

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is made and entered into between WOOLF FAMILY ENTERPRISES LIMITED PARTNERSHIP, an Arizona limited partnership ("Woolf") and the City of Glendale, an Arizona municipal corporation ("City") (each a "Party"; collectively, the "Parties") this 5 day of December, 2014, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged.

RECITALS

- A. Woolf owns approximately 288 acres of real property located at 15551 West Olive Avenue, Glendale, Arizona, Maricopa County Parcel Nos. 501-48-004G and 501-48-004H, generally known as Woolf Crossing and more particularly described on Exhibits "A" and "B" attached hereto ("Property").
- B. In 2005, Element Homes, LLC submitted Preliminary Plat Application PP05-11 for the Property (the "Application").
- C. The Application was filed with, and processed by, the City.
- D. Beginning in 2007, the City performed plan and engineering review work in connection with the Application (the "Review Work"). Invoices for the Review Work totaling \$288,256.59 remain unpaid (collectively, the "Unpaid Invoices").
- E. The Property has not been developed in accordance with the Application.
- F. Woolf desires to develop the Property and intends to submit a new preliminary plat application.
- G. A dispute exists concerning Woolf's obligation to pay for the Review Work. The City contends that Woolf authorized Element Homes to act on its behalf to process the Application and Woolf is, therefore, responsible for the Unpaid Invoices and that full payment must be made prior to the City performing any additional review services in connection with the Property. Woolf contends that Element Homes is solely responsible for the Unpaid Invoices and that fees for the Review Work are not collectible from Woolf or its successors or assigns.
- H. The Parties desire to settle and compromise this dispute under the terms set forth herein. This Agreement does not constitute an admission as to any fact, legal principle, or liability by any Party

SETTLEMENT TERMS

In consideration of the agreements, mutual covenants, conditions, promises and releases contained herein, and with reference to the foregoing facts, the Parties to this Agreement agree as follows:

1. The Recitals are adopted herein by reference.

2. SETTLEMENT PAYMENT. In full and complete settlement of the Unpaid Invoices in connection with Preliminary Plat Application PP05-11, Woolf shall pay to the City the sum of \$259,200 (the "Settlement Payment") as follows:

2.1 An initial payment of \$25,000 via either (i) wire transfer to the account determined by the City within fifteen (15) business days of the Effective Date of this Agreement; or (ii) cashier's check delivered to the Office of Economic Development, on behalf of City For purposes of this Agreement, "Effective Date" is the date the Agreement has been signed by all Parties

2.2. A final payment of \$234,200 payable in the manner provided in Section 2.1 above on the earliest of the following:

2.2.1. The date the sale of the Property (or any portion of the Property) is closed; or

2.2.2. The date the title to the Property (or any portion of the Property) is conveyed to a person or entity other than Woolf, other than a subsidiary or an affiliate of Woolf; or

2.2.3. Prior to the issuance of any permit by the City in connection with the development of the Property (or any portion of the Property)

For purposes of this Section 2, a "subsidiary" or "affiliate" of Woolf shall mean the following:

(i) An "affiliate" shall mean any entity which controls or is controlled by or is under common control with Woolf For this purpose "control" shall mean the possession of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities or by contract

(ii) A "subsidiary" shall mean any entity not less than fifty percent (50%) of whose interest shall, at the time, be owned directly by Woolf

3. PROPERTY LIEN. Woolf authorizes the City to record this Agreement or a Memorandum of Agreement within fifteen (15) business days of the Effective Date of this Agreement, which will serve as notice of Woolf's obligation for the final payment referred to in Section 2.2, above and as a cloud on the Property's title as security for such final payment Upon complete satisfaction of all of Woolf's obligations hereunder, City shall execute a release in form reasonably acceptable to Woolf to fully release the Lien and remove the same as an encumbrance to the Property

4. NEW PRELIMINARY PLAT. Woolf intends to submit or cause to be submitted a new preliminary plat application for the Property and agrees that the application will not be processed by the City until after the initial payment of \$25,000 to the City and after the Lien is recorded pursuant to this Agreement. All City fees, including but not limited to application and plan and engineering review fees, associated with a new preliminary plat will be assessed and collected in accordance with the

then-existing City fee schedule and collection policies, and no fee credit of any kind shall be applied to future work performed by the City in connection with the Property.

