

## REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered by and between **ITCHY 'N SCRATCHY, LLC**, a Washington limited Liability Company (the "Seller") and **KING COUNTY**, a political subdivision of the State of Washington (the "Buyer"). Seller and Buyer are also referred to herein individually as a "Party" or collectively as "Parties." This Agreement shall be effective as of the date it has been executed by both Parties ("Effective Date").

### RECITALS

A. Seller is the owner of that certain real property located at 420 Fourth Avenue, Seattle, King County, State of Washington, the legal description of which is attached hereto as **EXHIBIT A** (the "Real Property").

B. Seller desires to sell the Real Property and Buyer desires to purchase the Real Property.

### AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and other valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

#### ARTICLE 1. PURCHASE AND TRANSFER OF ASSETS

**1.1. PROPERTY TO BE SOLD.** Seller shall sell and convey to Buyer on the Closing Date (as hereinafter defined) and Buyer shall buy and accept from Seller on the Closing Date the following assets and properties:

**1.1.1.** all of Seller's right, title and interest in the Real Property as legally described in **EXHIBIT A**;

**1.1.2.** all of Seller's right, title and interest in improvements and structures located on the Real Property, if any;

**1.1.3.** all of Seller's right, title and interest in and to tangible personal property, if any, owned by the Seller and attached, appurtenant to or used in connection with the Real Property ("Personal Property") that is required be conveyed to Seller under Section 3.4 of this Agreement;

**1.1.4.** all of Seller's easements and other rights that are appurtenant to the Real Property including but not limited to, Seller's right, title, and interest in and to streets, alleys or other public ways adjacent to the Real Property, sewers and service drainage easements, rights of connection to the sewers, rights of ingress and egress, licenses, government approvals and

permits affecting the Real Property, and all Seller's right, title and interest in and to any plans, drawings, surveys, and warranty right related to the Real Property.

Hereinafter, the items listed in Section 1.1 are collectively referred to as the "Property."

## **ARTICLE 2. PURCHASE PRICE**

**2.1. PURCHASE PRICE AND PAYMENT.** In consideration of the conveyance of the Property, Buyer shall, in full payment therefore, pay in cash to Seller on the Closing Date a total purchase price of Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "Purchase Price").

**2.2. ALLOCATION OF PURCHASE PRICE.** Seller and Buyer agree that the entire Purchase Price is allocable to the Real Property and that the value of the Personal Property, if any, is *de minimis*.

**2.3 DEPOSIT.** Within two (2) business days after the Effective Date, Buyer shall deliver to First American Title Insurance Company (the "Escrow Agent"), in its capacity as the Parties' closing agent, immediately available cash funds in the amount of One Hundred Thousand Dollars (\$100,000) (the "Deposit"). The Deposit shall be invested by the Escrow Agent in a money market account, a federally insured investment or such other investment as may be approved by Seller and Buyer in writing. Accrued interest will be added to and become part of the Deposit. Upon deposit with Escrow Agent, the Deposit shall be non-refundable except as otherwise provided in this Agreement. The Deposit shall be applied as a credit against the Purchase Price at the Closing.

## **ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF THE PARTIES AND CONDITION OF PROPERTY**

**3.1. WARRANTIES AND REPRESENTATIONS OF SELLER.** As of the date hereof and as of the Closing Date, Seller represents and warrants as follows:

**3.1.1. ORGANIZATION.** The Seller is a Washington limited liability company duly organized, validly existing and in good standing under the laws of the State of Washington. Seller has all requisite corporate power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

**3.1.2. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY.** The execution, delivery and performance of this Agreement by Seller (i) is within the powers of Seller as a limited liability company, and (ii) has been or will be on or before the Closing Date, duly authorized by all necessary action of the Seller's governing authority. This Agreement constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with the terms herein.

**3.1.3. NO BROKER.** No broker, finder, agent or similar intermediary has acted for or on behalf of Seller in connection with this Agreement or the transactions contemplated hereby other than Jones Lang LaSalle, which shall be compensated by Seller, and no other broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement or understanding to act for or on behalf of Seller.

**3.1.4. NO LITIGATION.** There is no pending, or to Seller's knowledge, threatened claim, lawsuit, litigation, arbitration, investigation or other proceeding pertaining to the Property or any part thereof. There is no pending or, to the best of Seller's knowledge, threatened condemnation or similar proceeding pertaining to the Property or any part thereof.

**3.1.5. NO VIOLATIONS.** No governmental entity with jurisdiction or other person or entity has asserted, or to Seller's knowledge, has threatened to assert that the Property or any part thereof is in violation of any applicable legal requirement. Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use.

**3.1.6. CONDITION OF PROPERTY.** During Seller's ownership of the Property, to Seller's knowledge, (i) there has been no generation, treatment, storage, transfer, disposal or release of Hazardous Substances, as defined in Section 3.2.4 of this Agreement, on, in, under or emanating from the Property; and (ii) there are or have been no underground storage tanks on the Property and no underground storage tanks have been removed from the Property. To Seller's knowledge there are no Hazardous Substances on, in, under or emanating from the Property. To Seller's knowledge there are no concealed material defects in the Property.

**3.1.7. NO CONTRACTS.** Except for the Permitted Exceptions (defined below), there are no contracts, agreements or other arrangements under which Seller is obligated to sell, exchange, transfer, lease, rent or allow the use of the Property or any part thereof now or in the future, or under which any person or entity has the right to possess or occupy the Property or any part thereof now or in the future.

**3.1.8. FULL DISCLOSURE.** No representation or warranty by Seller in this Agreement or in any instrument, certificate or statement furnished to Buyer pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or fails to state a material fact which is necessary to make the statements set forth therein not false or misleading. The books, records, leases, agreements and other items to be delivered to Buyer pursuant to this Agreement will comprise all material documents in Seller's possession or control regarding the operation and condition of the Property.

**3.1.9. FUTURE AGREEMENTS.** From and after the Effective Date unless this Agreement is terminated in accordance with its terms, Seller shall not without the prior written consent of Buyer:

(a) enter into any agreement, contract, commitment, lease or other transaction that affects the Property in any way; or

(b) sell, dispose of or encumber any portion of the Property.

**3.1.10. MAINTENANCE OF PROPERTY.** Seller shall continue to maintain the Property in its current condition, normal wear and tear excepted, and in compliance with all applicable laws and to pay all costs of the Property between the Effective Date and Closing. Seller shall maintain between the Effective Date and Closing with respect to the Property a policy of all-risk commercial replacement cost property insurance. Seller will provide proof of such insurance to the Buyer on the Effective Date.

