CONTRACT FOR SALE OF REAL ESTATE

THIS CONTRACT FOR SALE OF REAL ESTATE (the "Contract") is made and entered into as of the _____ day of June, 2018, by and between the CITY OF APPLETON (hereinafter referred to as "Seller"), and BECKNELL INDUSTRIAL LLC, a Delaware limited liability company (hereinafter referred to as "Buyer").

WITNESSETH:

WHEREAS, Seller is the owner of certain real estate consisting of approximately 14.6 acres and known as Lot 20 of Southpoint Commerce Park, Plat No. 2 in Appleton, Wisconsin, Parcel ID #31-9-5712-20, as more particularly shown in the attached Exhibit "A", together with all improvements and appurtenances (the "Real Estate"); and,

WHEREAS, Seller is desirous of selling the Real Estate to Buyer, and Buyer is desirous of purchasing the same; and,

WHEREAS, the parties have agreed upon the terms and conditions relating to the sale and purchase of the Real Estate and wish to reflect their agreement in writing;

NOW THEREFORE, it is agreed by and between the parties as follows:

1. <u>COVENANT OF SALE AND PURCHASE</u>. Seller agrees to sell and Buyer agrees to purchase the Real Estate upon the terms set forth in this Contract.

2. <u>PURCHASE PRICE</u>. The gross purchase price ("Purchase Price") of said Real Estate, including all improvements and fixtures located thereon, shall be the sum of Thirty-Five Thousand and No/100 Dollars (\$35,000.00) per acre. The Purchase Price shall be based on the final acreage determined by the Survey, rounded to the nearest one-hundredth (100th) of an acre, and shall be paid in the following manner:

(a) within five (5) business days of the execution of this Contract, Buyer shall pay Twenty-Five Thousand and No/100 Dollars (\$25,000.00) as earnest money (the "Earnest Money") into escrow with Chicago Title Insurance Company Attention: Lia Albizo Sr. Commercial Escrow Officer 2828 Routh Street, Suite 800 Dallas, Texas 75201, Telephone: 214-965-1613, Telecopy: 214-965-1627, email address: lia.albizo@CTT.com (the "Escrow Agent"); and,

(b) the balance shall be paid to Seller at Closing by wire transfer, or such other form acceptable to Seller, less various credits and prorations as set forth in this Contract.

3. <u>FEASIBILITY PERIOD</u>. Buyer shall have sixty (60) days from the date of this Contract within which Buyer may conduct its due diligence evaluation (the "Feasibility

Period"). Buyer shall have the right to conduct such environmental studies (including but not limited to any new or updated Environmental Site Assessment, in form and substance satisfactory to Buyer), property condition and inspection reports, and such other investigations or inspections as Buyer in its discretion may deem advisable. On or before the date the Feasibility Period expires Buyer shall notify Seller by written notice to Seller and Escrow Agent that: (i) Buyer is satisfied with the results of its investigations during the Feasibility Period, waives the Feasibility Period condition in which case the Feasibility Period condition shall be satisfied and this Contract shall remain in full force and effect; or (ii) Buyer disapproves of the results of the Feasibility Period and/or investigations of the Real Estate for any reason or no reason whatsoever in Buyer's sole discretion and elects to terminate this Contract, in which latter event this Contract shall be null and void and neither party shall have any further liability or obligation hereunder except for those matters specified herein to survive any termination of this Contract, and Escrow Agent shall refund to Buyer the Earnest Money without the need of a separate release from Seller.

The Buyer and Buyer's agent, contractors, professional consultants and employees shall have the right to enter upon any part of the Real Estate for the purpose of conducting any of such studies. Seller agrees to cooperate with Buyer in obtaining all necessary governmental approvals. Buyer shall return the Real Estate to its original condition after any study or inspection is completed. Buyer's failure to timely approve, waive or disapprove the results of its investigations of the Real Estate during the Feasibility Period pursuant to the terms of this Section 3 (Feasibility Period) shall be deemed a termination of the Contract in which event this Contract shall be null and void and neither party shall have any further liability or obligation hereunder except for those matters specified herein to survive any termination of this Contract, and Escrow Agent shall refund to Buyer the Earnest Money without the need of a separate release from Seller. The entire amount of the Earnest Money shall apply to the Purchase Price at Closing, should Closing occur.