5 RELEASE

5.1. Woolf, for itself, its officers, directors, employees, agents, Related Entities (defined in Section 5.3 below), successors and assigns, releases and forever discharges the City and its officials, officers, directors, employees, agents, successors and assigns from any and all past, present and future actions, causes of action, claims, party actions, suits at law or in equity, including claims or suits for contribution and/or indemnity, of whatever nature, and all general, special, and consequential damages, whether known or unknown at this time, which have or may result from any actions, actions, errors, and omissions of the City to the Effective Date of this Agreement and that are in any way related to the Review Work or Unpaid Invoices This release extends to all claims that could have been asserted in any lawsuit on the Effective Date of this Agreement relating to the Review Work or Unpaid Invoices.

5.2 The City , for itself, its officers, directors, employees, agents, successors and assigns, releases and forever discharges Woolf and its officials, officers, directors, shareholders, employees, agents, Related Entities, successors and assigns from any and all past, present and future actions, causes of action, claims, party actions, suits at law or in equity, including claims or suits for contribution and/or indemnity, of whatever nature, and all general, special, and consequential damages, whether known or unknown at this time, which have or may result from any actions, actions, errors, and omissions of Woolf to the Effective Date of this Agreement and that are in any way related to the Review Work or Unpaid Invoices. This release extends to all claims that could have been asserted in any lawsuit on the Effective Date of this Agreement relating to the Review Work or Unpaid Invoices; provided however that this release shall not apply to any claims by the City against Woolf or Related Entities (defined in Section 5.3 below) for City fees for any future work related to the Property.

5.3. "Related Entities" means with respect to Woolf, any other corporation, Limited Liability Company or partnership controlling, or controlled by, or under common control of Woolf. For the purposes of this section 5.3, "control" means the power to direct the management and policies of such entity, whether through the ownership of voting securities or contract; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

6. MISCELLANEOUS.

6.1. Each party to this Agreement represents and warrants to each other party to this Agreement that each has full power, capacity and authority to enter into this Agreement.

6.2 As used herein, the term "business day" shall mean a day other than a Saturday, Sunday or holiday on which the City's offices are closed

6.3. Each of the Parties hereto agrees to execute and deliver to each of the other Parties hereto all additional documents required to implement the terms and conditions of this Agreement

- 6.4 The Parties agree that the rights and obligations arising out of the Agreement, and each of its terms, shall run with the land and shall inure to the benefit of and be binding upon the successors, assigns, heirs, executors, administrators and permitted legal representatives of the Parties, and each of them, to the same extent as if specified at length throughout this Agreement
- 6.5. In any action at law or in equity to enforce any of the provisions or rights under this Agreement, the prevailing party shall be entitled to recover from the unsuccessful party all costs, expenses and reasonable attorney's fees incurred by the prevailing party (including, without limitation, such costs, expenses and fees on appeal) and, if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and fees, including those of expert witnesses and attorney's fees, shall be included as part of the judgment.
- 6.6. This Agreement contains the entire and final agreement and understanding concerning the subject matter herein, and supersedes, cancels and replaces any prior negotiations or agreements between the Parties relating to the Review Work and Unpaid
- 6.7. This Agreement is made and entered into in the State of Arizona, and shall in all respects be interpreted, enforced and governed by and under the laws of the State of Arizona, including any disputes hereunder, and shall be construed according to its fair meaning. This Agreement shall be construed without regard to the identity of the person who drafted its various provisions; each and every provision of this Agreement shall be construed as though each of the Parties participated equally in drafting same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement. The paragraph and section headings herein have been inserted for convenience only, and shall not be construed or referred to in resolving questions of interpretation or construction
- 6.8. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.
- 6.9. The Parties may execute duplicate originals of this Agreement, or any documents they are required to sign or furnish hereunder, in counterparts, any of which shall be deemed to be the original if fully executed by all of the Parties
- 6.10 This Agreement may not be amended, altered, modified or otherwise changed except in a writing that is signed by the party against whom the change is alleged to be effective and expressly stating that it is an amendment of this Agreement.
- 6.11. If any part of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remainder of this Agreement shall continue to remain in full force and effect.
- 6.12 The signators below represent and warrant that each has authority to enter this Agreement on behalf of and bind hereto each party for whom/which he or she signs

