NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS – YOUR SOCIAL SECURITY NUMBER AND/OR YOUR DRIVER’S LICENSE NUMBER.

**RIGHT OF FIRST OFFER AND**

**RIGHT OF FIRST REFUSAL**

**Date**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Grantor/Owner**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Grantor/Owner’s Address**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Grantee/Holder**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Grantee/Holder’s Address**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Consideration**: The sum of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, receipt and sufficiency of which is hereby acknowledged by Grantor, and which Grantor and Grantee agree and acknowledge is independent of any other transaction.

**Property** (including any and all improvements):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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BE IT KNOWN BY ALL PERSONS THAT Grantor/Owner is and remains the owner of the Property, and by this instrument does hereby grant and convey to Grantee/Holder the following rights:

**1. Right of First OFFER**. If Owner should ever intend to sell all or any part of the Property, Owner shall first, before notifying any third party and before publicly advertising the Property for sale, notify Holder in writing of Owner’s intent to sell. This written notice shall constitute an offer (the “First Offer”). The First Offer must indicate an initial Asking Price for the Property and all other proposed material terms of sale that Owner would be willing to accept. The amount of the initial Asking Price is entirely within the discretion of the Owner and not limited by this instrument.

1.1. After receiving Owner’s First Offer, Holder shall have three (3) days to consider Grantor’s offer and respond in writing to Owner. If Holder fails to respond in writing or fails to respond at all, Owner may conclude that Holder does not accept the First Offer. A counter-offer by Holder will not be construed as an acceptance.

1.2. If Holder accepts Owner’s First Offer, Holder shall have thirty (30) days from the date of Holder’s acceptance to close.

1.3. If Holder declines Owner’s First Offer, or fails to respond, or fails to close, then Owner shall be free to notify third parties of Owner’s intent to sell and to publicly advertise the Property for sale; *provided, however*, that any reduction or increase from the Asking Price greater than Five Percent (5%) shall reinstate Owner’s obligations to Holder beginning at Section 1 of this instrument.

**2. Right of First Refusal**. Owner additionally and further agrees that if Owner should ever receive an Offer (as defined below) from any third-party, then Owner shall, within three (3) days of receipt of the Offer, notify Holder in writing, disclose a copy of the Offer to Holder, and offer the Property to Holder at the same price and upon the same terms as named by the third-party.

2.1. After receiving written notice of the Offer, Holder shall have three (3) days to respond in writing to Owner. Holder must match the price of the Offer and only the material or essential non-monetary terms of the Offer. If Holder fails to respond in writing or fails to respond at all, Owner may conclude that Holder does not accept the Offer, and a third-party or title insurance underwriter may rely on Owner’s affidavit to that effect.

2.2. If Holder accepts the Offer, Holder shall have thirty (30) days to close regardless of any term proposed by the third-party, and Holder must reduce the Offer to writing on a form approved by the Texas Real Estate Commission and sign it.

2.3. If Holder refuses the Offer, then Owner shall be free to accept the third-party’s Offer and close the transaction with the third-party; *provided, however*,

(i) if Owner then accepts the third-party’s Offer on the same terms but fails to close with the third-party within one-hundred and eighty (180) days, Owner’s right to sell the Property to the third-party shall expire and Owner’s obligations to Holder under Sections 1 and 2 hereof shall reinstate, or;

(ii) if Owner and the third-party lower the Offer price by more than Five Percent (5%), or amend material or essential terms of the contract after the Offer is refused by Holder, the amended contract or Offer must be resubmitted to Holder, and Owner’s obligations to Holder under this Section 2 shall reinstate.

2.3. Any special knowledge acquired or held by Owner, which Owner discloses or agrees to disclose to a third-party (including but not limited to surveys, environmental assessments, and inspections), must be shared with Holder.

2.4. As used in this Section 2, an “Offer” means any good faith offer to purchase, convey, pledge, assign, mortgage, or encumber, all or any part of the Property, or to lease all or any part of the Property for a period of time greater than one year. To be “good faith” means that an offer includes an enforceable written agreement, signed by both parties, with earnest money or a deposit required. A good faith offer does not include a nonbinding proposal or mere letter of intent.

3. Owner will not, without Holder’s consent, place any restrictive covenants, voluntary liens, or voluntary change in zoning on the Property after executing this instrument.

4. In the event of a default, which includes a breach of any part of any obligation under any provision of this instrument, specific performance may be enforced as a remedy regardless of any provision of a contract or Offer, in addition to all other remedies at law or equity. The defaulting party shall be liable to the other party for attorney fees if the other party seeks specific performance in a court of law (regardless of whether or not specific performance is actually awarded).

5. The assignment of rights made by this instrument is intended to be a covenant that runs with the land, not limited to the existing named Grantor/Owner or Grantee/Holder. Therefore, as used in this instrument, the terms “Grantor” or “Owner” and “Grantee” or “Holder” include not only the named individual, but also that individual’s successors, heirs, devisees, agents, or assigns, for a period of time not to exceed the applicable rule against perpetuities, measured by the lifetime of [NAME AN INDIVIDUAL HUMAN BEING].

6. Whenever any notice, written response, or written notification is required under this agreement, it shall be sent by (i) certified mail, return receipt requested, to the address of the party listed above or to such party’s other last known address, and/or; (ii) personal delivery to the other party.

7. The terms of this instrument are binding upon and include estate-planning transfers or transfers by reason of death, such as by Will or by gift deed, and this instrument applies to transactions between co-Owners, if applicable.

8. As used in this instrument, singular terms include all parties named at the top of this instrument, and pronouns shall not be construed as limiting. In the event that any part or provision of this instrument is unenforceable by a court of law, the remainder of this instrument shall continue in force to the maximum extent possible.

9. The rights conveyed by this instrument are freely assignable by Grantee/Holder.

10. Pursuant to Section 12.001, Texas Property Code, this instrument shall be signed by Grantor/Owner and acknowledged before a Notary Public, and accepted by Grantee/Holder to be valid and binding. Thereafter, this instrument shall be publicly recorded in each county in which the Property is located. Any modification to this instrument must be in writing, signed by all parties before a Notary Public, and filed in each county where the Property is located.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Grantor/Owner

**STATE OF TEXAS §**

**§**

**COUNTY OF BEXAR §**

Subscribed to before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2022, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Grantor/Owner.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, State of Texas

Accepted:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Grantee/Holder