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10 Attorneys for Receiver  
11 KRISTA L. FREITAG

12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14 SOUTHERN DIVISION

15 Consumer Financial Protection Bureau  
and Maria T. Vullo, Superintendent of  
16 Financial Services of the State of  
New York,

17 Plaintiffs,

18 v.

19 Pension Funding, LLC; Pension  
20 Income, LLC; Steven Covey; Edwin  
Lichtig; and Rex Hofelter,

21 Defendants.  
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Case No. 8:15-cv-1329

**DECLARATION OF KRISTA L.  
FREITAG IN SUPPORT OF  
MOTION FOR APPROVAL OF SALE  
OF LOAN PARTICIPATION**

Date: June 2, 2017  
Time: 2:30 p.m.  
Ctrm.: 10A  
Judge: Hon. Josephine L. Staton

1 I, Krista L. Freitag, declare:

2 1. I am the permanent receiver for Defendants Pension Funding, LLC,  
3 Pension Income, LLC, and their subsidiaries, affiliates, and successors-in-interest.  
4 This declaration is made in support of my Motion for Approval of Sale of Loan  
5 Participation. I have personal knowledge of the facts set forth herein and, if called  
6 as a witness, could and would testify to such facts under oath.

7 2. As discussed in my interim reports, the Receivership Entities invested  
8 in a participating interest in a loan secured by commercial real property ("Loan  
9 Participation"). The lead lender for the master loan is Lynk Investments, LLC, a  
10 Florida limited liability company, which is located at 1845 Town Center  
11 Boulevard, Building 100, Suite 110-D, Fleming Island, Florida 32003 ("Lynk").  
12 The collateral for the master loan is a Commercial Deed of Trust over three  
13 separate pieces of real property located in Maryland.

14 3. The Receivership Entities invested a total of \$1.6 million in the Loan  
15 Participation. As a participant only, the Receivership Entities have no control over  
16 the servicing or enforcement of the master loan, which is handled by Lynk.

17 4. Prior to my appointment, the Receivership Entities had received total  
18 payments on the Loan Participation of \$614,864.52, including interest payments of  
19 \$214,864.52 and principal payments of \$400,000.00, leaving a principal balance of  
20 \$1.2 million. Since my appointment, I have collected another \$210,086.78 in total  
21 payments on the Loan Participation, including \$110,086.78 of interest and  
22 \$100,000.00 of principal and, leaving a principal balance of \$1.1 million.

23 5. The master loan has matured, but the borrower is reportedly not in a  
24 position to repay the balance and Lynk has elected to give the borrower additional  
25 time, deferring enforcement of its rights and remedies. As noted above, the  
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1 Receivership Entities, as a participant, have no decision-making authority as to the  
2 servicing or enforcement of the master loan. I also cannot transfer or assign the  
3 Loan Participation without Lynk's consent and approval.

4         6. Accordingly, I inquired with Lynk about the possibility of buying out  
5 the Receivership Entities or locating a buyer for the Loan Participation. Lynk  
6 indicated it was able to find a buyer, Willow Partners, LLC ("Buyer"), but Buyer  
7 was not willing to pay the full principal balance on the Loan Participation due to  
8 the loan maturity and the risks associated therewith. The parties entered into  
9 negotiations and agreed, subject to Court approval, that Buyer will pay 80% of the  
10 Loan Participation balance after an additional principal pay down of \$100,000 by  
11 Lynk. As such, Buyer will pay \$800,000 to me in exchange for an assignment of  
12 the Loan Participation, after Lynk pays down the Loan Participation by an  
13 additional \$100,000 as part of the transaction, for a total recovery of \$900,000 for  
14 the receivership estate. True and correct copies of the Purchase and Sale  
15 Agreement and Escrow Agreement with Buyer, as well as the Letter Agreement  
16 with Lynk regarding the \$100,000 payment, are attached hereto as Exhibit A.

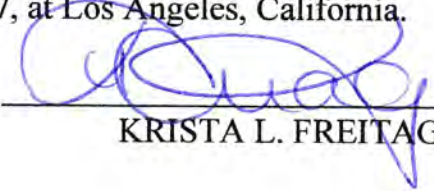
17         7. Therefore, including pre-receivership and post-receivership interest  
18 and principal payments, the Receivership Entities will have recovered a total of  
19 \$1,724,951.30 in payments on the original \$1.6 million investment.

20         8. The requirements under 28 U.S.C. § 2001(b) of three independent  
21 appraisals and separate publication of notices would impose a considerable  
22 financial burden on the receivership estate with no corresponding benefit given  
23 (a) the Loan Participation comes with no decision-making authority over the master  
24 loan, and (b) the requirement that Lynk consent to and approve any transfer of the  
25 Loan Participation. Accordingly, to the extent 28 U.S.C. §§ 2001 and 2004 require  
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1 publication of notice and independent appraisals, such provisions should be waived  
2 as having no bearing on the value of the Loan Participation or benefit to the  
3 receivership estate under the circumstances.

4 I declare under penalty of perjury under the laws of the United States that the  
5 foregoing is true and correct.

6 Executed this 24<sup>th</sup> day of April 2017, at Los Angeles, California.

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KRISTA L. FREITAG

# EXHIBIT A

## **PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** (this "**Agreement**") is made as of April 10<sup>th</sup>, 2017 (the "**Effective Date**"), by and between Krista Freitag, Receiver ("**Seller**"), of PGR, LLC, a California limited liability company "**PGR**", and Willow Partners, LLC, a Florida limited liability company ("**Purchaser**").

### **RECITALS:**

A. BB Marshall, LLC, a Maryland limited liability company ("**Borrower**"), as Borrower, and LYNK Investments, LLC, a Florida limited liability company ("**Lender**"), as Lender, are parties to that certain Loan and Security Agreement dated as of November 20, 2013, (as amended and assigned from time to time, the "**Loan Agreement**").

B. Pursuant to the Loan Agreement, Lender extended to Borrower a \$2,100,000 term loan (collectively the "**Loan**"). The Loan is evidenced by that certain Commercial Note Secured by Deed of Trust dated November 20, 2013 from Borrower in favor of Lender (collectively, the "**Note**"). The Note is secured by, among other things, (i) that certain Commercial Deed of Trust, dated as of November 20, 2013, made by Borrower and Palmer Road, LLC to David L. Thurston as Trustee in favor of Lender, recorded on April 1, 2014 in Prince George's County, Maryland No. 35827-492 (the "**Deed of Trust**"); (ii) that certain Assignment of Rents and Leases, dated as of November 20, 2013, made by Borrower and Palmer Road, LLC to Lender, recorded on April 1, 2014 in Prince George's County, Maryland No. 35827-507 (the "**Assignment of Rents and Leases**"); and (iii) certain Guarantee Agreements made by each of Andrew G. Interdonato, Stephen L. Briggs, and Susan R. Colwell, each in favor of Lender and as more particularly described in the Loan Agreement (collectively, the "**Guarantees**"). The Loan Agreement, the Note, the Deed of Trust, the Assignment of Rents and Leases, the Guarantees, and all other agreements, documents, and instruments evidencing and/or securing the payment or performance of the Loan, as may be amended or modified from time to time, are hereinafter collectively sometimes referred to as the "**Loan Documents**."

C. Pursuant to that certain Participation Agreement dated July 1, 2015 by and between Lender and PGR ("**Participation Agreement**"), Lender assigned to PGR an undivided interest in Lender's right, title and interest in and to the Loan Documents, as defined in the Participation Agreement.

D. The United States District Court for the Central District of California, Southern Division (the "**Court**") has appointed Seller as the receiver of Pension Funding, LLC, a California limited liability company, Pension Income, LLC, a California limited liability company, and their subsidiaries, affiliates, and successors in interest, including, without limitation PGR. Such appointment was made pursuant to that certain Order Entering Stipulated Preliminary Injunction, Appointment of a Receiver, and Related Matters (the "**Order**") entered on January 8, 2016 by the Court in Case No. 8:15-cv-01329-JLS-JCGx (the "**Case**"). The term "**Receiver**" as used in this Agreement shall mean the Seller in connection with the sale of the Participation Interest (defined below), when such party is referred to in its capacity as Receiver.

E. Seller wishes to sell all of Seller's right, title and interest in, to and under the interest described in Recital C above (the "**Participation Interest**"), and Purchaser, based on its own due diligence review of the Loan and any and all related matters, including the collateral therefor and the business operations of Borrower, wishes to purchase all of Seller's right, title and interest in, to and under the Participation Interest. Seller acknowledges that Alex Fink, Purchaser's sole member, is also a member of Lender's owner, LYNK Capital, LLC ("LYNK"), and LYNK's manager, Securities Capital Partners, LLC.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, Seller and Purchaser agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND RULES OF CONSTRUCTION**

**Section 1.1. Definitions.** Capitalized terms used in this Agreement are defined in **Exhibit A** or in the text of this Agreement.

**Section 1.2. Rules of Construction.** This Agreement will be interpreted in accordance with the rules of construction set forth in **Exhibit B** to this Agreement.

## **ARTICLE II**

### **SALE AND PURCHASE OF THE PARTICIPATION INTEREST**

**Section 2.1. Agreement to Sell and Purchase the Participation Interest.** Seller agrees to sell, and Purchaser agrees to purchase, all of Seller's right, title and interest in, to and under the Participation Interest in accordance with the terms of this Agreement. Effective as of the Closing, Purchaser hereby assumes the performance of all of the terms, covenants, conditions, and obligations of Seller as lender under the Participation Interest, arising or accruing from and after the Closing.