(Signatures on Following Page)

CITY OF GLENDALE, an Arizona municipal corporation

B. Fischer
Brenda S. Fischer, City Manager

Date: 12/2/14

ATTEST:

P. Hanna
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

M. Bailey
Michael D. Bailey, City Attorney

WOOLF FAMILY ENTERPRISES LIMITED PARTNERSHIP, an Arizona limited partnership

By: S. WOOLF GROUP, INC.,

Its: Managing Partner
Leyton Woolf
By: Leyton Woolf
Its: President

Date: November 17, 2014

STATE OF ARIZONA)
) ss.
County of Maricopa)

PLC The foregoing instrument was acknowledged before me this 17th day of November, 2014 2013, by Leyton Woolf in his/her capacity as authorized representative of WOOLF FAMILY ENTERPRISES an Arizona limited Partnership.

Laura M. Kratochvil
Notary Public

My Commission Expires:
December 23, 2015

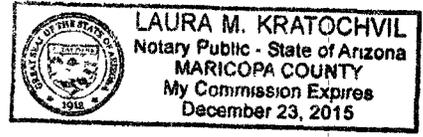


EXHIBIT A
Legal Description of Property

THAT PORTION OF SECTION 31, TOWNSHIP 3 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" REBAR ACCEPTED AS THE NORTHWEST CORNER OF SAID SECTION 31 FROM WHICH A MARICOPA COUNTY HIGHWAY DEPARTMENT BRASS CAP IN HAND HOLE ACCEPTED AS THE NORTHEAST CORNER OF SAID SECTION 31 BEARS SOUTH 89 DEGREES 02 MINUTES 25 SECONDS EAST A DISTANCE OF 4876.07 FEET:

THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 31, SOUTH 89 DEGREES 02 MINUTES 25 SECONDS EAST A DISTANCE OF 2240.36 FEET TO AN ALUMINUM CAP STAMPED WITH RLS #19854 ACCEPTED AS THE NORTH QUARTER THEREOF;

THENCE CONTINUING ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31, SOUTH 89 DEGREES 02 MINUTES 25 SECONDS EAST A DISTANCE OF 1156.16 FEET;

THENCE LEAVING THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31 WHICH BEARS SOUTH 00 DEGREES 00 MINUTES 28 SECONDS EAST A DISTANCE OF 2618.40 FEET;

THENCE NORTH 89 DEGREES 27 MINUTES 50 SECONDS WEST A DISTANCE OF 34.02 TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 5868.89 FEET, THE CENTER OF WHICH BEARS NORTH 81 DEGREES 05 MINUTES 37 SECOND WEST;

THENCE SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21 DEGREES 11 MINUTES 04 SECONDS, AN ARC LENGTH OF 2169.97 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 606.82 FEET TO A POINT ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 31;

THENCE ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, NORTH 89 DEGREES 16 MINUTES 38 SECONDS WEST A DISTANCE OF 401.47 FEET TO AN ALUMINUM CAP STAMPED WITH RLS #19854 ACCEPTED AS THE SOUTH QUARTER CORNER OF SAID SECTION 31;