4. <u>REPRESENTATIONS AND WARRANTIES OF SELLER</u>. The Seller represents and warrants to the Buyer as follows:

(a) To the best of Seller's actual knowledge, the Real Estate is in compliance with all applicable laws and all easements, licenses, covenants and other restrictions affecting the Real Estate in all material respect, and that Seller has not received any notice of, nor has any knowledge of, zoning or building violations.

(b) The Seller holds and will convey to the Buyer good and marketable fee simple title to the Real Estate which is and will be insurable by Escrow Agent at regular rates. As of the date of Closing, there will be no agreements in effect relating to the sale of any portion of the Real Estate by or to any other person or entity, no other person or entity will have the right to use any portion of the Real Estate and there will be no tenants in possession. (c) Seller has not generated, stored, released, discharged, or disposed of hazardous substances or wastes from or on the Real Estate during the period of Seller's ownership in violation of law, and, to the best of Seller's knowledge, no hazardous substances or wastes have been generated, stored, released, discharged or disposed of from or on the Real Estate during the period of Seller's ownership in violation of law. As used in this Contract, the terms "Hazardous Substances" and "Hazardous Wastes" shall have the meanings set forth in the Comprehensive Environmental Response, Compensation and Liability Act, as amended, and the regulations thereunder, the Resource Conservation and Recovery Act, as amended, and the regulations thereunder, and the Federal Clean Water Act, as amended, and the regulations thereunder, and such terms shall also include asbestos, petroleum products, radioactive materials and any regulated substances under any Federal, State or local environmental law, regulation or ordinance.

(d) There are no suits, claims, foreclosure proceedings, landlord-tenant disputes, property tax protests, or zoning proceedings that are pending or, to Seller's actual knowledge, threatened with respect to or in any manner affecting the Real Estate.

(e) Other than this Contract, Seller has not and will not enter into any written or oral agreement, installment land contract, lease option, or option under that Seller is or could become obligated to sell all or any portion of the Real Estate to a third party or to any affiliate of Seller.

(f) Seller has not intentionally withheld from Buyer any material information with respect to the Real Estate.

(g) To Seller's knowledge, the information contained in the materials provided by Seller is accurate in all material respects and not misleading in any material respect.

(h) Neither Seller nor any holder of an interest in Seller is a "party in interest" to any employee benefit plans, and the Real Estate is not an asset of an employee benefit plan covered under Part 4 of Title 1 of the Employee Retirement Income Security Act of 1974, as amended (ERISA), or as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended. For purposes of the foregoing, the term "party in interest" shall have the meaning assigned to such term in Section 3(14) of ERISA.

(i) Seller's representations, warranties and covenants described in this Contract will be deemed effective at all times from the date hereof to the Closing Date. Seller's representations, warranties, covenants, and indemnities described in this Contract will survive the Closing, conveyance of the Real Estate to Buyer, and the delivery and recordation of the deed.

(j) Any reference to Seller's knowledge in this Contract shall include the knowledge of Seller's principals, directors, officers, members, managers, partners, agents, and employees.

5. <u>DELIVERIES BY THE SELLER</u>. Within ten (10) days of the date of this Contract, Seller shall deliver to Buyer a copy of its most current Phase I environmental report, and copies of any surveys, blueprints, reports, studies, tests, proformas, title documentation, covenants and restrictions, incentive proposals, governmental approvals or notices, written leases, and any service, maintenance and other agreements related to the Real Estate which Seller has in its possession and may be relevant to Buyer's review of the Real Estate.

6. <u>CLOSING.</u> Closing ("Closing") shall occur within fifteen (15) days after the expiration or earlier termination of the Feasibility Period ("Closing Date"). Upon payment of the Purchase Price in full, less usual and customary credits, Seller shall deliver title to the Real Estate to Buyer.

7. <u>POSSESSION.</u> Possession of the Real Estate shall be delivered on the Closing Date, free of any leases or tenants in possession.

8. <u>STAMP TAX AND REAL ESTATE TRANSFER DECLARATION</u>. Seller shall pay the amount of any transfer tax imposed by law on the transfer of title and shall furnish a completed real estate transfer declaration signed by Seller or the Seller's agent in the form required law, if any.

9. <u>TAXES AND ASSESSMENTS</u>. Real estate taxes due and payable up to the Closing Date and possession shall be Seller's expense. Real Estate taxes for the current year shall be prorated based on the actual acreage being purchased by Buyer and calculated using the most current tax information, including confirmed multipliers. All special assessments which are a lien upon the real estate as of Closing shall be Seller's expense. All such taxes and special assessments shall constitute a credit to Buyer against the Purchase Price, and shall release Seller from any further liability to Buyer in connection therewith.