**3.1.11. FOREIGN PERSON.** Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701 (a) (30) of the Internal Revenue Code of 1986, as amended and shall deliver to Buyer prior to the Closing an affidavit, as set forth in **EXHIBIT D**, evidencing such fact, and such other documents as may be required under the Code.

**3.1.12 SELLER'S KNOWLEDGE.** In each event in which any representation of Seller is limited "to Seller's knowledge" or similar phrase, that knowledge must include only the actual, personal knowledge (and not the implied, imputed, or constructive knowledge) of Joanna Alexander and Mark Long, without any investigation or inquiry whatsoever, except that said knowledge includes a general review of Seller's files.

**3.1.13 SURVIVAL OF WARRANTIES.** All Seller's warranties in this Agreement are deemed given only as of the date of this Agreement, but will be reaffirmed as of the Closing Date, as a condition to Closing. Seller's liability for any misrepresentation or the breach of any warranty under this Agreement will survive the closing of this transaction, but any claim for any misrepresentation or breach of any covenant will be deemed to have been waived unless Buyer files and serves a complaint for damages or other remedies based on the alleged misrepresentation or breach within the applicable statute of limitations for such action.

**3.2. REPRESENTATIONS AND WARRANTIES OF BUYER.** As of the date hereof and as of the Closing Date, Buyer represents and warrants as follows:

**3.2.1. ORGANIZATION.** Buyer is a political subdivision of the State of Washington, duly organized, validly existing and in good standing under the laws of the State of Washington.

**3.2.2. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY.** The execution, delivery and performance of this Agreement by Buyer (i) is within the powers of Buyer as a political subdivision of the State of Washington, and (ii) subject to the contingency in Section 5.2 of this Agreement, has been or will be on or before the Closing Date, duly authorized by all necessary action of the Buyer's governing authority. This Agreement constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with the terms hereof.

**3.2.3. NO BROKER.** No broker, finder, agent or similar intermediary has acted for or on behalf of Buyer in connection with this Agreement or the transactions contemplated hereby other than Washington Partners, Inc., which shall be compensated by Seller, and no other broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or

commission in connection with this Agreement based on an agreement, arrangement or understanding to act for or on behalf of Buyer.

**3.2.4. CONDITION OF PROPERTY.** Buyer acknowledges that, within the Due Diligence Period, it will have conducted a physical inspection and made all investigations Buyer deems necessary in connection with its purchase of the Property. Upon waiver or satisfaction by Buyer of its contingencies pursuant to Article 5, and except to the extent of Seller's representations and warranties in Section 3.1, Buyer will be deemed to have approved the physical condition of the Property and agrees to accept and purchase the Property "AS IS, WHERE IS", including, without limitation, the existence or non-existence of Hazardous Substances on, in, under or emanating from the Property. For the purposes of this Agreement, the term "Hazardous Substance" shall mean: any waste, pollutant, contaminant, or other material that now or in the future becomes regulated or defined under any Environmental Law, and the term "Environmental Law" shall mean: any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health, safety, or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9602 et. seq. ("CERCLA"); the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq. ("RCRA"); the Washington State Model Toxics Control Act, RCW ch. 70.105D ("MTCA"); the Washington Hazardous Waste Management Act, RCW ch. 70.105; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Washington Water Pollution Control Act, RCW ch. 90.48, and any laws concerning above ground or underground storage tanks. Nothing herein shall be deemed or construed to constitute a waiver by Buyer of any right of contribution under any Environmental Law.

**3.3. RISK OF LOSS.** Until the Closing, the risk of loss relating to the Property shall rest with the Seller. Risk of Loss shall be deemed to include any property damage occurring as a result of an "Act of God," including, but not limited to, fire, earthquakes, tremors, wind, rain or other natural occurrences ("Casualty"). If the Property is destroyed or damaged by Casualty prior to Closing Buyer may terminate this Agreement and obtain a refund of the Depositor alternatively, Buyer may elect to proceed with Closing, in which case Seller shall assign to Buyer all claims and right to proceeds under the Property Insurance Policy and shall credit to Buyer at Closing the amount of any deductible provided for in the Property Insurance Policy. Buyer shall make its election under this Section 3.3 by written notice to Seller within fifteen (15) business days from Buyer learning of a Casualty, and the Closing Date will be extended for the period of time necessary to allow Buyer to make its election.

**3.4 PERSONAL PROPERTY.** Seller shall at Closing execute a bill of sale and assignment in substantially the form of EXHIBIT C for any Personal Property that is used in connection with the ownership, operation and maintenance of the Property. ("Conveyed Personal Property"). Seller shall retain and remove from the Property prior to Closing any other Personal Property that may be removed without damage to the Property, including without limitation, furniture, computers, and phones ("Retained Personal Property"). Within ten (10) business days of the Effective Date, Seller and Buyer shall inspect the Property together and attempt to mutually agree on the inventories of the Conveyed Personal Property and the Retained Personal Property. Thereafter, Seller shall provide to Buyer proposed inventories of Conveyed Personal Property and Retained Personal Property within fifteen (15) business days of the Effective Date.

Seller and Buyer shall thereafter negotiate in good faith to agree upon the final inventories of Conveyed Personal Property and Retained Personal Property. If the Parties are unable to reach agreement on the inventories during the Due Diligence Period in Section 5.1 of this Agreement, then Buyer may terminate this Agreement in the same manner as provided for the Due Diligence Contingency in Section 5.1 of this Agreement.

#### **ARTICLE 4. TITLE MATTERS**

**4.1. CONVEYANCE.** Seller shall convey to Buyer the title to the Property by Statutory Warranty Deed in substantially the form attached hereto as **EXHIBIT B**, subject only to the Permitted Exceptions (as defined below), the lien of current real property taxes, fees and/or charges not yet due and payable, rights reserved in federal patents or state deeds, and building or use restrictions general to the governing jurisdiction.

**4.2. TITLE COMMITMENT.**

**4.2.1.** Seller shall within five (5) days after the Effective Date obtain and provide to Buyer a preliminary commitment for an owner's extended coverage policy of title insurance (the "Title Commitment") issued by First American Title Insurance Company (the "Title Company"), describing the Property, listing Buyer as the prospective named insured and showing as the policy amount the total Purchase Price for the Property. At such time as the Title Company causes the Title Commitment to be furnished to Buyer, the Title Company shall further cause to be furnished to Buyer legible copies of all instruments referred to in the Title Commitment as restrictions or exceptions to title to the Property.