THENCE CONTINUING ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31, NORTH 89 DEGREES 16 MINUTES 38 SECONDS WEST A DISTANCE OF 2265.44 FEET TO A MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION ALUMINUM CAP IN HAND HOLE STAMPED #29891 ACCEPTED AS THE SOUTHWEST CORNER OF SAID SECTION 31;

THENCE ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, NORTH 00 DEGREES 15 MINUTES 45 SECONDS EAST A DISTANCE OF 421.05 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 935.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 56 DEGREES 36 MINUTES 48 SECONDS, AN ARC LENGTH OF 923.86 FEET;

THENCE NORTH 56 DEGREES 52 MINUTES 33 SECONDS EAST A DISTANCE OF 619.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 935.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 56 DEGREES 37 MINUTES 15 SECONDS, AN ARC LENGTH OF 923.99 FEET;

THENCE NORTH 00 DEGREES 15 MINUTES 18 SECONDS EAST A DISTANCE OF 625.22 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 935.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 60 DEGREES 02 MINUTES 35 SECONDS, AN ARC LENGTH OF 978.83 FEET;

THENCE NORTH 59 DEGREES 47 MINUTES 17 SECONDS WEST A DISTANCE OF 409.06 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1068.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 60 DEGREES 03 MINUTES 26 SECONDS, AN ARC LENGTH OF 1119.47 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 31;

THENCE NORTH ALONG SAID WEST LINE, 00 DEGREES 16 MINUTES 09 SECONDS EAST A DISTANCE OF 392.92 FEET TO THE **POINT OF BEGINNING**.

EXCEPT ANY PORTION LYING WITHIN PROPERTY CONVEYED TO MARICOPA COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, BY WARRANTY DEED RECORDED AS 2011-0098865 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 31 MONUMENTED BY A BRASS CAP IN HANDHOLE BEARING SOUTH 00 DEGREES 00 MINUTES 58 SECONDS WEST, A DISTANCE OF 2632.27 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 31, MONUMENTED BY A BRASS CAP IN HANDHOLE;

THENCE NORTH 89 DEGREES 08 MINUTES 36 SECONDS WEST, ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 31, A DISTANCE OF 265.03 FEET TO THE **POINT OF BEGINNING**;

THENCE DEPARTING SAID MID-SECTION LINE, SOUTH 00 DEGREES 04 MINUTES 45 SECONDS WEST, ALONG A LINE PARALLEL WITH AND 265.00 FEET WEST OF THE EAST LINE OF SECTION 31, A DISTANCE OF 93.05 FEET;

THENCE NORTH 89 DEGREES 51 MINUTES 10 SECONDS WEST, A DISTANCE OF 241.21 FEET;

THENCE NORTH 85 DEGREES 10 MINUTES 58 SECONDS WEST, A DISTANCE OF 550.00 FEET;

THENCE NORTH 89 DEGREES 23 MINUTES 32 SECONDS WEST, A DISTANCE OF 650.00 FEET;