**Section 2.2. Intentionally Omitted.**

**Section 2.3. Access to Information Regarding Borrower; Confidentiality; Non-Reliance.**

(a) Purchaser represents and acknowledges that it has conducted an review of all information relevant to Purchaser regarding Borrower's history and operations.

(b) To the extent that the Closing does not occur as contemplated herein, Purchaser agrees, upon the written request of Seller, to promptly return to Seller all documents and other materials delivered by Seller to Purchaser (if any). In addition Purchaser agrees to keep confidential all information (whether oral or written) that Seller, Seller's agents or Seller's representatives (including attorneys and financial advisors) furnishes or has furnished to Purchaser or its directors, officers, employees, agents, affiliates, representatives or advisors, and all notes, analyses, compilations, reports, audits, projections, leases, studies or other documents,

whether prepared by Purchaser or others, which contain or otherwise reflect such information, unless Purchaser obtained such information from persons other than the Seller or had access to such information from persons other than Seller and the same was not subject to or in violation of any confidentiality obligations owed with respect to such information. The provisions of this Section 2.3 shall survive the termination of this Agreement. Purchaser understands and acknowledges that Receiver took control over the Participation Interest in her capacity as a receiver.

(c) Purchaser acknowledges that much of the materials, data and other information which Seller may make available to Purchaser were prepared by third parties other than Seller and, in many instances, may have been prepared prior to Seller taking control over the Participation Interest. Purchaser expressly acknowledges that any materials, data or other information of any type which Purchaser has received or may receive from Seller or any of Seller's agents, employees, contractors or representatives is furnished on the express condition that other than as set forth in Article V below, Purchaser shall not rely thereon, that Purchaser has made an independent verification of the accuracy of such materials, data or other information, and that all such materials, data or other information are being furnished without any representation or warranty whatsoever. Without limiting the foregoing, other than as set forth in Article V below, (i) Seller makes no representation or warranty, and hereby expressly disclaims any representation or warranty, that any of the materials, data or other information previously or hereafter delivered or made available to Purchaser are true, accurate or complete, and (ii) Seller has informed Purchaser that any such materials, data or other information delivered or made available to Purchaser may not constitute all of the documents or materials relating to the Participation Interest, the Loan, and the property and the business of Borrower or PGR in the possession of Seller and Purchaser acknowledges that Purchaser has satisfied itself or that such materials, data or other information are sufficient for Purchaser to purchase the Participation Interest.

### ARTICLE III

#### THE CLOSING

Section 3.1. Time and Location of the Closing. The Closing will occur on the Scheduled Closing Date. The Closing will take place through the offices of Seller, acting as escrow agent ("**Escrow Agent**") pursuant to a separate agreement with Purchaser with respect thereto.

#### Section 3.2. Payment of and Adjustment to Purchase Price.

(a) Simultaneously with the Effective Date, Purchaser shall deposit with the Escrow Agent the sum of Twenty Thousand Dollars (\$20,000.00) (such amount is hereinafter referred to as the "**Deposit**"). Escrow Agent shall hold the Deposit in accordance with the terms of a separate agreement between Purchaser and Seller (as Seller and Escrow Agent) with respect to the Deposit. Delivery of the Deposit as required herein is a condition precedent to the effectiveness of this Agreement, notwithstanding anything else in the Agreement to the contrary.

(b) As more particularly described in Section 6.2 below, the Deposit shall be delivered to and retained by Seller as liquidated damages if the Closing does not occur for any

reason other than (i) a material default by Seller, (ii) the material failure of a condition precedent to Purchaser's obligations to consummate the Closing hereunder, or (iii) the failure of the Receiver to obtain Court Approval.

(c) If the Closing does not occur because of (i) Seller's material default, (ii) the material failure of a condition precedent to Purchaser's obligations, or (iii) the failure of the Receiver to obtain Court Approval, the Deposit shall be returned to Purchaser. Upon the Closing, the Deposit shall be credited toward payment of the Purchase Price.

(d) Not later than 2:00 p.m. (Eastern Time) on the Scheduled Closing Date, Purchaser will deliver (i) the balance of the Purchase Price and all other funds required to be paid by Purchaser in order to consummate the Closing, by wire transfer of immediately available funds in accordance with the wiring instructions attached to this Agreement as Exhibit C-1. In the event that the Purchase Price is not received by the Seller by 2:00 p.m. (Eastern Time) on the Closing Date, then Purchaser shall be deemed to have defaulted under this Agreement.

(e) Any payments of principal and all prepayments of principal of the Loan received on or before the Closing Date will be the property of Seller and Purchaser will not receive a credit against the Purchase Price at Closing for any such payment or prepayment made.

Section 3.3. Purchaser's Closing Documents. At least one (1) Business Day prior to the Closing Date, Purchaser will deliver the following Closing Documents to Escrow Agent, in escrow, for inspection by Seller in the offices of Escrow Agent and for further delivery by Escrow Agent to Seller at the Closing:

(a) an original assumption of Seller's rights and obligations in connection with the Participation Interest, in the form of Exhibit D to this Agreement, executed in counterpart by Purchaser (the "Assumption Agreement");

(b) a certificate of Purchaser certifying (i) as to the incumbency of the signatories authorized to execute this Agreement and the Closing Documents required to be executed and delivered by Purchaser on behalf of Purchaser, and (ii) that the execution of this Agreement and the Closing Documents and the consummation of the transaction contemplated by this Agreement have been duly authorized, executed by the Secretary or Assistant Secretary of Purchaser; and

(c) an original release from Purchaser in favor of Seller and Lender substantially in the form attached hereto as Exhibit E.

Section 3.4. Seller's Closing Documents. At least one (1) Business Day prior to the Closing Date, Seller will deliver the following Closing Documents to Escrow Agent, in escrow, for inspection by Purchaser in the offices of Escrow Agent and for further delivery by Escrow Agent to Purchaser at the Closing (and pursuant to which Seller will transfer, assign, set-over and convey to Purchaser, without recourse, except as otherwise expressly set forth in this Agreement), all of Seller's right, title and interest in, to and under the Participation Interest:

(a) an original Assumption Agreement, in the form of Exhibit D to this Agreement, executed in counterpart by Purchaser; and

(b) such other documents as Purchaser or Escrow Agent may reasonably request in order to transfer to Purchaser all right title and interest in and to the Participation Interest and otherwise to effectuate the intent of this Agreement.

Section 3.5. Delivery of the Closing Documents. At Closing, and upon Escrow Agent's receipt of the Purchase Price and the executed Closing Documents, Escrow Agent shall (i) transfer to Seller, by wire transfer of immediately available funds in accordance with the wiring instructions attached to this Agreement as Exhibit C-2, the Purchase Price, and thereafter deliver to Seller all Closing Documents required to be delivered to Seller, in accordance with this Article III; and (ii) promptly deliver to Purchaser, at Purchaser's expense, all Closing Documents required to be delivered by Seller to Purchaser in accordance with this Article III.

Section 3.6. Cost of Recording and Filing Closing Documents. All filings and recordings required to consummate the Closing, if any, shall be at Purchaser's sole cost and expense.

Section 3.7. Other Closing Conditions.

(a) Purchaser's obligation to Close is subject to satisfaction of the following conditions, which are for the benefit of Purchaser and may be waived by Purchaser in its sole discretion:

(A) Seller's representations and warranties set forth in this Agreement shall be true and correct in all material respects.

(B) Seller shall not, as of the Closing Date, be in material default in the performance of Seller's obligations under this Agreement.

(C) The Court shall have approved the transaction contemplated herein and provided confirmation of the ownership of the Participation Interest to enable Seller to convey the Participation Interest to Purchaser (the "Court Approval").

(b) Seller's obligation to Close is subject to satisfaction of the following conditions, which are for the benefit of Seller and may be waived by Seller in its sole discretion:

(A) Purchaser's representations and warranties set forth in this Agreement shall be true and correct in all material respects.

(B) All of the documents and funds required to be delivered by Purchaser to Seller or Escrow Agent (as the case may be) at the Closing pursuant to the terms and conditions hereof shall have been delivered as required herein.

(C) Seller shall have received all consents, documentation and approvals necessary to consummate and facilitate the transactions contemplated hereby, including the Court Approval and as may otherwise be required by law.

(D) Purchaser shall not, as of the Closing Date, be in material default in the performance of its obligations under this Agreement.

(E) Lender shall have deposited \$100,000 into Escrow with irrevocable and unconditional instructions to Escrow Agent to release the same to Seller simultaneously with the Closing.

(c) If the purchase and sale fails to Close by the Scheduled Closing Date due to a failure of a condition set forth in this Section 3.7 above, the party for whose benefit the condition is set forth may terminate this Agreement at any time thereafter until the Closing occurs, so long as the failure of condition is not caused by such party's breach of such party's obligations under this Agreement.

#### ARTICLE IV

##### **PURCHASER'S REPRESENTATIONS, WARRANTIES AND COVENANTS**

Purchaser warrants and represents to Seller, as of the Effective Date and the Closing Date, and where indicated, covenants and agrees as follows:

###### **Section 4.1. Purchaser's Authority.**

(a) Purchaser is and through the Closing Date will continue to be duly organized, validly existing and in good standing under the laws of the state or commonwealth in which it was organized or incorporated.

(b) Purchaser has and through the Closing Date will continue to have all necessary approvals, whether governmental or otherwise, and full right, power and authority, to (i) execute and deliver this Agreement and the Closing Documents and (ii) perform Purchaser's obligations under this Agreement and the Closing Documents and consummate the transaction contemplated by this Agreement.