**4.2.2.** Seller shall within fifteen (15) days after the Effective Date, as part of the Title Commitment, have prepared and furnished at its expense to the Title Company and Buyer a survey (the "Survey") of the Property prepared by a Washington licensed Professional Land Surveyor. The Survey shall be certified to Buyer and the Title Company, shall be satisfactory to the Title Company so as to permit it to issue an owner's extended coverage title policy, identify the Property by legal description and shall set forth the number of square feet contained within the Property, show all natural monuments, encroachments, existing fences, drainage ditches and/or courses, flood plain limits, any building or other site improvements and/or objects, any rights-of-way for streets, existing driveways, alleys or highways, easements and other lines or restrictions existing and/or proposed which shall affect any portion of the Property, and such other items as required by Buyer.

**4.3. REVIEW OF TITLE COMMITMENT.** Buyer shall have until ten (10) days after it has received both the Title Commitment and Survey (the "Review Period") in which to notify Seller in writing of any objections Buyer has to any matters shown or referred to in the Title Commitment or Survey ("Buyer's Objections"). Any exceptions or other items that are set forth in the Title Commitment or Survey and to which Buyer does not object within the Review Period shall be deemed to be permitted exceptions ("Permitted Exceptions"). With regard to items to which Buyer does object within the Review Period, Seller shall notify Buyer within seven (7) days after Seller receives Buyer's Objections of any exceptions to title which Seller will not remove or otherwise resolve ("Seller's Response"), and Buyer may, at Buyer's option, either

proceed to Closing and thereby waive the Buyer's Objections not cured, in which case such exceptions to title shall be Permitted Exceptions, or Buyer may terminate this Agreement by notice to Seller within seven (7) days after receipt of Seller's Response. If the Title Company issues a supplement to the Title Commitment or Survey that identifies new exceptions, the procedure set forth in this Section 4.3 shall apply to such supplement, except that Buyer will have five (5) days to make Buyer's Objections to any new exception, Seller shall have five (5) days to provide Seller's Response, Buyer may terminate this Agreement by notice to Seller within five (5) days after receipt of Seller's Response, and the Closing Date will be extended for the period necessary to allow the procedures set forth herein to be completed with regard to a timely objection.

**4.4. OWNER'S TITLE INSURANCE POLICY.** At the Closing, Seller shall cause an owner's policy of extended coverage title insurance to be issued by the Title Company in the full amount of the purchase price, effective as of the Closing Date, insuring Buyer that the fee simple title to the Property is vested in Buyer, subject only to the Permitted Exceptions, the lien of current real property taxes, fees and/or charges not yet due and payable, rights reserved in federal patents or state deeds, and building or use restrictions general to the governing jurisdiction ("Title Policy"). The obligation of Buyer to provide the Title Policy called for herein shall be satisfied if, at the Closing, the Title Company has given a binding commitment, in a form reasonably satisfactory to Buyer, to issue the policy in the form required by this Section. Seller shall pay any sum owing to the Title Company for the preliminary and binding Title Commitments and the premium for the Title Policy.

**4.5. SELLER'S UNDERLYING FINANCING.** Seller shall confirm in writing within fifteen (15) days after the Effective Date whether there is any existing underlying financing of the Property, and if so, that such underlying financing is not subject to any "lock out" or similar covenant which would prevent the lender's lien from being released at Closing. In addition, Seller shall within the same time period provide notice if Seller is required to substitute securities for the Property as collateral for any underlying financing (known as "defeasance"). If Seller provides this notice of defeasance to Buyer, then the parties shall close the transaction in accordance with the process described in DBA Form PS\_D Rev. 1/2011 and titled "Defeasance Addendum."

## **ARTICLE 5. CONTINGENCIES**

**5.1. DUE DILIGENCE INSPECTION AND FEASIBILITY.** Buyer shall satisfy itself by investigation and inspection, at its cost and expense in its sole and absolute discretion, that the condition of the Property for Buyer's contemplated use meets with its approval ("Due Diligence Contingency"). If Buyer is not satisfied with the condition of the Property, Buyer may terminate this Agreement by delivering written notice of termination to Seller within sixty (60) business days of the Effective Date ("Due Diligence Period"). In such event this Agreement shall terminate, the Deposit shall be returned to Buyer and the Parties shall have no further obligations hereunder.

**5.1.1. INSPECTIONS.** During the Due Diligence Period, Buyer, its designated representatives or agents shall have the right at its own expense to (a) perform any and all tests,

inspections, studies, surveys or appraisals of the Property on any subject deemed appropriate by Buyer; (b) obtain its own Phase I or Phase II Environmental Assessment on the Property and perform any and all related tests, inspections and studies deemed appropriate by Buyer; (c) examine all Due Diligence Materials (defined below) related to the Property that Buyer may request from Seller; (d) determine to its satisfaction whether approvals, permits and variances can be obtained under applicable land use and zoning codes for Buyer's intended use or development of the property; and (e) determine whether Buyer's intended use or development of the property is feasible.

**5.1.2. DUE DILIGENCE MATERIALS.** Seller shall provide all documents and materials related to the Property reasonably requested by Buyer ("Due Diligence Materials"). Seller shall deliver to Buyer copies of Due Diligence Materials related to the Property within five (5) days of receiving a written request for such materials from Buyer. In addition, within five (5) days of the Effective Date, Seller will deliver to Buyer copies of the following Due Diligence Materials, to the extent such exist:

- (a) Operating expenses reports;
- (b) Phase I and II environmental/soils reports;
- (c) CC&R's;
- (d) Permit and zoning reviews;
- (e) Three year (3) historical operating and capital budgets;
- (f) Debt and/or equity financing documentation;
- (g) Vendor or service contracts;
- (h) Reports of repairs for the last 5 years;
- (j) Plans and permits for capital and other improvements during ownership;
- (k) Existing surveys, title materials, engineering and environmental studies and any other existing studies and reports;
- (l) Original building plans, site improvement plans, and as-builts;
- (m) Leases or similar rental agreements; and
- (n) All material documents regarding the operation and condition of the Property.

All documents required to be provided by Seller hereunder may be redacted as Seller deems necessary to preserve proprietary business information that, in Seller's commercially reasonable judgment, is not relevant to the operation and condition of the Property.

