broker and any sub-agent, broker and their sales people, employees, officers, and/or partners are the agents for Seller, not Buyer, and that this was disclosed during the initial interview. Said individual will in no case be liable to either party for the performance of any of the terms or covenants of this Agreement or for damages for nonperformance thereof. Further, no Agent of Seller has any authority to make any representations, covenants, agreements, or the like in respect of the Tract. A Real Estate Recovery Fund exists to reimburse any person who has obtained a final civil

judgment against a Pennsylvania Real Estate Licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about the Fund, call (717) 783-3658.

The legislature and the State Real Estate Commission require that certain language be included in all Agreements of Sale, whether or not it is applicable. Those disclosures are as follows:

(a) The zoning classification of the property is C-Commercial District, LPD Land Preservation District and R-75 Residential District. The failure of the Agreement of Sale to contain the zoning classification of the property shall render the Agreement voidable at the option of the Buyer and, if voided, deposit tendered by the Buyer shall be returned to the Buyer without a requirement of court action.

(b) Access to a public road may require issuance of a highway occupancy permit from the Department of Transportation. At settlement, Seller will assign whatever highway occupancy permits Seller has in Seller's possession along with assignment of any easements that would benefit Buyer.

**35. ADDITIONAL DOCUMENTS** – Each of the parties hereto agrees to execute and deliver any additional documents or writings which may reasonably be required in order to consummate the within Agreement. Buyer will immediately furnish to Seller a copy of all documents in furtherance of this Agreement upon Buyer's receipt of the same including, without limitation, plans, texts, reports, surveys, engineering and environmental studies, review letters, and zoning and subdivision approvals.

**36. GOVERNING LAW** – This Agreement shall be construed, interpreted, governed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.

**37. NOTICES** – All notices, requests, demands or other communication required hereunder shall be in writing and shall be deemed to have been duly given if delivered to or mailed by certified mail, postage prepaid, to the following:

**SELLER:**

Bruce B. Palmer, Wayne L. Palmer, Roberta P. Body and Residuary Trust created under Paragraph Second.B.2 of the First Amendment to Stephen T. Palmer, Jr. Revocable Living trust dated 2/27/07 as amended 01/22/10



c/o Ms. Roberta Body  
P.O. Box 315  
Skippack, PA 19474

*With a copy to:*

Charles J. Tornetta  
Tornetta Realty Corp.  
910 Germantown Pike  
Plymouth Meeting, PA 19426

*and*

Edward J. Hughes, Esquire  
Hughes, Kalkbrenner & Ozorowski, LLP  
1250 Germantown Pike, Suite 205  
Plymouth Meeting, PA 19462

**BUYER:**

Palmer Village LLC  
c/o Hamburg, Rubin, Mullin, Maxwell & Lupin  
PO Box 1479  
375 Morris Road  
Lansdale, PA 19446

**38. PATRIOT ACT** – Seller is not, and, after making due inquiry, no person who owns a controlling interest in or otherwise controls Seller is, (a) listed on the Specially Designated Nationals and Blocked Persons List (the “SDN List”) maintained by the Office of Foreign Assets Control (“OFAC”), Department of the Treasury, and/or on any other similar list (“Other Lists” and, collectively with the SDN List, the “Lists”) maintained by the OFAC pursuant to any authorizing statute, Executive Order or regulation (collectively, “OFAC Laws and Regulations”); or (b) a person (a “Designated Person”) either (i) included within the term “designated national” as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515, or (ii) designated under Sections 1(a), 1(b), 1(c), or 1(d) of Executive Order No. 13224, 66 Fed. Reg. 49079 (published September 25, 2001) or similarly designated under any related enabling legislation or any other similar Executive Orders (collectively, the “Executive Orders”). Neither Seller nor any of its principals or affiliates (x) is a person or entity with which Purchaser is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, or (y) is a person or entity that commits, threatens, or conspires to commit or supports “terrorism”

as defined in the Executive Orders, or (z) is affiliated or associated with a person or entity listed in the preceding clause (x) or clause (y). To the best knowledge of Seller, neither Seller nor any of its principals or affiliates, nor any brokers or other agents acting in any capacity in connection with the transactions contemplated herein (I) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Orders or (II) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law. As used herein, "Anti-Terrorism Law" means the OFAC Law and Regulations, the Executive Orders and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001), as amended.