(c) Purchaser's execution and delivery of this Agreement and the Closing Documents, Purchaser's performance of Purchaser's obligations under this Agreement and the Closing Documents and consummation of the transaction contemplated by this Agreement and the Closing Documents do not and through the Closing Date will continue to not (i) conflict with any laws or agreements binding on Purchaser or (ii) result in a default under any agreement or other instrument to which the Purchaser is a party or that is applicable to the Purchaser which, in each case, would adversely affect Purchaser's ability to carry out the transactions contemplated by this Agreement and the Closing Documents.

(d) This Agreement, and the Closing Documents (assuming Seller's due execution and delivery the Closing Documents), constitute and will continue to constitute legal, valid and binding obligations of Purchaser, enforceable in accordance with their respective terms, except to the extent that enforceability of the obligations may be subject to bankruptcy, insolvency, moratorium and other similar laws affecting the rights of creditors generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

Section 4.2. No Reliance.

(a) Purchaser acknowledges the following: (i) Seller may not have in Seller's possession or control all documents relating to or affecting the Participation Interest or the Loan as Seller has taken control over the Participation Interest as a court appointed receiver only, and as such, any materials provided to Purchaser with respect thereto may be incomplete; and (ii) Seller did not conduct any due diligence of the Participation Interest, the Loan, or Borrower's business prior to obtaining control of the Participation Interest.

(b) As of the Closing Date, Purchaser is familiar with all aspects of the Participation Interest, the Loan, and the business of Borrower. In entering into this Agreement, other than as set forth in Section 5.1, Purchaser has not relied on any oral or written information provided by Seller or by Seller's Affiliates, agents, employees, representatives or trustees or by any broker or agent pertaining to the Participation Interest, the Loan, and the business of Borrower, but merely on Purchaser's independent review of the same as Purchaser deemed necessary. Purchaser's decision to purchase all of Seller's right, title and interest in, to and under the Participation Interest is based on Purchaser's due diligence review and independent evaluation of as set forth above. Purchaser is a sophisticated purchaser, with experience commercial mortgage loans and the business of Borrower. Purchaser understands and is freely taking all risks involved in connection with the transaction and acknowledges that the nature and risks are reflected in the Purchase Price and in the terms and conditions pursuant to which Purchaser is willing to purchase and Seller is willing to sell all of Seller's right, title and interest in, to and under the Participation Interest. Purchaser acknowledges that Seller has not made any representations or warranties with respect to the Participation Interest, the Loan, or the business of Borrower unless expressly provided herein.

(c) No agent, employee or representative of Seller or other agent or broker has been authorized to make, and Purchaser has not relied on, any statements other than those expressly set forth in this Agreement. Except as specifically set out in this Agreement, Purchaser is not relying on any continued actions or efforts on the part of Seller or Seller's Affiliates, agents, employees, representatives or trustees with respect to the Participation Interest. After the Closing Date, Seller will retain no further interest in the Participation Interest, and Seller and Seller's Affiliates, agents, employees, representatives and trustees will not provide any further services with respect thereto. Seller has not and will not advance funds to Purchaser to protect the collateral for the Loan nor to maintain the yield of the Loan. Seller has not guaranteed and does not guarantee payment of the Loan or performance of Borrower's obligations under the Loan Documents, and Seller has not guaranteed and does not guarantee the condition, performance, rate of return, value or yield of the Loan or the Participation Interest. Further, Purchaser acknowledges that Borrower is currently or may be in default under the Loan and with respect to many other obligations to third parties. Seller shall have no responsibility for the validity, sufficiency or effectiveness of the lien created by the Loan Documents. Subject to Seller's representations, warranties and covenants expressly contained herein, Seller's right, title and interest in, to and under the Participation Interest is being sold on an "AS IS," "WHERE IS" BASIS, "WITH ALL FAULTS" AND WITHOUT REPRESENTATIONS, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE (INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), AND WITHOUT WARRANTIES, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER

OR NATURE (INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), EXCEPT THE LIMITED AND EXPRESS REPRESENTATIONS OF SELLER SET FORTH IN ARTICLE V HEREOF, AND WITHOUT RECOURSE OF ANY NATURE TO SELLER.

(d) Notwithstanding anything to the contrary herein, other than as set forth in Article V below, Seller shall not have any liability whatsoever to Purchaser with respect to any matter disclosed to or discovered by Purchaser or Purchaser's agents or representatives prior to the Closing Date.

Section 4.3. Intentionally Omitted.

Section 4.4. Environmental, Seismic, Engineering and Structural Risks. Certain environmental, seismic, engineering and structural risks may exist with respect to the collateral for the Loan. Purchaser has analyzed or has had an opportunity to analyze the environmental, seismic, engineering, and structural issues pertaining to the collateral for the Loan and is acquiring all of Seller's right, title and interest in, to and under the Participation Interest subject to the risks mentioned above.

Section 4.5. Litigation. Purchaser will not (a) institute any legal action in the name of Seller, (b) intentionally or unintentionally, through misrepresentation or nondisclosure, conceal or mislead any person as to Purchaser's identity or (c) use or refer to Seller's name or any name derived from Seller's name to promote the sale or transfer of the Participation Interest or the collection or management of the Loan.

Section 4.6. No Brokers. Purchaser and Seller each represents to the other, which representation shall survive Closing, that it has not engaged the services of any broker or finder in connection with the transactions contemplated by this Agreement, and each agrees to indemnify the other, and their respective Affiliates, from and against any claims in connection therewith.

## ARTICLE V

### SELLER'S REPRESENTATIONS AND WARRANTIES

Section 5.1. Representations or Warranties and Covenants. Seller warrants and represents to Purchaser, as of the Effective Date and the Closing Date, and where indicated, covenants and agrees as follows:

- (a) Receiver has been duly appointed by the Court as Receiver.
- (b) To Receiver's actual knowledge based on the Court's appointment of Seller as as Receiver, and based upon Seller's receipt of the Court Approval (when the same is received), Seller has full right, title, and interest in the Participation Interest.
- (c) Upon Seller's receipt of the Court Approval and the consent of Lender to the transactions contemplated herein, has all necessary authority to perform its obligations set forth in this Agreement.

Section 5.2. No Implied Representations or Warranties. Except as expressly provided in Section 5.1, Seller has not and will not be deemed to have made, and specifically disclaims, any implied warranties or representations under this Agreement. Except as expressly provided in Section 5.1, Seller makes no representations or warranties with respect to (a) the Participation Interest, the Loan, or the Loan Documents; (b) the priority, perfection or enforceability of the Notes, the Deeds of Trust or any other Loan Document; (c) the presence or absence of defaults under, defenses to or offsets against the Notes, the Deeds of Trust, Guarantees or any other Loan Document; (d) the status or financial condition of Borrower or any guarantors of the Loan; or (e) any fact or condition respecting the collateral for the Loan or the business of Borrower.

## ARTICLE VI

### DEFAULTS AND REMEDIES

Section 6.1. Seller's Breach. If Seller defaults under this Agreement, the default is discovered prior to Closing by Purchaser and Purchaser proceeds to close the transactions contemplated hereunder, Purchaser shall have waived any and all rights and remedies resulting from Seller's default. If Seller materially defaults under this Agreement and the Closing and the consummation of the transactions contemplated herein do not occur as a result thereof, Purchaser may, at Purchaser's option, as Purchaser's sole and exclusive remedy, either (i) terminate this Agreement and be entitled to return of the Deposit and reimbursement of Purchaser's actual third-party fees, costs and expenses incurred in connection with the transactions contemplated hereunder (which reimbursement, in any event, shall not exceed Five Thousand and No/100 Dollars (\$5,000.00)) (the "**Expenses**"), or (ii) enforce specific performance. Notwithstanding anything herein to the contrary, if the Closing and the consummation of the transactions herein contemplated do not occur by reason of any such material default by Seller, or Purchaser elects not to proceed to Closing as a result of such material breach of Seller, then Purchaser shall be deemed to have elected to terminate this Agreement pursuant to clause (i) hereinabove if Purchaser fails to deliver to Seller written notice of its intent to file a claim or assert a cause of action for specific performance against Seller on or before twenty (20) days following the Scheduled Closing Date or, having given such notice, fails to file a lawsuit asserting such claim or cause of action with the Court within two (2) months following the Scheduled Closing Date. Under no circumstances whatsoever may Purchaser recover any consequential, exemplary, special, indirect, incidental, or punitive damages resulting from Seller's defaults under this Agreement and Purchaser hereby expressly waives any claim or right to do so. PURCHASER AND SELLER HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT PURCHASER WOULD SUFFER IN THE EVENT THAT SELLER DEFAULTS (AND ELECTS TO TERMINATE THIS AGREEMENT) IS AND SHALL BE, AN AMOUNT EQUAL TO THE EXPENSES. SAID AMOUNT SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY SELLER, ALL OTHER CLAIMS TO DAMAGES BEING HEREIN EXPRESSLY WAIVED BY PURCHASER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO PURCHASER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

SELLER AND PURCHASER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS SECTION 6.1 AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

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PURCHASER'S INITIALS

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SELLER'S INITIALS

Section 6.2. Purchaser's Breach. IF PURCHASER MATERIALLY DEFAULTS UNDER THIS AGREEMENT AND THE CLOSING AND THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREIN DO NOT OCCUR AS RESULT THEREOF, PURCHASER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER. THEREFORE, PURCHASER AND SELLER HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT SELLER WOULD SUFFER IN THE EVENT THAT PURCHASER DEFAULTS IS AND SHALL BE, AN AMOUNT EQUAL TO THE DEPOSIT. SAID AMOUNT SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY PURCHASER, ALL OTHER CLAIMS TO DAMAGES BEING HEREIN EXPRESSLY WAIVED BY SELLER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

SELLER AND PURCHASER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS SECTION 6.2 AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

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PURCHASER'S INITIALS

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SELLER'S INITIALS

## ARTICLE VII

### INDEMNIFICATION; RELEASE; TERMINATION OF INDEMNITY AGREEMENT

Section 7.1. General Indemnification. From and after the Closing and so long as the Closing occurs, Purchaser hereby agrees to indemnify, hold harmless and defend Seller, Lender, their Affiliates, agents, employees, representatives and trustees, the existing trustees under any deed of trust securing the Loan and any predecessor or successor of Seller or Lender (each an "**Indemnified Party**" and collectively, the "**Indemnified Parties**") for, from and against any and all Claims, losses or damages to which any of the Indemnified Parties may become subject (other than for a breach of Seller's representations and warranties) on account of, arising out of or related to any act, omission, conduct or activity of Purchaser or any of Purchaser's Affiliates, agents, employees, members, partners, principals, representatives or trustees at any time occurring or failing to occur after the Closing Date and arising out of or related to (a) any action or omission of Purchaser with respect to the Loan or the Participation Interest; (b) any inaccuracy in or breach of Purchaser's representations, warranties, covenants or

acknowledgments made pursuant to this Agreement; (c) any Claim for a finder's fee or broker's commission asserted against Seller and arising from the transaction contemplated by this Agreement and arising through Purchaser; and (d) any and all claims asserted against any of them arising out of their interest in the Loan and/or the Participation Interest and/or the transactions contemplated herein.