**5.1.3. ACCESS TO PERSONNEL.** During the Due Diligence Period, Seller shall provide Buyer with reasonable access to Seller's outside consultants and Seller's personnel with knowledge of the Property, including entitlements and zoning, provided, however, that Buyer, with the exception of services to provide the Due Diligence Materials set forth in Section 5.1.2, shall be responsible for any fees or costs of services billed by such consultants for work performed at Buyer's request.

**5.1.4. RIGHT OF ENTRY.** Buyer and Buyer's designated representatives or agents shall have the right and Seller hereby grants to Buyer and Buyer's designated representatives the right to enter the Property and conduct tests, investigations and studies set forth in this Article 5 upon 24 hours advance verbal or email notice; provided that such right of



entry will be limited to those times and dates that will not disrupt Seller's use of, or Seller's operations and activities on the Property. Invasive tests of the Property, such as drilling or excavation shall be subject to Seller's prior written approval. Buyer will not be permitted to undertake activities that damage the Property.

**5.1.5 INDEMNIFICATION.** In connection with any right of entry, inspections, or tests performed under this Section 5.1, Buyer agrees to hold harmless, indemnify and defend Seller, its officers, agents and employees, from and against all claims, losses, or liability for injuries, sickness or death of persons, including employees of Buyer ("Claims") caused by or arising out of any act, error or omission of Buyer, its officers, agents, contractors, subcontractors or employees in entering the Property for the above purposes, except to the extent the Claims are caused by or arise out of any act, error or omission of Seller, its officers, agents and employees. The indemnification provisions in this Section 5.1.5 are specifically and expressly intended to constitute a waiver of the Buyer's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the Seller only, and only to the extent necessary to provide the Seller with a full and complete indemnity of claims made by the Buyer's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon.

**5.2. METROPOLITAN KING COUNTY COUNCIL APPROPRIATION CONTINGENCY.** Buyer's performance under this Agreement is contingent on the appropriation by the Metropolitan King County Council of sufficient funds to carry out the transaction contemplated herein. ("Council Approval Contingency"). The Council Approval Contingency will be satisfied if an ordinance passed by the Metropolitan King County Council appropriating sufficient funds to carry out the transaction contemplated herein becomes effective within sixty (60) business days of the Effective Date ("Council Approval Period"). If the Council Approval Contingency is not satisfied within the Council Approval Period, the Parties may agree to extend the Council Approval Period for one (1) additional thirty (30) business day period. If the Council Approval Contingency is not satisfied within the Council Approval Period, this Agreement shall terminate, the Deposit shall be returned to Buyer and the Parties shall have no further obligations hereunder.

## **ARTICLE 6. COVENANTS OF SELLER PENDING CLOSING**

**6.1. CONDUCT, NOTICE OF CHANGE.** Seller covenants that between the Effective Date and the Closing Seller shall not take any actions that would result in the representations and warranties set forth in Section 3.1 hereof becoming untrue or incomplete as of the Closing, and all covenants of Seller set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. Seller shall give Buyer prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing. Buyer shall have the unilateral right to terminate this Agreement, prior to Closing, after either: 1) Notice to Buyer by Seller of any material change in any of the information contained in Seller's representations and warranties made in Article 3 or elsewhere in this Agreement; or 2) Upon Buyer becoming aware of any material change in any of the information contained in Seller's representations and warranties made in Article 3 or elsewhere in this Agreement.

**6.2 EXCLUSIVITY.** Between the Effective Date and the Closing or earlier termination of this Agreement, Seller shall not market the Property, make or accept any offers to sell, refinance, or recapitalize the Property, or otherwise solicit any offers to purchase, or enter into any agreement for the sale, refinancing or recapitalization of the Property.

**ARTICLE 7.  
COVENANTS OF BUYER PENDING CLOSING**

**7.1. CONDUCT, NOTICE OF CHANGE.** Buyer covenants that between the Effective Date and the Closing Buyer shall not take any actions that would result in the representations and warranties set forth in Section 3.2 hereof becoming untrue or incomplete as of the Closing, and all covenants of Buyer set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. Buyer shall give Seller prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing

**ARTICLE 8.  
CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS**

All obligations of Buyer to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing, and Seller shall exert its best efforts to cause each such condition to be fulfilled:

**8.2. DELIVERY OF DOCUMENTS.** Seller shall have delivered to Buyer at or prior to the Closing all documents required by the terms of this Agreement to be delivered to Buyer.

**8.3. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by Seller at or before the Closing shall have been properly performed in all material respects.

**8.4. TITLE.** Seller shall have cured any exceptions to title to which Buyer objected within the Review Period in Section 4.3 and to which Seller agreed to remove or resolve under Section 4.3, and the Title Company shall be irrevocably committed to issue the Title Policy as required by Section 4.4 of this Agreement.

**8.5. CONDEMNATION.** No portion of the Property shall have been taken or damaged by any public or quasi-public body, and Seller shall not have transferred any portion of the Property to any such body in lieu of condemnation.

**ARTICLE 9.  
CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS**

All obligations of Seller to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing, and Buyer shall exert its best efforts to cause each such condition to be so fulfilled:

**9.1. DELIVERY OF DOCUMENTS.** Buyer shall have delivered to Seller at or prior to Closing all documents required by the terms of this Agreement to be delivered to Seller.

**9.2. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by Buyer at or before the Closing shall have been properly performed in all material respects.

## **ARTICLE 10. CLOSING**

**10.1 CLOSING/CLOSING DATE.** The Closing shall take place within Five (5) business days following the removal of all the contingencies in Article 5 of this Agreement or such other date as may be mutually agreed upon by the Parties ("Closing Date"). On or before the Effective Date, the Parties shall set up an escrow account with the Escrow Agent. The Escrow Agent shall serve as closing agent for the transaction contemplated herein and Closing shall occur in the offices of the Escrow Agent at 818 Stewart St., Suite 800, Seattle, Washington.

### **10.2. PRORATIONS AND MONETARY LIENS.**

**10.2.1. Prorations.** Real property taxes and assessments shall be prorated as of the Closing Date. Seller shall pay the cost of one-half (½) of the escrow fee charged by the Escrow Agent, the costs of the preliminary and binding Title Commitments and the premium for the Title Policy, the recording fees for the deed, any real estate excise or other transfer tax due, and its own attorneys' fees. Buyer shall pay one-half (½) of the escrow fee charged by the Escrow Agent, and its own attorneys' fees. Except as otherwise provided in this Section 10.2, all other expenses hereunder shall be paid by the Party incurring such expenses.

