

Second Amendment to Purchase and Sale Agreement

This Second Amendment to Purchase and Sale Agreement (“**Second Amendment**”) is made and entered into as of the 1st day of February, 2023 (“**Effective Date**”), by and between MILBURN REALTY 2, LLC, a Kentucky limited liability company, (“**Seller**”), KENTON COUNTY FISCAL COURT (**Buyer**), and EGC RE LLC, a Kentucky limited liability company (“**Assignor**”)

Recitals

WHEREAS, Assignor and Seller entered into that certain Purchase and Sale Agreement dated August 25, 2022 the (“**Purchase Agreement**”), concerning the purchase and sale of certain real property of located at 721 – 731 Madison Avenue, Covington, Kentucky 41011 commonly referred to as the “Sims Building” (PIDN: 054-23-01-009.00) (“**Property**”);

WHEREAS, Assignor and Seller entered into a certain First Amendment to Purchase and Sale Agreement dated September 13, 2022 the (“**First Amendment**”), concerning the purchase and sale of **Property**;

WHEREAS, Buyer assumed the Purchase Agreement on September 14, 2022 through an Assignment and Assumption of Purchase and Sale Agreement between Buyer and Assignor;

WHEREAS, Buyer has submitted an application for Kentucky Product Development Initiative (“**KPDI**”) to seek funding assistance for the renovation and adaptive reuse of the Property in order to create office space that will serve as an innovation hub to attract, retain, and assist high-growth technology companies that are positioned to grow and create jobs (the “**Project**”); and

WHEREAS, it is anticipated that the grant funds will be announced on or about March, 2023 and in order to facilitate the KPDI application process, Buyer, Seller and Assignor desire to amend the Purchase Agreement to amend the Nonrefundable Earnest Money, and extend the Due Diligence Period and the Loan Commitment Date upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants, agreements and representations herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. **Nonrefundable Earnest Money.** In consideration of this Second Amendment, upon expiration of the Due Diligence Period, \$23,000.00 of the Earnest Money shall become non-refundable (“**Nonrefundable Earnest Money**”), but which Nonrefundable Earnest Money shall be applicable to the Purchase Price at Closing.
2. **Due Diligence Period.** Buyer’s right to terminate the Purchase Agreement under Section 5(d) of the Purchase Agreement is hereby extended to February 15, 2023 (“**Due Diligence Extension Period**”). Buyer’s right to terminate thirty (30) days from the expiration of the Due Diligence Period under Section 4 is hereby extended for the corresponding period of time (“**Loan Commitment Extension Date**”).

3. **Sellers Right to Market Property.** In consideration of this Second Amendment, Seller may market the Property and negotiate with past interested prospective purchasers.

4. **Conflict.** To the extent of any conflict or inconsistency between the terms and conditions of the Purchase Agreement and the terms and conditions of this Second Amendment, the terms and conditions of this Second Amendment shall control and be absolute.

5. **Ratification.** Except as set forth herein, the terms and conditions of the Purchase Agreement are hereby ratified and remain in full force and effect.

6. **Capitalized Terms.** Capitalized terms first defined herein shall have the meanings so given. Capitalized terms not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

7. **Counterparts.** This Second Amendment may be executed in any number of counterparts, each of which shall be taken to be an original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Seller and Buyer have executed this **SECOND AMENDMENT TO REAL ESTATE PURCHASE AND SALE AGREEMENT**, effective as of the date first set out above.

SELLER:

MILBURN REALTY 2, LLC

a Kentucky limited liability company

By: _____

Name: _____

Title: _____

BUYER:

KENTON COUNTY FISCAL COURT

By:  _____

for Name: Kris Knochelmann, Judge/Executive

Title: Deputy Judge/Executive

ASSIGNOR:

EGC RE LLC

a Kentucky limited liability company

By: _____

Name: _____

Title: _____