Section 7.2. Settlement. If any Claim is settled or if there is a final judgment against the Indemnified Party in any Claim, the indemnifying party will indemnify, hold harmless and defend the Indemnified Party for, from and against any and all loss or liability incurred by the Indemnified Party by reason of such settlement or judgment and will pay on demand all costs and expenses incurred by the Indemnified Party in connection with the settlement or judgment.

Section 7.3. Environmental Indemnity. Nothing in this Agreement or any documents delivered pursuant to this Agreement will prejudice Seller from seeking the benefit of any environmental indemnity delivered by any indemnitor to Seller in connection with the Loan to the extent permitted by applicable law.

Section 7.4. Release by Purchaser. From and after the Closing and so long as the Closing occurs, Purchaser hereby agrees that Seller, Lender, Seller's and Lender's respective Affiliates, agents, employees, representatives and trustees, the existing trustees under any deed of trust securing the Loan and any predecessor or successor of Seller and/or Lender (each a "**Released Party**" and collectively, the "**Released Parties**") shall be, and are hereby, fully and forever released and discharged from any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Case, the Loan, the Participation Interest, or the business of Borrower. Purchaser hereby expressly waives the provisions of Section 1542 of the California Civil Code which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

and all similar provisions or rules of law. Purchaser elects to and does assume all risk for such Claims heretofore and hereafter arising, whether now known or unknown by Purchaser.

BY INITIALING BELOW, PURCHASER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

  
PURCHASER'S INITIALS

In this connection and to the greatest extent permitted by law, Purchaser hereby agrees, represents and warrants that such party realizes and acknowledges that factual matters now unknown to him, her or it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Purchaser further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that

realization and that Purchaser nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown Claims, debts, and controversies which might in any way be included as a material portion of the consideration given to Seller by Purchaser in exchange for Seller's performance hereunder. Without limiting the foregoing, if Purchaser has actual knowledge of a default in any of the covenants, agreements or obligations to be performed by Seller under this Agreement, and Purchaser nonetheless elects to proceed to Closing, then, upon the consummation of the Closing, Purchaser shall be conclusively deemed to have waived any such default and shall have no Claim against Seller or hereunder with respect thereto.

Seller has given Purchaser material concessions regarding this transaction in exchange for Purchaser agreeing to the provisions of this Section 7.4. The provisions of this Section 7.4 shall survive the Closing and shall not be deemed merged into any instrument or conveyance delivered at the Closing.

Section 7.5. NO LIABILITY TO RECEIVER. WITHOUT LIMITATION OF THE FOREGOING, AS AN ESSENTIAL INDUCEMENT TO RECEIVER TO ENTER INTO THIS AGREEMENT, AND AS PART OF THE CONSIDERATION GIVEN HEREUNDER, PURCHASER ACKNOWLEDGES, UNDERSTANDS AND AGREES AS FOLLOWS:

(a) RECEIVER IS ENTERING INTO THIS AGREEMENT SOLELY IN CONNECTION WITH HER DUTIES AS RECEIVER PURSUANT TO THE ORDER. IN NO EVENT SHALL RECEIVER BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY RECEIVER, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCE WHATSOEVER, EXCEPT IF THE RESULT OF RECEIVER'S GROSS NEGLIGENCE OR INTENTIONAL AND WILLFUL MISCONDUCT. RECEIVER SHALL NOT BE PERSONALLY LIABLE IN CONNECTION WITH ANY DUTIES PERFORMED BY RECEIVER PURSUANT TO THE ORDER.

(b) NO PROVISION OF THIS AGREEMENT SHALL OPERATE TO PLACE ANY OBLIGATION OR LIABILITY FOR THE SERVICING OF THE LOAN OR THE CONTROL, CARE, MANAGEMENT OR REPAIR OF THE PROPERTY UPON RECEIVER NOR SHALL IT OPERATE TO MAKE RECEIVER RESPONSIBLE OR LIABLE FOR ANY WASTE COMMITTED ON THE PROPERTY BY ANY PERSON OR FOR ANY DANGEROUS OR DEFECTIVE CONDITION OF THE PROPERTY OR FOR ANY NEGLIGENCE IN MANAGEMENT, UPKEEP, REPAIR OR CONTROL OF THE PROPERTY RESULTING IN LOSS OR INJURY OR DEATH TO ANY PERSON.

THE PROVISIONS OF THIS SECTION 7.5 SHALL SURVIVE THE CLOSING AND SHALL NOT BE DEEMED MERGED INTO ANY INSTRUMENT OR CONVEYANCE DELIVERED AT CLOSING.

Section 7.6. Release by Seller. Seller, on behalf of himself and Lender, hereby fully and without limitation releases, covenants not to sue, and forever discharges Purchaser, Borrower and their affiliates, officers, directors, employees, stockholders, attorneys and agents (the "**Purchaser/Borrower Releasees**"), from any and all rights, claims, cross-claims, counter-claims, demands, liabilities, obligations, actions and causes of action whether in law or in equity, suits, damages, losses, attorneys' fees, costs, and expenses, of whatever nature whatsoever,

known or unknown, fixed or contingent, suspected or unsuspected that Seller may ever have, against any of the Purchaser/Borrower Releasees that arises in any way out of the value or performance of the Participation Interest.

Seller hereby expressly waives the provisions of Section 1542 of the California Civil Code which provides:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

and all similar provisions or rules of law. Seller elects to and does assume all risk for such Claims heretofore and hereafter arising, whether now known or unknown by Seller.

BY INITIALING BELOW, SELLER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

SELLER'S INITIALS

Purchaser has given Seller material concessions regarding this transaction in exchange for Seller agreeing to the provisions of this Section 7.6. The provisions of this Section 7.6 shall survive the Closing and shall not be deemed merged into any instrument or conveyance delivered at the Closing. Borrower and Borrower's and Purchaser's affiliates, officers, directors, employees, stockholders, attorneys and agents shall be third party beneficiaries of this Section 7.6.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.1. Notices. All Notices must be in writing and (a) delivered personally by a process server providing a sworn declaration evidencing the date of service, the individual served, and the address where the service was made; (b) sent by certified mail, return receipt requested; or (c) delivered by nationally recognized overnight delivery service providing evidence of the date of delivery, with all charges prepaid, addressed to the appropriate party at its address listed in **Exhibit A**. Seller and Purchaser each may change from time to time the address to which Notices must be sent, by Notice given in accordance with this Section 8.1 All Notices given in accordance with this Section 8.1 will be deemed to have been given three (3) Business Days after having been deposited in any mail depository regularly maintained by the United States postal service, if sent by certified mail, or one (1) Business Day after having been deposited with a nationally recognized overnight delivery service, if sent by overnight delivery, or on the date of personal service, if served by a process server.

Section 8.2. Applicable Law. This Agreement is governed by and will be construed in accordance with the laws of the State of California.

Section 8.3. Discretion. Wherever under this Agreement either Seller or Purchaser has the right to approve or determine any matter, such approval or determination will be in the approving party's sole discretion unless expressly provided to the contrary in this Agreement. Wherever under this Agreement any matter is required to be satisfactory to Seller or Purchaser, such determination that the matter is satisfactory will be in the party's sole discretion unless expressly provided to the contrary in this Agreement.

Section 8.4. Unenforceable Provisions. If any provision of this Agreement is found to be illegal or unenforceable or would operate to invalidate this Agreement, then the provision will be deemed to be expunged and this Agreement will be construed as though the provision was not contained in this Agreement and the remainder of this Agreement will remain in full force and effect.

Section 8.5. Survival. Unless expressly provided to the contrary in this Agreement, Seller's and Purchaser's representations, warranties and covenants contained in this Agreement will continue in full force and effect and survive the Closing and any other act or omission that might otherwise be construed as a release or discharge and will not merge into the Closing Documents, but instead will be independently enforceable.

Section 8.6. Entire Agreement. Any agreements between Seller and Purchaser relating to the matters described in this Agreement are contained in this Agreement, which contains the complete and exclusive statement of the agreements between Seller and Purchaser, except as Seller and Purchaser may later agree in writing to amend this Agreement.

Section 8.7. No Oral Amendment. This Agreement may not be amended, waived or terminated orally or by any act or omission made individually by Seller or Purchaser but may be amended, waived or terminated only by a written document signed by the party against which enforcement of the amendment, waiver or termination is sought.