The parties agree that Seller shall be solely responsible for the liability and payment of any and all rollback or similar type taxes attributable to the Real Estate, which obligation shall survive Closing and the delivery of the deed.

10. <u>DEED OF CONVEYANCE</u>. On or before Closing, Seller shall execute a recordable special or limited warranty deed sufficient to convey the Real Estate to Buyer or its nominee, in fee simple absolute, subject only to the Permitted Exceptions (as defined hereunder), to be held by Seller's attorney or the Escrow Agent, and delivered to Buyer at Closing upon Buyer's compliance with the terms of this Contract.

11. TITLE / SURVEY. (a) Within fifteen (15) days of the date hereof, Buyer shall use commercially reasonable efforts to obtain, at Seller's expense, a preliminary title report or title commitment for an ALTA extended owner's policy of title insurance and complete and legible copies of all instruments and documents referred to as exceptions to title or as title requirements ("Report"). The Report shall be issued by Escrow Agent in the full amount of the Price, showing fee simple title to the Real Estate in the name of Buyer and dated with an effective date after the date hereof. Seller agrees to provide at Closing an ALTA, or other affidavit, that may be required by the Escrow Agent in order to insure over the general exceptions. Buyer may coordinate and obtain an updated or new ALTA/ACSM Land Title Survey of the Property prepared by a registered land surveyor licensed in the State of Wisconsin, dated not earlier than the date hereof, made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, which Survey may show the boundary of the Real Estate and the location of all improvements, encroachments, easements, conditions, restrictions and other matters affecting title capable of being located by the Survey so as to permit the title insurance company to issues its title policies without survey, boundary or encroachment exceptions ("Survey"). Buyer shall pay for the costs of the Survey.

(b) Buyer's obligation to close and consummate the purchase of the Real Estate is subject to Buyer's approval of the Report and the Survey and all matters revealed by the Report or the Survey. Buyer may, prior to the expiration of the Feasibility Period, advise Seller in writing either that: (i) the condition of title to the Real Estate is unacceptable; or (ii) Buyer objects to any easements, liens, encumbrances, exclusions, exceptions, or other items or requirements contained in the Report or Survey ("Buyer Objections"). All Buyer Objections may be made in Buyer's sole discretion. The date by which Buyer Objections must be made will be referred to as the "Title Review Date." Those title exceptions that are deemed hereunder to be accepted by Buyer, or that Buyer otherwise accepts in writing, but excluding those exceptions to title, if any, which Seller commits to discharge at or before Closing, are collectively referred to in this Contract as the "Permitted Exceptions."

(c) If Escrow Agent updates, adds to, or amends the Report (by endorsement, amendment, or otherwise) as a result of any new matters or facts known or revealed to Escrow Agent (including any new matters or facts shown on the Survey) after the expiration of the Feasibility Period, Buyer will have until ten (10) business days following its receipt of the amended Report (including legible and complete copies of all new exceptions or requirements to title) to notify Seller in writing of Buyer Objections to any new exception or requirement, and exercise its rights under subsection (d) below, including its rights in (d) (i), (ii) or (iii) below.

(d) If Buyer has not notified Seller and Escrow Agent of Buyer Objections on or before the Title Review Date, Buyer will be deemed to have approved the condition of title as shown by the Report or amended Report, as applicable subject to any new matters