**10.2.2. Taxes.** Buyer is exempt by law from the payment of real property ad valorem taxes, LIDs and assessments ("Taxes") on the Property. Seller is and remains liable for the payment of such Taxes up to the Closing Date and any payments of Taxes unpaid on the Closing Date will be paid from Seller's proceeds by the Escrow Agent on the Closing Date.

**10.2.3. Monetary Liens.** Except as otherwise expressly provided to the contrary in this Agreement, Seller shall pay or cause to be satisfied at or before Closing all monetary liens on or with respect to all or any portion of the Property. If Seller fails to satisfy said liens, the Purchase Price shall be reduced by the amounts due to satisfy and discharge the liens.

**10.3. SELLER'S DELIVERY OF DOCUMENTS AT CLOSING.** At the Closing, Seller will deliver to Buyer via escrow with the Escrow Agent the following properly executed documents:

**10.3.1.** A statutory warranty deed conveying the Property substantially in the form of **EXHIBIT B** attached hereto;

**10.3.2.** A bill of sale and assignment duly executed by the Seller in substantially the form of **EXHIBIT C**, attached hereto for the Conveyed Personal Property;

**10.3.3.** A seller's certificate of non-foreign status substantially in the form of **EXHIBIT D**, attached hereto.

**10.4. BUYER'S DELIVERY OF PURCHASE PRICE AT CLOSING.** At the Closing, Buyer will deliver to Seller via escrow with the Escrow Agent cash or immediately available funds in the amount of the Purchase Price, less the Deposit made under Section 2.3. of this Agreement.

## **ARTICLE 11. MISCELLANEOUS PROVISIONS**

**11.1 NON-MERGER.** Each statement, representation, warranty, indemnity, covenant, agreement and provision in this Agreement shall not merge in, but shall survive the Closing of the transaction contemplated by this Agreement unless a different time period is expressly provided for in this Agreement.

### **11.2 DEFAULT AND ATTORNEYS' FEES.**

**11.2.1. DEFAULT BY BUYER.** In the event Closing does not occur due to default by Buyer, Seller's sole and exclusive remedy shall be to terminate this Agreement and retain the Deposit as liquidated damages. Buyer expressly agrees that the retention of the Deposit by Seller represents a reasonable estimation of the damages in the event of Buyer's default, that actual damages may be difficult to ascertain and that this provision does not constitute a penalty. Buyer and Seller acknowledge and agree that these damages have been specifically negotiated and are to compensate Seller for taking the Property off the market and for its costs and expenses associated with this Agreement.

**11.2.2. DEFAULT BY SELLER.** In the event Closing does not occur due to default of Seller, Buyer shall have the right to bring an action for specific performance, damages and any other remedies available at law or in equity.

**11.2.3. ATTORNEY'S FEES.** In any action to enforce this Agreement, each Party shall bear its own attorney's fees and costs.

### **11.3 TIME.**

**11.3.1. TIME IS OF THE ESSENCE.** Time is of the essence in the performance of this Agreement.

**11.3.2. COMPUTATION OF TIME.** Any reference to "day" in this Agreement shall refer to a calendar day, which is every day of the year. Any reference to business day in this Agreement shall mean any calendar day that is not a "Legal Holiday." A Legal Holiday under this Agreement is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050. Any period of time in this Agreement shall mean Pacific Time and shall begin the calendar day or business day, as the case may be, after the event starting the period and shall expire at 5:00 p.m. of the last calendar day or business day, as the case may be, of the specified period of time, unless with regard to calendar days the last day is a Legal Holiday, in which case the specified period of time shall expire on the next day that is not a Legal Holiday.

**11.4 NOTICES.** Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier. All notices shall be addressed to the Parties at the addresses set forth below or at such other addresses as a Party may specify by notice to the other Party and given as provided herein:

**If to Seller:** Joanna Alexander  
8477 NE New Brooklyn Road  
Bainbridge Island, WA 98110  
Email (For notice under Section 5.1.4 only)  
[Joanna@zombie.com](mailto:Joanna@zombie.com)

**If to Buyer:** King County  
Real Estate Services  
Attention: Section Manager  
ADM-ES-0830  
500 Fourth Avenue, Room 830  
Seattle, WA 98104-2337  
Email (For notice under Section 5.1.4 only)  
[gail.houser@kingcounty.gov](mailto:gail.houser@kingcounty.gov)

**11.5 ENTIRE AGREEMENT AND AMENDMENT.** This writing (including the Exhibits attached hereto) constitutes the entire agreement of the Parties with respect to the subject matter hereof and may not be modified or amended except by a written agreement specifically referring to this Agreement and signed by all Parties.

**11.6. SEVERABILITY.** In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, then such holding shall not impact or affect the remaining provisions of this Agreement unless that court of competent jurisdiction rules that the principal purpose and intent of this contract should and/or must be defeated, invalidated or voided.

**11.7. WAIVER.** No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

**11.8. BINDING EFFECT.** Subject to Section 11.14 below, this Agreement shall be binding upon and inure to the benefit of each Party, its successors and assigns.

**11.9. LEGAL RELATIONSHIP.** The Parties to this Agreement execute and implement this Agreement solely as Seller and Buyer. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

**11.10. CAPTIONS.** The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections.

**11.11. COOPERATION.** Prior to and after Closing the Parties shall cooperate, shall take such further action and shall execute and deliver further documents as may be reasonably requested by the other Party in order to carry out the provisions and purposes of this Agreement.

**11.12. GOVERNING LAW AND VENUE.** This Agreement and all amendments hereto shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and to be performed therein, without giving effect to its conflicts of law rules or choice of law provisions. In the event that either Party shall bring a lawsuit related to or arising out of this Agreement, the Superior Court of King County, Washington shall have exclusive jurisdiction and venue.

**11.13. NO THIRD PARTY BENEFICIARIES.** This Agreement is made only to and for the benefit of the Parties, and shall not create any rights in any other person or entity.

**11.14. ASSIGNMENT.** Buyer shall not assign this Agreement or any rights hereunder without Seller's prior written consent.

**11.15. NEGOTIATION AND CONSTRUCTION.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the Parties, and shall not be construed as if it has been prepared by one of the Parties, but rather as if both Parties had jointly prepared it. The language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either Party. The Parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this Agreement. Each Party shall be and is separately responsible for payment of any legal services rendered on their behalf regarding legal review of this Agreement.