Section 8.8. Joint and Several Liability. If Purchaser or Seller consists of more than one person or entity, the obligations and liabilities of each such person or entity under this Agreement are joint and several.

Section 8.9. Successors and Assigns. This Agreement binds Seller and Purchaser and their respective successors and assigns and inures to the benefit of Seller and Purchaser and their respective successors and permitted assigns. This Agreement also inures to the benefit of all Indemnified Parties, Released Parties, Purchaser/Borrower Releasees, and Indemnified Parties, pursuant to Article VII. Except as expressly provided above, this Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third party beneficiary, decree, or otherwise.

Section 8.10. Duplicates and Counterparts; Facsimile. Duplicate counterparts of this Agreement may be executed and together will constitute a single original document. Transmission by facsimile of the signature of any party to this Agreement shall constitute execution and delivery of this Agreement or such document, provided that the party transmitting the same shall be obligated to promptly deliver the executed original thereof to the other party.

Section 8.11. Rights Cumulative; Waivers. The rights of each of Seller and Purchaser under this Agreement are cumulative and may be exercised as often as such party considers appropriate. The rights of each of Seller and Purchaser under this Agreement will not be capable of being waived or varied except by an express waiver or variation in writing. Any failure to exercise or any delay in exercising any of such rights will not operate as a waiver or variation of that or any other such right. Any defective or partial exercise of any of such rights will not preclude any other or further exercise of that or any other such right. No act or course of conduct or negotiation on the part of any party will in any way preclude such party from exercising any such right or constitute a suspension or any variation of any such right.

Section 8.12. Fees and Expenses. Purchaser and Seller shall each bear all costs, fees and expenses incurred thereby in connection with this Agreement, including without limitation, the fees and expenses of accountants, appraisers, attorneys, servicers and other consultants and other costs and expenses in connection with the preparation of this Agreement and the consummation of the transaction contemplated by this Agreement. Escrow Agent's fees for serving as escrow agent shall be paid by Purchaser regardless of whether or not the Closing occurs, unless the Closing does not occur due to Seller failing to obtain Court Approval. Purchaser shall pay all other title and escrow costs and expenses related to the transaction. Without limitation of the foregoing, Seller shall not bear the cost of any recordation fees and/or taxes associated with selling, transferring, and assigning the Participation Interest or any interest therein, including, without limitation, assignments of any deeds of trust, assignments of any financing statements, and any fees and/or taxes associated with other transfer documents which are to be recorded in connection with the transactions contemplated hereby. On or before the Closing Date, Purchaser agrees to deposit with Escrow Agent cash in an amount sufficient to pay all costs to be paid by Purchaser with respect to the Closing.

Section 8.13. Agreement Not Binding. Nothing contained in this Agreement will create any obligation on the part of Seller under this Agreement unless and until Seller has executed and delivered to Purchaser a counterpart copy of this Agreement and delivered the Deposit as required pursuant to Section 3.2(a).

Section 8.14. Further Assurances. Seller and Purchaser shall, upon the request of the other, execute and deliver such assignment and assumption documents, or perform such other acts, as may be reasonably required in order to effect, perfect or confirm the assignment by Seller, and the assumption by Purchaser, of all right, title, interest and obligations of Seller under the Participation Interest and to complete the transactions contemplated by this Agreement, including correcting any errors or omissions in the Closing Documents delivered under Sections 3.3 and 3.4 hereof and including such further acts as are reasonably necessary to assure the timely transfer of (a) servicing rights, and files with respect, to the Participation Interest, and (b) rights as a participant in the Loan to any escrow accounts maintained in accordance with the Loan Documents.

Section 8.15. Attorneys' Fees. If any action or claim is made by any party hereto against the other relating to this Agreement or the subject matter hereof, the prevailing party shall be entitled to their reasonable attorneys' fees and legal expenses, including all fees, costs and expenses incurred in any appellate or bankruptcy proceedings, or in any post-judgment proceedings to collect or enforce any judgment. This provision for the recovery of post-

judgment fees, costs, and expenses is separate and several and shall survive the merger of this Agreement into any judgment. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise, settlement or judgment.

## **ARTICLE IX**

### **DISPUTE RESOLUTION**

**Section 9.1. Court Trial.** Each party to this Agreement hereby expressly waives any right to trial by jury with respect to any claim, demand, action or cause of action (a) arising under this Agreement, including any present or future modification thereof, or (b) in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to this Agreement (as now or hereafter modified) or any other instrument, document or agreement executed or delivered in connection herewith, or the transactions related hereto or thereto, in each case whether such claim, demand, action or cause of action is now existing or hereafter arising, and whether sounding in contract or tort or otherwise; and each party hereby agrees and consents that any such claim, demand or cause of action shall be decided by court trial without a jury, and that any party to this Agreement may file an original counterpart or a copy of this section with any court as written evidence of the consent of the parties hereto to the waiver of any right they might otherwise have to trial by jury.

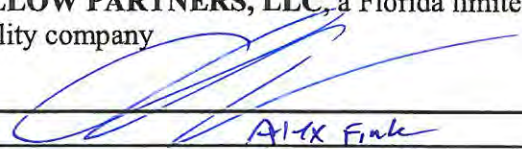
**Section 9.2. Venue.** Any action shall be commenced and maintained in the Court. The parties irrevocably consent to jurisdiction and venue in such Court and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Article IX.

**[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, Seller and Purchaser have executed and delivered this Agreement as of the date first set forth above.

**PURCHASER:**

**WILLOW PARTNERS, LLC**, a Florida limited liability company

By:   
Its: Manager

**SELLER:**

**KRISTA FREITAG**, as Receiver of PGR as appointed by the United States District Court for the Central District of California, Southern Division

**EXHIBIT A**

**DEFINITIONS**

"**Affiliate**" is defined, in the case of any entity, as the entity's parent or any wholly or partially-owned subsidiary of the entity or the entity's parent. Further, "Affiliates" of Seller also include, without limitation, E3 Realty Advisors, Inc. d/b/a E3 Advisors.

"**Agreement**" is defined as this Purchase and Sale Agreement, together with all Exhibits, Schedules and attachments annexed hereto and made a part hereof, as the same may be amended, supplemented or modified.

"**Assignment of Rents and Leases**" is defined in Recital B.

"**Assumption Agreement**" is defined in Section 3.3(a).

"**Borrower**" is defined in Recital A.

"**Business Day**" is defined as any day, other than a Saturday, a Sunday, a federal holiday or any day on which banking institutions in Los Angeles, California are not generally open for business.

"**Case**" is defined in Recital D.

"**Claim**" is defined as any and all liabilities, losses, claims (including third party claims), demands, damages (of any nature whatsoever), causes of action, costs, penalties, fines, judgments, attorneys' fees, consultants' fees and costs and experts' fees.

"**Close**" or "**Closing**" is defined as the consummation of the purchase and sale of all of Seller's right, title and interest in the Participation Interest as contemplated by this Agreement pursuant to delivery of the Closing Documents, payment of the Purchase Price.

"**Closing Date**" is defined as the date on which the Closing actually occurs.

"**Closing Documents**" is defined as all documents that are required to be delivered by Seller or Purchaser at the Closing in accordance with this Agreement.

"**Court**" is defined in Recital D.

"**Court Approval**" is defined in Section 3.7(a)(C).

"**Deed of Trust**" is defined in Recital B.

"**Deposit**" is defined in Section 3.2(a).

"**Effective Date**" is defined in the Preamble.

"**Escrow**" is defined in Section 10.1.

**"Escrow Agent"** is defined in Section 3.1(a).

**"Guarantees"** is defined in Recital B.

**"Indemnified Party"** and **"Indemnified Parties"** are each defined in Section 7.1.

**"Loan"** is defined in Recital B.

**"Loan Agreement"** is defined in Recital A.

**"Loan Documents"** is defined in Recital B.

**"Lender"** is defined in Recital A.

**"Note"** is defined in Recital B.

**"Notice"** is defined as any and all acceptances, approvals, consents, demands, notices, requests and other communications required or permitted to be given under this Agreement, which shall be in writing in all cases unless otherwise expressly permitted to the contrary.

**"Order"** is defined in Recital D.

**"Participation Agreement"** is defined in Recital C.

**"Participation Interest"** is defined in Recital E.

**"PGR"** is defined in Recital D.

**"Property"** is defined as the real and personal property described in the Deed of Trust.

**"Purchase Price"** is defined as the amount payable by Purchaser in consideration of the transfer of the Participation Interest to Purchaser in accordance with this Agreement, such amount being equal to eighty percent (80%) of the sum of: (a) the outstanding principal balance of the Loan on the Closing Date, less (b) \$100,000 to be contributed by the Lender as contemplated in this Agreement. Based on the foregoing and the current principal balance of \$1,100,000, as of the Effective Date, the Purchase Price will be EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) unless the outstanding principal balance of the Loan is reduced from and after the Effective Date prior to the Closing.

**"Purchaser"** is defined in the introductory paragraph. Purchaser's address for Notices is as follows:

Willow Partners, LLC  
Attn: Alex M. Fink  
2110 Stone Creek Drive, Unit E  
Fleming Island, FL 32003  
Email: alexmfink@me.com

**"Purchaser/Borrower Releasees"** is defined in Section 7.6.

"**Receiver**" is defined in Recital D.

"**Released Party**" or "**Released Parties**" is defined in Section 7.4.

"**Scheduled Closing Date**" is defined as the date which is seven (7) business days after the date Seller obtains the Court Approval, unless otherwise agreed in writing by Purchaser and Seller provided that either such party may withhold such other agreement in their sole and absolute discretion.