and the provisions of subsection (c) above. If Buyer Objections are made on or before the Title Review Date, Seller shall attempt to cure Buyer Objections within ten (10) business days from Seller's receipt of Buyer Objections, unless any such objections may be removed by the payment of money at the time of Closing, in which case Seller may so cure at that time by using the funds to be paid upon the delivery of the deed. If Seller is unable or unwilling to cure any Buyer Objections within this period of time, Seller must send written notice to Buyer specifying which Buyer Objections Seller is unable or unwilling to cure prior to the expiration of such ten (10) business day period. Any failure by Seller to notify Buyer in writing that Seller is unable or unwilling to cure any Buyer Objections within said ten (10) business day period shall be deemed an election by Seller that it is unwilling to cure. Buyer, within five (5) business days after Buyer's receipt of written notice from Seller of its inability or unwillingness to cure any one or more Buyer Objections, or the date that Seller is deemed to have elected that it is unwilling to cure any one or more Buyer Objections, may elect, by delivering written notice to Seller and Escrow Agent, to either: (i) proceed with the purchase and sale of the Real Estate; (ii) cancel this Contract; (iii) or allow Seller more time to attempt to cure, not to exceed an If Buyer exercises its cancellation remedy under additional fifteen (15) days. subparagraph 11(d)(ii) above, all Earnest Money must be refunded immediately by Escrow Agent to Buyer, and neither Seller nor Buyer will have any further liability or obligation under this Contract. If Seller is unable to cure during any extended period, then Buyer may proceed with written notice under either subparagraph 11(d)(i) or Failure of Buyer to give the written notice in this Paragraph 11(d) will be 11(d)(ii). deemed an election by Buyer to cancel under subparagraph 11(d)(ii). Notwithstanding the foregoing, at Closing, Seller shall be required at its sole cost and expense (A) to satisfy all mortgages or deeds of trust encumbering the Real Estate, (B) to satisfy all liens affecting the Real Estate created by, through, or under Seller, (C) to satisfy, insure over or bond around all mechanic's, materialmen's and supplier liens created by, through and under Seller, and (D) to pay any taxes and assessments affecting the Real Estate that are due and payable at or prior to the Closing Date, regardless of whether such items described in (A), (B), (C), or (D) above are included in Buyer Objections. Notwithstanding anything in this Contract to the contrary, in the event that Seller fails to cure or satisfy any of the mortgages, liens, taxes, assessments, or other monetary items as required to be satisfied pursuant to the preceding sentence, Buyer may, without limiting any of Buyer's other rights or remedies under this Contract, pay such amounts as are necessary to satisfy or cure such encumbrances and credit against the Purchase Price all amounts expended by Buyer to cure such encumbrances.

(e) Buyer and Seller agree that, if applicable, the Closing Date will be extended automatically beyond the date established in Section 6 to a date that is three (3) business days following the later of: (i) the time period described in paragraph 11(c) for Buyer's review of any amended Report, if Buyer has not or does not object to any new exception or requirement contained in any amended Report; or (ii) the time period described in paragraph 11(d) for Seller's curing of Buyer Objections, if Buyer has objected to any new exception or requirement contained in any amended Report.

12. <u>CONDITION OF REAL ESTATE PRIOR TO CLOSING.</u> Seller shall maintain the Real Estate free from waste and neglect and in good order and repair shall keep and perform, or cause to be performed all obligations required of Seller with respect to the Real Estate, as required by law, under any mortgage or otherwise. Seller shall tender possession of the Real Estate in the same condition the Real Estate is in as of the date hereof, except for ordinary wear and tear.

13. DEFAULT. If Buyer fails to make any payment or to perform any obligation imposed on it by this Contract, Seller may serve written notice of default upon Buyer and if such default is not corrected within ten (10) days thereafter, this Contract shall terminate and Seller may retain the Earnest Money as liquidated damages and its exclusive remedy, the parties acknowledging that, in the event of Buyer's breach of this Contract, damages would be difficult, if not impossible to ascertain. In the event of failure of Seller to perform the obligations imposed upon it by this Contract, Buyer may terminate this Contract upon similar notice served upon Seller and similar expiration of time period, and if such default is not corrected within ten (10) days thereafter, then Buyer, at Buyer's election, may elect to either: (i) cancel this Escrow and the Contract in the manner established in the Contract and receive a refund of the Earnest Money, in which case Seller shall also pay to Buyer all actual out-of-pocket expenses incurred by Buyer in connection with this transaction, or (ii) waive such breach and proceed to Closing subject to such breach, or (iii) enforce the specific performance of this Contract. Notwithstanding the foregoing, in the event that the remedy of specific performance cannot be obtained because Seller has conveyed or mortgaged an interest in the Real Estate to a third party, Buyer shall be entitled to obtain its actual (but not consequential or punitive) damages incurred as a result of such default, including but not limited to Buyer's actual out-of-pocket expenses incurred in connection with this transaction, and, in the event of a sale to a third party, direct damages equal to the difference between the Purchase Price herein and the purchase price of the sale to the third party.

14. <u>RESPA.</u> The parties hereto shall comply with the Real Estate Settlement Procedures Act of 1974 (RESPA) if applicable and shall promptly furnish all information and execute all documents required for such compliance.

15. <u>CONSTRUCTION</u>. The language used in this Contract shall be deemed to be the language approved by all parties to the Contract to express their mutual intent and no rule of strict construction shall be applied against any party.

16. <u>GOVERNING LAW.</u> This Contract shall be construed and interpreted in accordance with the laws where the Real Estate is located.