**11.16. EXHIBITS.** The following exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference:

EXHIBIT A	Legal Description
EXHIBIT B	Statutory Warranty Deed
EXHIBIT C	Bill of Sale and Assignment
EXHIBIT D	Certificate of Non-Foreign Status

[SIGNATURES ON THE NEXT PAGE]

EXECUTED on the dates set forth below.

**SELLER: ITCHY 'N' SCRATCHY, LLC**

By: 

Name: Joanna Alexander

Title: Member/Manager

Date: 1-16-2015

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

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

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

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

**BUYER: KING COUNTY**

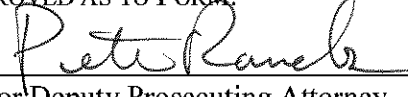
By: 

Name: Gail Houser

Title: Manager, Real Estate Services

Date: 1/16/2015

APPROVED AS TO FORM:

By:   
Senior Deputy Prosecuting Attorney

**EXHIBIT A.**

**LEGAL DESCRIPTION**

Real property in the County of King, State of Washington, described as follows:

THE WESTERLY 80 FEET OF LOT 1 IN BLOCK 37 OF ADDITION TO THE TOWN OF SEATTLE AS LAID OUT ON THE CLAIMS OF C D BOREN AND A A DENNY AND H L YESLER (COMMONLY KNOWN AS C D BOREN'S ADDITION TO THE CITY OF SEATTLE) ACCORDING TO PLAT RECORDED IN VOLUME 1 OF PLATS AT PAGE(S) 25, IN KING COUNTY, WASHINGTON, EXCEPT THE SOUTHWESTERLY 9 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 50320 FOR STREET UNDER CITY OF SEATTLE ORDINANCE NO. 13074.





**EXHIBIT B.**

**STATUTORY WARRANTY DEED**

**AFTER RECORDING RETURN TO:**

King County  
Real Estate Services  
Attention: Section Manager  
ADM-ES-0830  
500 Fourth Avenue, Room 830  
Seattle, WA 98104-2337

**STATUTORY WARRANTY DEED**

**Grantor - - Itchy 'N Scratchy, LLC**

**Grantee - - King County, Washington**

**Legal - - - - Borens C D Add WLY 80 Feet Less ST, Plat Block 37, Plat Lot 1**

**Tax Acct. - 0942001095**

The Grantor, Itchy 'N Scratchy, LLC, a limited liability company of the State of Washington, for and in consideration of mutual benefits, does hereby convey and warrant unto the Grantee, King County, a political subdivision of the State of Washington, the following the real property situate in King County, Washington and described in EXHIBIT A, attached hereto and incorporated herein by this reference, subject to the permitted exceptions set forth in EXHIBIT A.

**GRANTOR**

**Itchy 'N Scratchy, LLC**

**GRANTEE**

**King County, Washington**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: Manager, Real Estate Services

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

Approved as to Form:

By \_\_\_\_\_  
Senior Deputy Prosecuting Attorney

**NOTARY BLOCKS APPEAR ON NEXT PAGE**

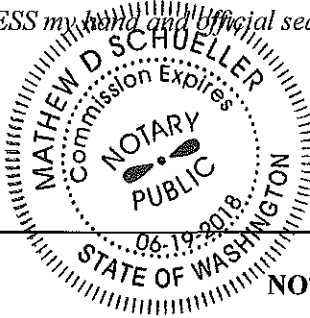
NOTARY BLOCK FOR ITCHY 'N SCRATCHY, LLC

STATE OF WASHINGTON)

COUNTY OF KING )

On this 16th day of January, 2015, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Joannq Alexander, to me known to be the JRA Member/Manager who executed the foregoing instrument and acknowledged to me that SHE or HE was authorized to execute said instrument on behalf of the Itchy 'N Scratchy, LLC for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Matthew Schueller

Notary Public in and for the State of Washington, residing at King County City and State My appointment expires 6-19-2018

NOTARY BLOCK FOR KING COUNTY

STATE OF WASHINGTON)

COUNTY OF KING )

On this 16th day of January, 2015, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared GAIL HOUSER, to me known to be the Manager of the Real Estate Services Section in the Facilities Management Division of the King County Department of Executive Services, and who executed the foregoing instrument and acknowledged to me that SHE was authorized to execute said instrument on behalf of KING COUNTY for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Denise Hauck

Notary Public in and for the State of Washington, residing at SEATTLE, WA City and State My appointment expires Jan 14, 2018

**EXHIBIT C.**

**BILL OF SALE AND ASSIGNMENT**

---

THIS BILL OF SALE is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Itchy 'N Scratchy, LLC ("**Seller**"), in favor of King County, a political subdivision of the State of Washington ("**Buyer**"), with reference to the following facts.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Seller does hereby absolutely and unconditionally give, grant, bargain, sell, transfer, set over, assign, convey, release, confirm and deliver to Buyer all of Seller's right, title and interest in and to any and all equipment, furniture, furnishings, fixtures and other tangible personal property owned by Seller that is attached, appurtenant to or used in connection with the real property legally described on the attached Exhibit A.

Seller represents and warrants that it is the sole owner of, and has good title to, such personal property, and has full right and authority to transfer and deliver the same, and will defend the sale hereby against each and every person claiming otherwise.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the date first above written.

SELLER:

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

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

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

**EXHIBIT D.**

**Seller's Certification of Non-Foreign Status under  
Foreign Investment in Real Property Tax Act (26 U.S.C. 1445)**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Itchy 'N Scratchy, LLC ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii);
3. Transferor's U.S. employer identification number is 91-6001327;
4. Transferor's office address is: **420 4<sup>th</sup> Avenue, Seattle, WA 98104**. Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated this \_\_\_ day of \_\_\_\_\_, 2015.

Itchy 'N Scratchy, LLC, Transferor:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**FIRST AMENDMENT  
TO  
420 4<sup>th</sup> Avenue  
REAL ESTATE PURCHASE AND SALE AGREEMENT**

The undersigned parties; KING COUNTY, a political subdivision of the State of Washington (“County”) and Itchy ‘N Scratchy, LLC, a limited liability company (“INS”), hereby agree to amend that certain Real Estate Purchase and Sale Agreement, dated January 16, 2015, . THIS FIRST AMENDMENT is made as of the date this instrument is fully executed by and between INS and King County.