"**Seller**" is defined in the introductory paragraph. Seller's address for Notices is as follows:

E3 Advisors  
355 South Grand Avenue, Suite 2450  
Los Angeles, CA 90071  
Facsimile: 619-567-7191  
Attention: Krista Freitag

with a  
copy to:

Allen Matkins Leck Gamble Mallory & Natsis LLP  
501 West Broadway, 15th Floor  
San Diego, CA 92101-3541  
Attention: Ted Fates, Esq.

**EXHIBIT B**

**RULES OF CONSTRUCTION**

1. References in this Agreement to numbered Articles or Sections are references to the Articles and Sections of this Agreement. References in this Agreement to lettered Exhibits and numbered Attachments are references to the Exhibits and Attachments attached to this Agreement, all of which are incorporated in and constitute a part of this Agreement. Article, Section, Exhibit and Attachment captions used in this Agreement are for reference only and do not describe or limit the substance, scope or intent of this Agreement or the individual Articles, Sections, Exhibits or Attachments of this Agreement.

2. The terms "include", "including" and similar terms are construed as if followed by the phrase "without limitation."

3. The term "Property" is construed as if followed by the phrase "or any part thereof".

4. Any agreement by or duty imposed on either party in this Agreement to perform any obligation or to refrain from any act or omission constitutes a covenant on such party's part and includes a covenant by such party to cause its Affiliates, agents, employees, members, partners, principals, representatives and trustees to perform the obligation or to refrain from the act or omission in accordance with this Agreement.

5. The singular of any word includes the plural and the plural includes the singular. The use of any gender includes all genders.

6. The terms "person", "party" and "entity" include natural persons, firms, partnerships, limited liability companies and partnerships, corporations and any other public or private legal entity.

7. The term "provisions" includes terms, covenants, conditions, agreements and requirements.

8. The term "amend" includes modify, supplement, renew, extend, replace, restate and substitute and the term "amendment" includes modification, supplement, renewal, extension, replacement, restatement and substitution.

9. No inference in favor of or against a party with respect to this Agreement may be drawn from the fact that the party drafted this Agreement.

10. The term "certificate" means the sworn, notarized statement of the entity giving the certificate, made by a duly authorized person satisfactory to Seller affirming the truth and accuracy of every statement in the certificate. Any document that is "certified" means the document has been appended to a certificate of the entity certifying the document that affirms the truth and accuracy of everything in the document being certified. In all instances the entity

issuing a certificate must be satisfactory to whichever of Seller and Purchaser is the recipient of such certificate.

11. All obligations, rights, remedies and waivers contained in this Agreement will be construed as being limited only to the extent required to be enforceable under applicable law.

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**EXHIBIT C-1**

**WIRING INSTRUCTIONS FOR ESCROW AGENT**

**Wire to:** South County Bank  
2 Venture Street, Ste. 120  
Irvine, CA 92618

**ABA Number:** 122242982

**For Credit To:** Pension Income LLC in Receivership  
355 South Grand Avenue, Ste. 2450  
Los Angeles, CA 90071

**Account Number:** 26006601

**Reference:**

**Customer Name:**

**EXHIBIT C-2**

**WIRING INSTRUCTIONS FOR SELLER**

Bank: South County Bank  
2 Venture Street, Ste. 120  
Irvine, CA 92618

Account Name: PGR LLC  
Reserve Account  
355 South Grand Avenue, Ste. 2450  
Los Angeles, CA 90071

Account Number: 46004495

ABA: 122242982

Loan Number:

Reference:

**EXHIBIT D**

**FORM OF ASSIGNMENT AND ASSUMPTION OF PARTICIPATION INTEREST**

FOR VALUE RECEIVED, effective as of April 10<sup>th</sup>, 2017 ("**Effective Date**"), Krista Freitag, Receiver ("**Assignor**") of PGR, LLC, a California limited liability company, as appointed by the United States District Court for the Central District of California, Southern Division, hereby assigns, conveys, grants, sets over and transfers to Willow Partners, LLC, a Florida limited liability company ("**Assignee**"), an all of Assignor's right, title and interest, if any, in and to the interest ("**Participation Interest**") held by Assignor as Receiver in the "Participated Loan", pursuant to, and as such term is defined in, that certain Participation Agreement dated July 1, 2015 by and between Lender and PGR (as amended from time to time, "**Participation Agreement**").

As used herein, "Participation Interest" includes all of Assignor's right, title and interest, if any, in and to all money due and to become due thereon with interest and all contract rights accrued or to accrue in connection with the Participation Interest.

Assignee unconditionally assumes all liabilities and obligations of Assignor arising in connection with the Participation Interest on and after the Effective Date, including, without limitation, any obligation under the Loan Documents to make any future advances to the borrower thereunder at any time on and after the Effective Date.

This Assignment and Assumption of Participation Interest (this "**Assignment and Assumption**") will be binding on and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

Except as set forth in the Purchase and Sale Agreement, dated as of April 10<sup>th</sup>, 2017, between Assignor and Assignee (the "**Purchase Agreement**"), this Assignment and Assumption is made without recourse to or any representation or warranty, express or implied, by Assignor. Any such representation or warranty will not inure to the benefit of any assignee of Purchaser other than an assignee permitted under such Purchase Agreement. Capitalized terms not otherwise defined in this Assignment and Assumption shall have the respective meaning ascribed to such term in the Purchase Agreement.

**[SIGNATURE PAGE FOLLOWS]**

Dated as of the date first set forth above.

**ASSIGNEE:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

  
Alex Fide  
Mayer

**ASSIGNOR:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT E**

**RELEASE**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the undersigned (jointly and severally, "**Releasor**"), for itself, its partners and members (if any) and their respective successors and assigns, does hereby forever release, discharge and acquit: (a) Krista Freitag, Receiver ("**Seller**"), of PGR, LLC, a California limited liability company, as appointed by the United States District Court for the Central District of California, Southern Division; (b) LYNK Investments, LLC, a Florida limited liability company ("**Lender**"); and (c) Seller's and Lender's respective Affiliates, agents, employees, representatives and trustees, the existing trustees under any deed of trust securing the Loan and any predecessor or successor of Seller and/or Lender (each of the foregoing, a "**Released Party**" and collectively, the "**Released Parties**") and the Released Parties shall be, and are hereby, fully and forever released and discharged from any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Case, the Loan or the Property, or the business of Borrower. Each of the undersigned hereby expressly waives the provisions of Section 1542 of the California Civil Code which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

and all similar provisions or rules of law. Each of the undersigned elects to and does assume all risk for such Claims heretofore and hereafter arising, whether now known or unknown by such party.

EACH OF THE UNDERSIGNED HEREBY WAIVES THE PROVISIONS OF SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES.

  
\_\_\_\_\_  
RELEASOR'S INITIALS

\_\_\_\_\_  
RELEASOR'S INITIALS

In this connection and to the greatest extent permitted by law, each of the undersigned hereby agrees, represents and warrants that such party realizes and acknowledges that factual matters now unknown to him, her or it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and each of the undersigned further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that each of the undersigned nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown Claims, debts, and controversies which might in any way arise out of, are connected with, or relate to, the Case, the Loan, the Participation Interest, or the Property.

IT IS HEREBY FURTHER UNDERSTOOD AND AGREED that the acceptance of delivery of this Release by the Released Parties shall not be deemed or construed as an admission of liability by any party released by the terms hereof, and each such party hereby expressly denies liability of any nature whatsoever arising from or related to the subject of this Release.

Each of the undersigned hereby represents and warrants that (a) it owns all of the purported claims, rights, demands and causes of action that it is releasing by this Release and that no other person or entity has any interest in said claims, rights, demands or causes of action by reason of any contract or dealing with the undersigned, and (b) none of the undersigned has assigned to any other person or entity all or any part of such claims, rights, demands or causes of action.

Each of the undersigned hereby acknowledges, represents and warrants that it has had advice of counsel of its own choosing in negotiations for and the preparation of this Release, that it has read this Release or has had the same read to it by its counsel, that it has had the this Release fully explained by such counsel, and that it is fully aware of its contents and legal effect.

This Release may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this Release to physically form one document.

Where the identity of the parties hereto or the circumstances make it appropriate, the neuter gender includes the masculine and/or feminine, and the singular number includes the plural.

As used in this Agreement, the terms below shall be defined as follows:

**"Affiliate"** is defined, in the case of any entity, as the entity's parent or any wholly or partially-owned subsidiary of the entity or the entity's parent. Further, "Affiliates" of Seller also include, without limitation, E3 Realty Advisors, Inc. d/b/a E3 Advisors.

**"Claim"** is defined as any and all liabilities, losses, claims (including third party claims), demands, damages (of any nature whatsoever), causes of action, costs, penalties, fines, judgments, attorneys' fees, consultants' fees and costs and experts' fees.


**"Case"** is defined as Case No. 8:15-cv-01329-JLS-JCGx in United States District Court for the Central District of California, Southern Division.

**"Loan"** is defined as the loan made pursuant that certain Loan and Security Agreement between Lender and BB Marshall, LLC, a Maryland limited liability company, as borrower, dated as of November 20, 2013, and the related Loan Documents as defined therein.

**"Property"** is defined as the real and personal property described in the deeds of trust securing the Loan.

**"Release"** is defined as this release document.

**Willow Partners, LLC**, a Florida limited liability company

By:   
Name: Alex Fink  
Its: Manager

## **ESCROW AGREEMENT**

**THIS ESCROW AGREEMENT** (this "**Agreement**") is made as of April 10<sup>th</sup>, 2017 (the "**Effective Date**"), by and between Krista Freitag, Receiver (as "**Seller**", and as "**Escrow Agent**"), of PGR, LLC, a California limited liability company "**PGR**", and Willow Partners, LLC, a Florida limited liability company ("**Purchaser**").