**39. INTEGRATION** – The parties hereto agree that this Agreement represents the entire understanding of the parties with regard to this transaction and that there are no prior or contemporaneous agreements, covenants, or conditions with respect thereto. The Agreement may be amended only by a written amendment.

**40. FORM OF DOCUMENTS TO BE PROVIDED** – Any document or writing required to be provided by any party in accordance with this agreement shall be provided as they are received or generated by that party.

**41. SELLER PARTICIPATION** – Attached to this Agreement as "Exhibit A" is the Plan for Buyer's use of the Tract in accordance with the Intended Use. Seller or its representative shall be given notice of and may attend all meetings involving the proposed subdivision and land development in order to insure that the Plan is the Plan that Buyer seeks to have approved and in order to insure that Buyer does nothing which would diminish the value of the Tract.

**42. PROPERTY DISCLOSURE** - The Intended Use includes the demolition of the improvements on the Tract and, therefore, the provisions of the Real Estate Seller Disclosure Act, 68 P.S. 1021, et seq. do not apply.

**43. DISPUTES** – The venue and jurisdiction of any claim, controversy or dispute related directly or indirectly to this Agreement (a "Dispute") shall be in the Court of Common Pleas of Montgomery County, Pennsylvania. Each party unconditionally and irrevocably waives its right to a trial by jury with respect to any Dispute.

Pleas of Montgomery County, Pennsylvania. Each party unconditionally and irrevocably waives its right to a trial by jury with respect to any Dispute.

44. **THIRD PARTIES** – Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto and their successors or assigns, any rights or remedies under or by reason of this Agreement.

45. **COUNTERPART EXECUTION** - This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterpart together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by telefacsimile or electronic mail shall be equally as effective as delivery of a manually executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or electronic mail shall also deliver a manually executed counterpart of this Agreement, but the failure to deliver a manually executed counterpart of this Agreement shall not affect the validity, enforceability or binding effect of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and seals the day and year first above written.

**BUYER:**  
**PALMER VILLAGE LLC**

**BY:**   
BRENNAN MARION, *Member*

**SELLER:**

\_\_\_\_\_  
BRUCE B. PALMER

\_\_\_\_\_  
WAYNE L. PALMER

\_\_\_\_\_  
ROBERTA A. BODY

**RESIDUARY TRUST CREATED  
UNDER PARAGRAPH SECOND B.2 OF  
THE FIRST AMENDMENT TO  
STEPHEN T. PALMER, JR.  
REVOCABLE LIVING TRUST DATED  
2/27/07 AS AMENDED 1/22/10**

**BY:** \_\_\_\_\_  
\_\_\_\_\_, Trustee

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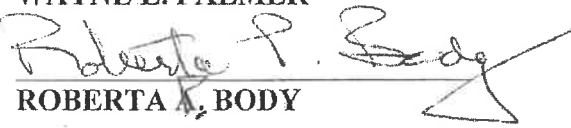
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**BUYER:**  
**PALMER VILLAGE LLC**

**SELLER:**

**BY:** \_\_\_\_\_  
**BRENNAN MARION**

  
\_\_\_\_\_  
**BRUCE B. PALMER**

\_\_\_\_\_  
**WAYNE L. PALMER**  
  
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**BY:** \_\_\_\_\_  
, Trustee

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, Trustee

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**BUYER:**  
**PALMER VILLAGE LLC**

**SELLER:**

**BY:** \_\_\_\_\_  
**BRENNAN MARION**

\_\_\_\_\_  
**BRUCE B. PALMER**  
*Wayne T. Palmer*  
\_\_\_\_\_  
**WAYNE T. PALMER**

\_\_\_\_\_  
**ROBERTA A. BODY**

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**BY:** \_\_\_\_\_, Trustee

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**BUYER:**  
**PALMER VILLAGE LLC**

**SELLER:**


**BY:** \_\_\_\_\_  
**BRENNAN MARION**

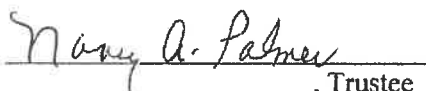
\_\_\_\_\_  
**BRUCE B. PALMER**

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**WAYNE L. PALMER**

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**BY:**   
\_\_\_\_\_  
, Trustee

**BY:**   
\_\_\_\_\_  
, Trustee