17. <u>ATTORNEYS FEES.</u> Default by any party to the Contract shall entitle the nondefaulting party to claim as damage all reasonable costs, attorneys' fees and expenses incurred in connection with enforcement of the Contract.

18. <u>MERGER.</u> All offers, acceptances, oral representations, agreements and writings between the parties heretofore made are merged herein and shall be of no force or effect unless contained in this Contract.

19. <u>COUNTERPARTS.</u> This Contract may be executed in any number of counterparts which together shall constitute the contract of the parties.

20. NOTICES. All notices provided or permitted to be given under this Contract must be in writing and may be served by hand delivery to the party to be notified, with written receipt; by depositing same in a United States Postal Service depository, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested; by delivering to the party to be notified by a nationallyrecognized, overnight delivery service (e.g., Federal Express); by facsimile copy transmission during normal business hours with a confirmation copy delivered by another method permitted under this Section; or by electronic mail addressed to the electronic mail address set forth below for the party to be notified with a confirmation copy delivered by another method permitted under this Section. Notice given in accordance herewith for all permitted forms of notice other than by electronic mail, shall be effective upon the earlier to occur of actual delivery to the address of the addressee or refusal of receipt by the addressee. Notice given by electronic mail in accordance herewith shall be effective upon the entrance of such electronic mail into the information processing system designated by the recipient's electronic mail address. Except for facsimile and electronic mail notices as described above, no notice hereunder shall be effective if sent or delivered by electronic means. Any notices may be given by the counsel for the party giving such notice, and such notice shall be deemed as having been given by such party. For purposes of notice, the addresses of the parties shall be as follows (or such other addresses as the parties may specify from time to time in accordance with this Section):

If to Seller, to:	City of Appleton
	100 N. Appleton Street
	Appleton, WI 54911
	Attn: Matt Rehbein
	Telecopy: 920-832-5994
	Email Address: Matthew.Rehbein@Appleton.org

With a copy to:

If to Buyer, to:	Becknell Industrial LLC 4242 South 1st Avenue, Suite D Lyons, IL 60534 Attention: Mark Shapland Telephone: 708-443-9300 Telecopy: 708-443-9301 Email Address: mshapland@becknellindustrial.com
With a copy to:	Harrington & Tock LLC 201 W. Springfield Avenue, Suite 601 Champaign, IL 61820 Attention: Patrick E. Harrington Telephone: 217-352-4167 Telecopy: 217-352-8707 Email Address: pharrington@harringtontock.com

21. <u>TIME IS ESSENCE AND EXTENSION OF LIABILITIES</u>. Time is the essence of the Contract, and all the agreements contained herein shall be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto. The time for the performance of any obligation or the taking of any action under this Contract will be deemed to expire at 6:00 p.m. (central time) on the last day of the applicable time period established in this Contract, unless such last day falls on a Saturday, Sunday, federal, Illinois legal holiday or any day in which the New York Stock Exchange is closed, in which case such period shall automatically extend to the next business day. In calculating any time period in this Contract that commences upon the receipt of any notice, request, demand, or document, or upon the happening of an event, the date that the notice, request, demand, or document is deemed received, as determined above, or the date an event occurs (or is deemed to have occurred) is not included with the applicable time period, but the applicable time period will commence on the day immediately following.

22. <u>ASSIGNMENT</u>. This Contract shall be binding upon, and inure to the benefit of, Seller and Buyer and their respective successors and assigns. Neither party shall have the right to assign this Contract without the prior written consent of the other party, not to be unreasonably withheld, provided, however, that Buyer shall have the unconditional right to assign this Contract to any affiliated business entity without Seller's consent, and, in the event of such assignment of this Contract, the assignee shall be substituted in all respects instead of and to the exclusion of the Buyer.

23. <u>BROKERS AND DISCLOSURE</u>. Each of the Seller and the Buyer represents and warrants to the other that it has not employed, been represented by or otherwise dealt with any real estate agent, broker or finder in connection with the sale and purchase

of the Real Estate other than CBRE, Inc. (the "Broker"), and that any commissions, fees or other compensation owed to Broker in connection with the sale and purchase of the Real Estate shall be paid by Seller who is liable for payment of such compensation. Seller and Buyer agree to indemnify, defend and hold the other harmless from and against any and all claims, damages, losses, liabilities, costs and expenses (including without limitation reasonable attorneys' fees and court costs) arising out of or in connection with any breach of the foregoing representation and warranty.