**RECITALS**

**A.** INS and County are parties to the Agreement by which INS has agreed to sell certain real property located at 420 4<sup>th</sup> Avenue, Seattle, Washington (the “Property”) to the County, subject to the terms and conditions set forth in the signed purchase and sale agreement dated January 16, 2015 (“Agreement”).

**B.** The current Agreement executed between the parties contains a representation by the Seller, in Section 3.1.7, that the Property is not subject to any leasehold interests. In fact, this is not accurate. INS executed a lease (the “Lease”) on January 1, 2015 in favor of Builder Box, LLC (“Tenant”), attached hereto as Exhibit A. The Lease expires on March 31, 2015, which is prior to the anticipated closing date. In order to reflect the existence of the Lease the Agreement requires amendment.

**C.** Capitalized terms not otherwise defined in this Amendment shall have the meaning assigned to them in the Agreement.

THEREFORE, the parties hereby agree as follows:

**1. Section 3.1.7 shall be replaced in its entirety by the following:**

**3.1.7. NO CONTRACTS.** Except for the Permitted Exceptions (defined below), and the commercial lease issued to Builder Box, LLC (attached as Exhibit A to this Amendment), there are no contracts, agreements or other arrangements under which Seller is obligated to sell, exchange, transfer, lease, rent or allow the use of the Property or any part thereof now or in the future, or under which any person or entity has the right to possess or occupy the Property or any part thereof now or in the future.

**2. A new section shall be added to Article 8 as follows:**

**8.6. LEASE TERMINATION AND REMOVAL OF TENANT.** Seller shall deliver to Buyer an executed lease termination agreement between Seller and Tenant and Tenant shall have completely vacated the Property to Buyer’s satisfaction, not be unreasonably construed.

**3. A new section shall be added to Article 10 as follows:**

**10.3.4.** An executed lease termination agreement between Seller and Tenant, dated and effective no later than March 31, 2015.

**4. A new section shall be added to Article 11 as follows:**

**11.2.4. UNLAWFUL DETAINER.** In the event that Seller does not deliver a signed and executed termination of the Lease to Builder Box, LLC as contemplated herein, or fails to ensure that the Tenant as vacated the Property prior to closing, Buyer may

[SIGNATURES ON PAGE 2]

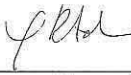
nonetheless elect to proceed to Closing, in which case Seller shall be responsible for all costs associated with or incurred by Buyer in evicting the Tenant, including, but not limited to costs and attorney's fees incurred to prosecute an Unlawful Detainer action against Tenant. A holdback of \$100,000.00 shall remain in escrow to insure this financial obligation by Seller. Any rents received by Seller from Tenant after Closing shall be immediately remitted to Buyer.

5. All other terms and conditions shall remain unchanged and in full force and effect.

EXECUTED as of the dates set forth below.

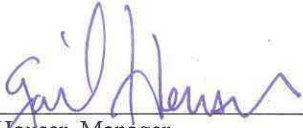
**Itchy 'N Scratchy, LLC**

Digitally signed  
by Joanna  
Alexander  
Date: 2015.01.27  
11:22:05 -08'00'

By   
Joanna Alexander  
Managing Member

Date: \_\_\_\_\_, 2015

**KING COUNTY**

By   
Gail Houser, Manager  
King County Real Estate Services

Date: 2/3, 2015

APPROVED AS TO FORM:

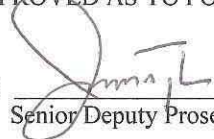
By:   
Senior Deputy Prosecuting Attorney

EXHIBIT A  
**COMMERCIAL LEASE**

This Lease Agreement (this "Lease") is dated as of January 01, 2015, by and between Itchy and Scrachy, LLC ("Landlord"), and Builder Box, LLC ("Tenant"). The parties agree as follows:

**PREMISES.** Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant The 2,000 square foot mezzanine and 6,000 square foot first floor of the office building at 420 4th Ave (the "Premises") located at 420 4th Ave, Seattle, Washington 98104.

**TERM.** The lease term will begin on January 01, 2015 and will terminate on March 31 2015.

**LEASE PAYMENTS.** Tenant shall pay to Landlord monthly installments of \$2,270.00, payable in advance on the seventh day of each month. Lease payments shall be made to the Landlord at 420 4th Ave, Seattle, Washington 98104. The payment address may be changed from time to time by the Landlord.

**POSSESSION.** Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

**PROPERTY INSURANCE.** Landlord and Tenant shall each maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. Landlord shall be named as an additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

**UTILITIES AND SERVICES.** Landlord shall be responsible for all utilities and services incurred in connection with the Premises.

**TAXES.** Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

**REAL ESTATE TAXES.** Landlord shall pay all real estate taxes and assessments for the Premises.

**PERSONAL TAXES.** Landlord shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and/or use taxes (if any) that may be due in connection with lease payments.

**DEFAULTS.** Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.



**CUMULATIVE RIGHTS.** The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

**NON-SUFFICIENT FUNDS.** Tenant shall be charged \$35.00 for each check that is returned to Landlord for lack of sufficient funds.

**ACCESS BY LANDLORD TO PREMISES.** Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

**ASSIGNABILITY/SUBLETTING.** Tenant may not assign or sublease any interest in the Premises, nor effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this lease), nor assign, mortgage or pledge this Lease, without the prior written consent of Landlord, which shall not be unreasonably withheld.

**NOTICE.** Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

**LANDLORD:**

Itchy and Scrachy, LLC  
420 4th Ave  
Seattle, Washington 98014

**TENANT:**

Builder Box, LLC  
420 4th Ave  
Seattle, Washington 98104

Such addresses may be changed from time to time by any party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

**GOVERNING LAW.** This Lease shall be construed in accordance with the laws of the State of Washington.

**ENTIRE AGREEMENT/AMENDMENT.** This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

**SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**TERMINATION CLAUSE:** Notwithstanding any other provision of this Lease, Landlord may terminate this lease upon 14 days' advance written notice to Tenant. The Lease shall terminate on the date specified in the notice of termination and Tenant shall vacate the Premises on or before the specified Termination date. Tenant will remain liable to Landlord for Rent and other sums that would have been owing by Tenant under this Lease for the balance of the term.


**TERMINATION UPON SALE OF PREMISES.** Notwithstanding any other provision of this Lease, Landlord may terminate this lease upon 30 days' written notice to Tenant that the Premises have been sold.