### **RECITALS:**

WHEREAS, Seller has contracted to sell to Purchaser a certain Participation Interest, as defined in and pursuant to that certain Purchase and Sale Agreement between Seller and Purchaser effective as of April 10<sup>th</sup>, 2017 (the "**Purchase Agreement**"); and

WHEREAS, pursuant to the terms of the Purchase Agreement, Purchaser is to deliver to Escrow Agent, on or before April 15<sup>th</sup>, 2017, the sum of \$20,000.00 to be held by Escrow Agent in escrow under the following conditions, and Purchase and Seller are to deliver certain other documents with Escrow Agent in connection with the closing of the transactions under the Purchase Agreement:

### **AGREEMENTS:**

NOW, THEREFORE, in consideration of the premises and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller, Purchaser, and Escrow Agent agree as follows:

1. **Escrow.** The amount of escrow, to be established at date of closing, is the sum of \$20,000.00. The purpose of the escrow account is to hold the Deposit (as defined in the Purchase Agreement) to be disbursed in accordance with the Purchase Agreement.
2. **Duties of Escrow Agent.** Escrow Agent shall not be required to deposit the Deposit into an interest-bearing account or deliver to or account for any interest on the Deposit, however Escrow Agent agrees to not commingle the Deposit with any other funds. Upon the occurrence of certain conditions as set forth in the Purchase Agreement, Escrow Agent agrees to disburse the Deposit, or any portion thereof, to the appropriate party as designated in the Purchase Agreement. Notwithstanding the foregoing, Seller and Purchaser agree to provide joint, written notice and instructions to Escrow Agent specifying the amount of disbursement, to whom the funds are to be disbursed and the date by which the funds must be disbursed, provided, however, that Seller and Purchaser agree to give such notice to Escrow Agent at least two (2) business days prior to date of disbursement.
3. **Termination of Agreement.** At such time as all funds and all documents held by Escrow Agent in connection with the Purchase Agreement are disbursed and distributed, this Agreement shall terminate and shall be of no further force or effect.
4. **Removal; Resignation.** Escrow Agent may resign by furnishing written notice of its resignation to the parties, and the parties may remove Escrow Agent by furnishing to Escrow Agent a joint written notice of its removal along with payment of all fees and expenses to which it is entitled through the date of termination. Such resignation or removal, as the case may be, shall be effective upon the delivery of such notice or

upon the appointment of a successor, and Escrow Agent's sole responsibility thereafter shall be to safely keep all funds and documents on deposit and deliver the same to a successor escrow agent as shall be appointed by the parties, as evidenced by a joint written notice filed with Escrow Agent or in accordance with a court order. If the parties have failed to appoint a successor escrow agent prior to the expiration of thirty (30) days following the delivery of such notice of resignation or removal, Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the parties.

5. **Concerning Escrow Agent.** Seller, Purchaser, and Escrow Agent hereby covenant and agree with Escrow Agent as follows:

- (a) Escrow Agent is not a party to, or bound by any other agreement between Seller and Purchaser (except for the Purchase Agreement) which may relate to this Agreement. To the extent Escrow Agent acts hereunder as a depository for any such agreements or other documents, Escrow Agent is not responsible or liable in any manner whatever for the sufficiency, correctness, genuineness or validity of any such other agreements or documents or with respect to the form or execution of same; or the identity, authority, or rights of any person executing the same. Notwithstanding any provision to the contrary, Escrow Agent is obligated only to perform the duties specifically set forth in this Agreement, which shall be deemed purely ministerial in nature. Under no circumstances will Escrow Agent be deemed to be a fiduciary to any party or any other person under this Agreement.
- (b) In case of any dispute, suit, or proceeding regarding this Agreement or funds or documents held pursuant hereto:
  - i. Seller and Purchaser agree to indemnify and hold harmless Escrow Agent from all loss, costs or damages incurred, including but not limited to reasonable attorneys' fees, by reason of this Agreement or the subject matter hereof or any cause of action which may be filed in connection therewith and to pay Escrow Agent upon demand, all such costs, fees and expenses so incurred, except in the event of Escrow Agent's gross negligence or willful misconduct.
  - ii. At Escrow Holder's election, Escrow Holder shall either hold all funds or documents in dispute, or deposit the same with a court of competent jurisdiction to determine how the funds and/or documents should be disbursed. Escrow Holder shall be entitled to rely upon the decision of such court with respect to the disposition of such funds and/or documents.
  - iii. Escrow Agent shall be release all undisputed funds and documents to the party owed such amount.
- (c) Without limiting anything in Section 12 below, Escrow Agent shall not be liable for any error of judgment or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except its own gross

negligence or willful misconduct. Escrow Agent shall have no duties to anyone except those signing this Agreement.

- (d) Escrow Agent may consult with legal counsel in the event of any dispute or questions as to the construction of the foregoing instruments, or Escrow Agent's duties hereunder, and Escrow Agent shall incur no liability and shall be protected in acting in accordance with the opinion and instructions of such counsel.
  - (e) The parties hereto agree that Escrow Agent shall handle the funds as required under the Purchase Agreement regardless of whether the Purchase Agreement is then in effect at any applicable time.
- 6. **Notices.** All notices or certifications required hereunder shall be in writing and shall be delivered in accordance with Section 8.1 of the Purchase Agreement, regardless of whether the Purchase Agreement is then in effect or not (it being agreed that notices to be sent to Escrow Agent shall be sent to Seller thereunder).
  - 7. **Further Assurances.** Purchaser, Seller, and Escrow Agent shall cooperate with each other in connection with the subject matter hereof, and execute such other documents, affidavits and other items as may be reasonably necessary to effectuate the terms of this Agreement.
  - 8. **Costs.** The parties shall pay the costs and fees of Escrow Agent as required pursuant to the Purchase Agreement (including, without limitation, under Section 8.12 thereof). All such expenses may, at Escrow Holder's election be paid from the Deposit to the extent such funds are sufficient, with an amount equal to the same being promptly paid to the recipient of the Deposit by the non-prevailing party in the dispute at the conclusion thereof.
  - 9. **Successors and Assigns.** This Agreement shall inure to the benefit of and shall bind Seller, Purchaser, and Escrow Agent, and each of their respective successors or assigns.
  - 10. **Counterparts; Facsimile.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document. Facsimile or e-mailed or .PDF signatures shall be effective as originals.
  - 11. **Governing Law.** This Agreement shall be governed by the laws of the State of California.
  - 12. **NO LIABILITY TO RECEIVER.** WITHOUT LIMITATION OF THE FOREGOING, AS AN ESSENTIAL INDUCEMENT TO SELLER/ESCROW AGENT TO ENTER INTO THIS AGREEMENT, AND AS PART OF THE CONSIDERATION GIVEN HEREUNDER, PURCHASER ACKNOWLEDGES, UNDERSTANDS AND AGREES AS FOLLOWS:

SELLER/ESCROW AGENT IS ENTERING INTO THIS AGREEMENT SOLELY IN CONNECTION WITH HER DUTIES AS RECEIVER PURSUANT TO THE ORDER (IN SUCH CAPACITY, "**RECEIVER**"). IN NO EVENT SHALL

RECEIVER BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY RECEIVER, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCE WHATSOEVER, EXCEPT IF THE RESULT OF RECEIVER'S GROSS NEGLIGENCE OR INTENTIONAL AND WILLFUL MISCONDUCT. RECEIVER SHALL NOT BE PERSONALLY LIABLE IN CONNECTION WITH ANY DUTIES PERFORMED BY RECEIVER PURSUANT TO THE ORDER.

NO PROVISION OF THIS AGREEMENT SHALL OPERATE TO PLACE ANY OBLIGATION OR LIABILITY FOR THE SERVICING OF THE LOAN OR THE CONTROL, CARE, MANAGEMENT OR REPAIR OF THE PROPERTY UPON RECEIVER NOR SHALL IT OPERATE TO MAKE RECEIVER RESPONSIBLE OR LIABLE FOR ANY WASTE COMMITTED ON THE PROPERTY BY ANY PERSON OR FOR ANY DANGEROUS OR DEFECTIVE CONDITION OF THE PROPERTY OR FOR ANY NEGLIGENCE IN MANAGEMENT, UPKEEP, REPAIR OR CONTROL OF THE PROPERTY RESULTING IN LOSS OR INJURY OR DEATH TO ANY PERSON.

THE PROVISIONS OF THIS SECTION 12 SHALL SURVIVE THE CLOSING AND SHALL NOT BE DEEMED MERGED INTO ANY INSTRUMENT OR CONVEYANCE DELIVERED AT CLOSING.

**[SIGNATURES ON SEPARATE PAGE]**

EXECUTED the date and year first written above.

**PURCHASER:**

**WILLOW PARTNERS, LLC**, a Florida  
limited liability company

By: \_\_\_\_\_

Alex Fink

Its: \_\_\_\_\_

Manager

**SELLER:**

**KRISTA FREITAG**, as Receiver of PGR as  
appointed by the United States District Court for  
the Central District of California, Southern  
Division

**ESCROW AGENT:**

**KRISTA FREITAG**, as Receiver of PGR as  
appointed by the United States District Court for  
the Central District of California, Southern  
Division



**Via E-Mail and FedEx**

March 27 2017

LYNK Investments, LLC  
260 S. Osceola Avenue, Unit 101  
Orlando FL 32801  
Attn: Matt Brothers  
E-mail: matt@lynkcapital.com

***Re: Lender's Contribution in connection that certain Purchase and Sale Agreement dated March \_\_, 2017 ("Agreement") between Krista Freitag, Receiver ("Seller") of PGR, LLC, a California limited liability company, and Willow Partners, LLC, a Florida limited liability company ("Purchaser")***

Dear Matt,

As you know, pursuant to that certain Letter of Intent dated February 16, 2017 ("**LOI**") between Purchaser, Seller, and LYNK Capital, LLC, an affiliate of LYNK Investments, LLC ("**Lender**"), Purchaser and Seller have entered into the Agreement for the purchase and sale of the Asset (as defined in the LOI). Capitalized terms used herein but not otherwise defined shall have the meaning given thereto in the Agreement.