24. <u>FACSIMILE SIGNATURES</u>. Handwritten signatures to this Contract transmitted by telecopy or electronic transmission (for example, through use of a Portable Document Format or "PDF" file) shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver to the other party an executed original of this Contract with its actual signature, but a failure to do so shall not affect the enforceability of this Contract, it being expressly agreed that each party to this Contract shall be bound by its own telecopied or electronically transmitted handwritten signature and shall accept the telecopied or electronically transmitted handwritten signature of the other party to this Contract.

25. <u>ANTI-TERRORISM LAW</u>. As used herein, "Anti-Terrorism Law" is defined as any law relating to terrorism, anti-terrorism, money-laundering or anti-money laundering activities, including Executive Order No. 13224 and Title 3 of the USA Patriot Act. As used herein "Executive Order No. 13224" is defined as Executive Order No. 13224 on Terrorist Financing effective September 24, 2001, and relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism." "Prohibited Person" is defined as (i) a person or entity that is listed in the Annex to Executive Order 13224; (ii) a person or entity with whom Seller or Buyer is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law; or (iii) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, http://www.treas.gov/ofac/t11sdn.pdf or at any replacement website or other official publication of such list. "USA Patriot Act" is defined as the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001" (Public Law 107-56). Seller and Buyer hereby represent and warrant that to the best of their knowledge, they are not:

(a) in violation of any Anti-Terrorism Law;

(b) conducting any business or engaging in any transaction or dealing with any Prohibited Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Prohibited Person;

(c) dealing in, or otherwise engaging in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224;

(d) engaging in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in any Anti-Terrorism Law; or

(e) a Prohibited Person, nor are any of its partners, members, managers, officers or directors a Prohibited Person.

26. <u>MISCELLANEOUS CLOSING COSTS</u>. Seller and Buyer each will pay onehalf (½) of the escrow fees. The cost of the owner's title policy with extended coverage shall be paid by Seller, and the Survey shall be paid by Buyer. All costs of recording shall be the responsibility of Buyer. All other charges, costs and expenses are to be allocated between Seller and Buyer in the manner contemplated by this Contract or, if not dealt with under this Contract, according to the custom and practice of Escrow Agent. Each party agrees to pay its own attorneys' fees. All prorations that are required to be made under this Contract will be made on the basis of a three hundred sixty-five (365) day year, with Seller being responsible for the payment of all prorations prior to and including the Closing Date, and with Buyer being responsible for the payment of all prorations after the Closing Date.

27. <u>CONDEMNATION AND CASUALTY</u>. In the event of any casualty to the Real Estate prior to Closing, or in the event that notice of any action, suit or proceeding shall be given prior to the Closing for the purpose of any taking of the Real Estate, or any portion thereof, (including, without limitation, any parking areas, driveways, access or other common areas), Buyer shall have the right to terminate its obligations hereunder, upon which the Escrow Agent will promptly return the Earnest Money to Buyer and neither party shall have any further obligation or responsibility to the other to perform under the Contract. In the event Buyer shall not elect to terminate its obligations hereunder, if Buyer purchases the Real Estate, all insurance proceeds payable on account of the casualty shall be assigned and belong to Buyer (plus the amount of any deductible under Seller's insurance policy shall be credited to Buyer at Closing), or the case of a taking, all taking proceeds (or proceeds from any sale or transfer in lieu thereof) shall be assigned and belong to Buyer.

28. <u>CONFIDENTIALITY</u>. Seller shall keep confidential and not disclose to any person or entity the identity of the potential tenant of the Real Estate, unless, in each case, the information shall have been made public (other than by Seller) or Seller (i) shall be expressly authorized to disclose such information pursuant to this Contract, (ii) shall be required to disclose such information pursuant to law, or (iii) shall have received Buyer's prior written consent.

29. <u>WAIVER OF JURY TRIAL</u>. EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS CONTRACT. EACH PARTY ACKNOWLEDGES THAT

THIS WAIVER IS A MATERIAL CONSIDERATION AND INDUCEMENT TO THE EXECUTION OF THIS CONTRACT, AND CONSTITUTES A KNOWING AND VOLUNTARY WAIVER.

(Signatures on following page)

SELLER:

CITY OF APPLETON

By: _____

Its: _____

BUYER:

BECKNELL INDUSTRIAL LLC,	
a Delaware limited liability company	
By: <u>Mal Sheph</u> Its: <u>COO</u>	

Exhibit "A"