**WAIVER.** The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

**BINDING EFFECT.** The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused their duly authorized representatives to execute, this Assignment as of the date first above written.

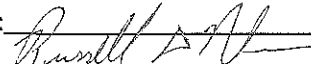
ITCHY AND SCRATCHY, LLC

By: 

Name: Joanna Alexander

Title: Member / Manager

BUILDER BOX, LLC

By:   
Digitally signed by Russell D. Nelson  
DN: cn=Russell D. Nelson, o=Builder  
Box LLC, ou,  
email=russelln@builderboxgames.com,  
c=US  
Date: 2015.01.22 12:20:55 -08'00'

Name: Russell D. Nelson

Title: CFO

**SECOND AMENDMENT  
TO  
420 4<sup>th</sup> Avenue  
REAL ESTATE PURCHASE AND SALE AGREEMENT**

The undersigned parties, KING COUNTY, a political subdivision of the State of Washington ("County") and Itchy 'N Scratchy, LLC, a limited liability company ("INS"), hereby agree to amend that certain Real Estate Purchase and Sale Agreement ("Agreement"), dated January 16, 2015, and the First Amendment to the Agreement dated February 3, 2015 ("First Amendment"). THIS SECOND AMENDMENT is made as of the date this instrument is fully executed by and between INS and King County.

**RECITALS**

A. INS and County are parties to the Agreement by which INS has agreed to sell certain real property located at 420 4<sup>th</sup> Avenue, Seattle, Washington (the "Property") to the County, subject to the terms and conditions set forth in the signed purchase and sale agreement dated January 16, 2015 ("Effective Date") and as modified in the First Amendment, executed on February 3, 2015 ("First Amendment Effective Date").

B. Section 3.1.7 (as amended) permits Seller to lease the property to Builder Box, LLC. Seller desires to lease the Property up to Closing to Builder Box, LLC, or another entity.

C. Section 5.2 of the Agreement contemplates that Closing will occur within sixty (60) business days of the Effective Date. The County now desires additional time for Closing, specifically for the purpose of extending the Metropolitan King County Council Appropriation Contingency.

D. The Parties wish to memorialize in writing the County's waiver of contingencies in Section 5.1 of the Agreement.

E. Capitalized terms not otherwise defined in this Amendment shall have the meaning assigned to them in the Agreement.

THEREFORE, for valuable consideration, the parties hereby mutually agree as follows:

1. **Section 3.1.7, as amended in First Amendment, shall be replaced in its entirety by the following:**

**3.1.7. NO CONTRACTS.** Except for the Permitted Exceptions (defined below), and the commercial lease issued to Builder Box, LLC (attached as Exhibit A to the First Amendment), there are no contracts, agreements or other arrangements under which Seller is obligated to sell, exchange, transfer, lease, rent or allow the use of the Property or any part thereof now or in the future, or under which any person or entity has the right to possess or occupy the Property or any part thereof now or in the future. The foregoing notwithstanding, Seller may lease the Property to any other entity ("Tenant") as long as: 1) the Seller provides written notice to Buyer including an executed copy of the lease; and 2) the term of the lease does not extend beyond Closing.

2. **Section 3.1.9 shall be replaced in its entirety with the following:**

**3.1.9. FUTURE AGREEMENTS.** From and after the Effective Date unless this Agreement is terminated in accordance with its terms, Seller shall not without the prior written consent of Buyer

- (a) enter into any agreement, contract, commitments, lease (except those leases contemplated in Section 3.1.7) or other transaction that affects the Property in any way; or
- (b) sell, dispose of or encumber any portion of the Property.

3. Section 5.2 shall be replaced in its entirety with the following:

5.2. METROPOLITAN KING COUNTY COUNCIL APPROPRIATION CONTINGENCY. Buyer's performance under this Agreement is contingent on the appropriation by the Metropolitan King County Council of sufficient funds to carry out the transaction contemplated herein. ("Council Approval Contingency"). The Council Approval Contingency will be satisfied if an ordinance passed by the Metropolitan King County Council appropriating sufficient funds to carry out the transaction contemplated herein becomes effective no later than June 5, 2015 ("Council Approval Period"). If the Council Approval Contingency is not satisfied within the Council Approval Period, this Agreement shall terminate, the Deposit shall be returned to Buyer and the Parties shall have no further obligations hereunder.

4. Section 6.2 shall be replaced in its entirety with the following:

6.2 EXCLUSIVITY. Between the Effective Date and the Closing or earlier termination of this Agreement, Seller shall not make or accept any offers to sell, refinance, or recapitalize the Property, or otherwise solicit any offers to purchase, or enter into any agreement for the sale, refinancing or recapitalization of the Property.

5. Section 10.3.4 shall be replaced in its entirety with the following:

10.3.4. An executed lease termination agreement between Seller and Tenant, dated and effective no later than Closing.


6. Section 11.2.4 shall be replaced in its entirety with the following:

11.2.4. UNLAWFUL DETAINER. In the event that Seller does not deliver a signed and executed termination of the Lease to Builder Box, LLC as contemplated herein, or fails to ensure that the Builder Box, LLC, or any other Tenant as contemplated in Section 3.1.7, has vacated the Property prior to Closing, Buyer may nonetheless elect to proceed to Closing, in which case Seller shall be responsible for all costs associated with or incurred by Buyer in evicting the Tenant, including, but not limited to costs and attorney's fees incurred to prosecute an Unlawful Detainer action against Tenant. A Seller holdback of \$100,000.00 shall remain in escrow to insure this financial obligation by Seller. Any rents received by Seller from a Tenant still in possession of the Property after Closing shall be immediately remitted to Buyer.

7. Buyer has performed its Due Diligence as contemplated by Section 5.1 of the Agreement and hereby waives that contingency, including Buyer's right to terminate the Agreement under this Section 5.1.

8. All other terms and conditions in the Agreement and First Amendment shall remain unchanged and in full force and effect.

EXECUTED as of the dates set forth below.

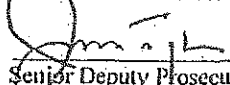
Itchy 'N Scratchy, LLC Digitally signed  
by Joanna  
Alexander  
By:  Date: 2015.03.09  
Joanna Alexander 11:47:12 -07'00'  
Managing Member

Date: March 9, 2015

KING COUNTY  
By:   
Gail Houser, Manager  
King County Real Estate Services

Date: March 9, 2015

APPROVED AS TO FORM:

By:   
Senior Deputy Prosecuting Attorney