This letter will confirm our mutual agreement and understanding that, as set forth in Section 8 of the LOI, Lender hereby consents to the consummation of the transaction between Seller and Purchaser (or Purchaser's permitted assignee or nominee) pursuant to the Agreement, and no further consent or approval by Lender is needed or required with respect thereto or for Seller and Purchaser to consummate the Closing as defined in the Agreement. Further, Lender agrees that, within one (1) Business Day after Seller notifies Lender in writing that Seller has received the Court Approval, Lender shall wire \$100,000.00 ("**Lender Funds**") into Escrow with instructions to Escrow Agent that such funds shall be paid to Seller simultaneously with the Closing pursuant to the Agreement. Seller and Lender agree that if the Closing does not occur within three (3) Business Days after the Scheduled Closing Date, then the Lender Funds may be returned to Lender unless Lender and Seller otherwise agree in writing to the contrary. Any notice or agreement required to be in writing pursuant to this letter agreement may be provided via e-mail (in addition to other customary forms of written notice or writing). Notices to Seller shall be provided in the same manner required under the Agreement or by e-mail as set forth

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above; notices to Lender shall be provided in the same manner required under the Loan Agreement or by e-mail as set forth above (delivered to matt@lynkcapital.com).

Further, Lender hereby provides the releases set forth on Exhibit A to this letter, and the same is hereby incorporated in to this letter as if fully set forth in the body hereof.

Lender hereby acknowledges and agrees that it will obtain and realize a material direct and/or indirect benefit from the consummation of the Closing and that the same constitutes good and valuable sufficient consideration in support of Lender's agreement to contribute the Lender Funds to Seller as a part of the Closing and the other agreements set forth in this letter, and that Seller would not have entered into the Agreement or consummate the Closing absent such contribution and agreements.

In order to evidence your receipt of this letter and your agreement with the matters set forth herein, please provide your signature in the space provided below (including where indicated on Exhibit A hereto) and return a fully executed copy of this letter to my attention via e-mail (which shall be treated as an original hand-signed copy for all purposes), with an original hand-signed copy to follow. Nothing in this letter shall be binding upon Seller or its affiliates unless and until such counterpart is received by Seller and the same becomes equally binding upon Lender.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

**KRISTA FREITAG**, as Receiver of PGR,  
LLC, as appointed by the United States  
District Court for the Central District of  
California, Southern Division

Acknowledged and agreed:

**LYNK Investments, LLC**, a [ FLORIDA ] limited liability company

By:

Name:

Title:



**EXHIBIT A**

**LENDER'S RELEASE OF SELLER**

Lender hereby agrees that Seller and Seller's respective Affiliates, agents, employees, representatives and trustees, and any predecessor or successor of Seller (each a "**Released Party**" and collectively, the "**Released Parties**") shall be, and are hereby, fully and forever released and discharged from any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Case, the Loan, the Participation Interest, the Closing, the Agreement, or any of the transactions or contemplated therein, or in any way related to any of the foregoing. Lender hereby expressly waives the provisions of Section 1542 of the California Civil Code which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

and all similar provisions or rules of law. Lender elects to and does assume all risk for such Claims heretofore and hereafter arising, whether now known or unknown by Lender.

BY INITIALING BELOW, LENDER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

  
\_\_\_\_\_  
LENDER'S INITIALS

In this connection and to the greatest extent permitted by law, Lender hereby agrees, represents and warrants that such party realizes and acknowledges that factual matters now unknown to him, her or it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Lender further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Lender nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown Claims, debts, and controversies which might in any way be included as a material portion of the consideration given to Seller by Lender in exchange for Seller's agreements and performance hereunder. Without limiting the foregoing, if Lender has actual knowledge of a default in any of the covenants, agreements or obligations to be performed by Seller and owed to Lender, and Lender nonetheless elects to perform under this letter agreement, then, upon the consummation of the Closing, Lender shall be conclusively deemed to have waived any such default and shall have no Claim against Seller or hereunder with respect thereto.



Seller has given Lender material concessions regarding this transaction in exchange for Lender agreeing to the provisions of this letter agreement. The provisions of this Exhibit A shall survive the Closing and shall not be deemed merged into any instrument or conveyance delivered at the Closing.



**Via E-Mail and FedEx**

March 27 2017

LYNK Investments, LLC  
260 S. Osceola Avenue, Unit 101  
Orlando FL 32801  
Attn: Matt Brothers  
E-mail: matt@lynkcapital.com

***Re: Lender's Contribution in connection that certain Purchase and Sale Agreement dated March \_\_, 2017 ("Agreement") between Krista Freitag, Receiver ("Seller") of PGR, LLC, a California limited liability company, and Willow Partners, LLC, a Florida limited liability company ("Purchaser")***

Dear Matt,

As you know, pursuant to that certain Letter of Intent dated February 16, 2017 ("LOI") between Purchaser, Seller, and LYNK Capital, LLC, an affiliate of LYNK Investments, LLC ("Lender"), Purchaser and Seller have entered into the Agreement for the purchase and sale of the Asset (as defined in the LOI). Capitalized terms used herein but not otherwise defined shall have the meaning given thereto in the Agreement.

This letter will confirm our mutual agreement and understanding that, as set forth in Section 8 of the LOI, Lender hereby consents to the consummation of the transaction between Seller and Purchaser (or Purchaser's permitted assignee or nominee) pursuant to the Agreement, and no further consent or approval by Lender is needed or required with respect thereto or for Seller and Purchaser to consummate the Closing as defined in the Agreement. Further, Lender agrees that, within one (1) Business Day after Seller notifies Lender in writing that Seller has received the Court Approval, Lender shall wire \$100,000.00 ("Lender Funds") into Escrow with instructions to Escrow Agent that such funds shall be paid to Seller simultaneously with the Closing pursuant to the Agreement. Seller and Lender agree that if the Closing does not occur within three (3) Business Days after the Scheduled Closing Date, then the Lender Funds may be returned to Lender unless Lender and Seller otherwise agree in writing to the contrary. Any notice or agreement required to be in writing pursuant to this letter agreement may be provided via e-mail (in addition to other customary forms of written notice or writing). Notices to Seller shall be provided in the same manner required under the Agreement or by e-mail as set forth

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above; notices to Lender shall be provided in the same manner required under the Loan Agreement or by e-mail as set forth above (delivered to [matt@lynkcapital.com](mailto:matt@lynkcapital.com)).

Further, Lender hereby provides the releases set forth on Exhibit A to this letter, and the same is hereby incorporated in to this letter as if fully set forth in the body hereof.

Lender hereby acknowledges and agrees that it will obtain and realize a material direct and/or indirect benefit from the consummation of the Closing and that the same constitutes good and valuable sufficient consideration in support of Lender's agreement to contribute the Lender Funds to Seller as a part of the Closing and the other agreements set forth in this letter, and that Seller would not have entered into the Agreement or consummate the Closing absent such contribution and agreements.

In order to evidence your receipt of this letter and your agreement with the matters set forth herein, please provide your signature in the space provided below (including where indicated on Exhibit A hereto) and return a fully executed copy of this letter to my attention via e-mail (which shall be treated as an original hand-signed copy for all purposes), with an original hand-signed copy to follow. Nothing in this letter shall be binding upon Seller or its affiliates unless and until such counterpart is received by Seller and the same becomes equally binding upon Lender.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

**KRISTA FREITAG**, as Receiver of PGR,  
LLC, as appointed by the United States  
District Court for the Central District of  
California, Southern Division

Acknowledged and agreed:

**LYNK Investments, LLC**, a Florida limited liability company

By:

Name:

Title:



**EXHIBIT A**

**LENDER'S RELEASE OF SELLER**

Lender hereby agrees that Seller and Seller's respective Affiliates, agents, employees, representatives and trustees, and any predecessor or successor of Seller (each a "**Released Party**" and collectively, the "**Released Parties**") shall be, and are hereby, fully and forever released and discharged from any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Case, the Loan, the Participation Interest, the Closing, the Agreement, or any of the transactions or contemplated therein, or in any way related to any of the foregoing. Lender hereby expressly waives the provisions of Section 1542 of the California Civil Code which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

and all similar provisions or rules of law. Lender elects to and does assume all risk for such Claims heretofore and hereafter arising, whether now known or unknown by Lender.

BY INITIALING BELOW, LENDER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

  
\_\_\_\_\_  
LENDER'S INITIALS

In this connection and to the greatest extent permitted by law, Lender hereby agrees, represents and warrants that such party realizes and acknowledges that factual matters now unknown to him, her or it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Lender further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Lender nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown Claims, debts, and controversies which might in any way be included as a material portion of the consideration given to Seller by Lender in exchange for Seller's agreements and performance hereunder. Without limiting the foregoing, if Lender has actual knowledge of a default in any of the covenants, agreements or obligations to be performed by Seller and owed to Lender, and Lender nonetheless elects to perform under this letter agreement, then, upon the consummation of the Closing, Lender shall be conclusively deemed to have waived any such default and shall have no Claim against Seller or hereunder with respect thereto.



Seller has given Lender material concessions regarding this transaction in exchange for Lender agreeing to the provisions of this letter agreement. The provisions of this Exhibit A shall survive the Closing and shall not be deemed merged into any instrument or conveyance delivered at the Closing.