THENCE SOUTH 87 DEGREES 42 MINUTES 33 SECONDS WEST, A DISTANCE OF 1475.00

FEET; THENCE SOUTH 82 DEGREES 49 MINUTES 17 SECONDS WEST, A DISTANCE OF 354.91

FEET; THENCE NORTH 00 DEGREES 15 MINUTES 18 SECONDS EAST, A DISTANCE OF 436.61

FEET; THENCE SOUTH 83 DEGREES 35 MINUTES 52 SECONDS EAST, A DISTANCE OF 530.84

FEET; THENCE NORTH 88 DEGREES 38 MINUTES 55 SECONDS EAST, A DISTANCE OF 1660.00

FEET; THENCE NORTH 85 DEGREES 09 MINUTES 28 SECONDS EAST, A DISTANCE OF 360.00

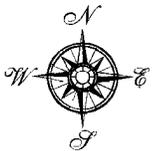
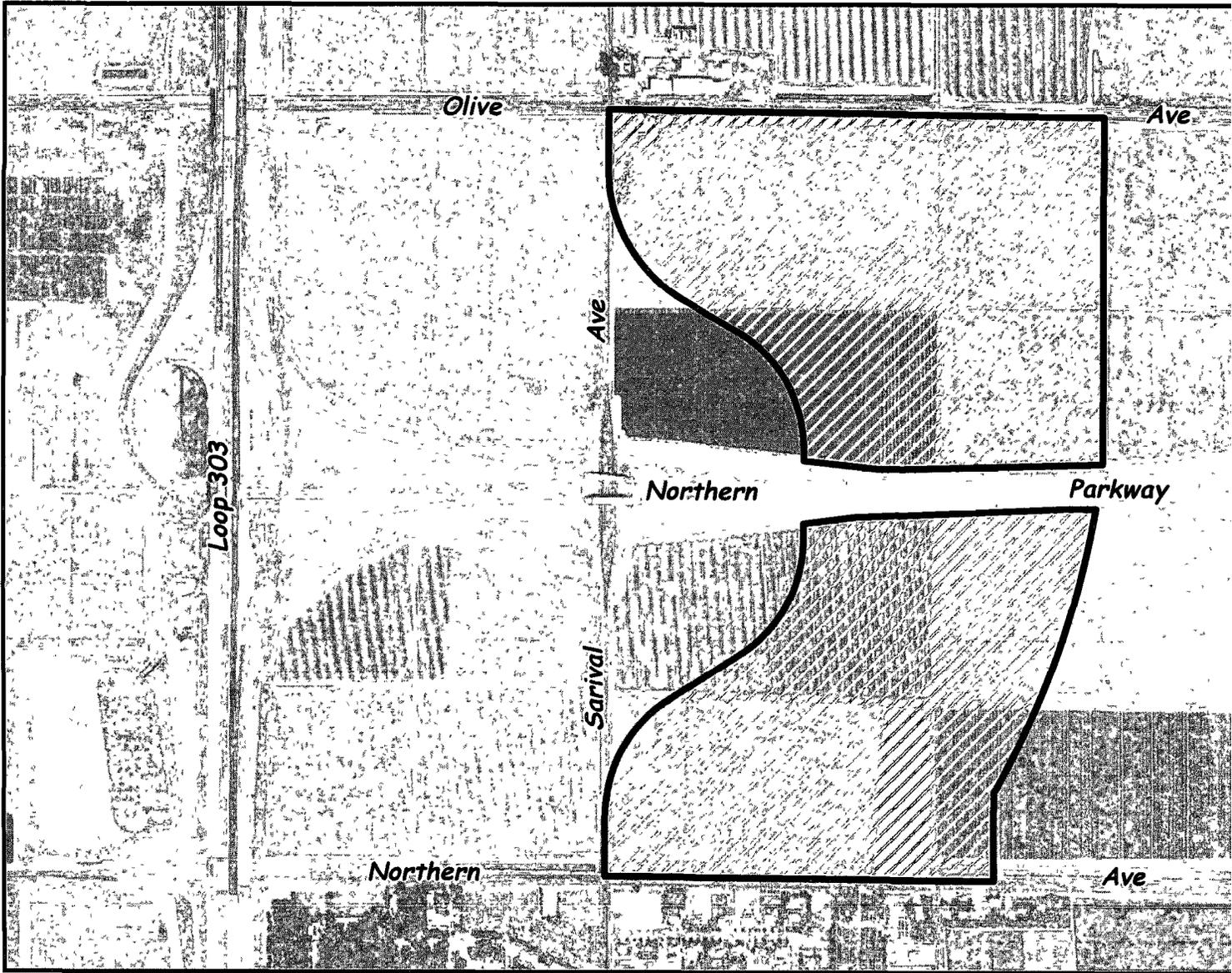
FEET; THENCE NORTH 76 DEGREES 45 MINUTES 28 SECONDS EAST, A DISTANCE OF 700.00

FEET, THENCE SOUTH 89 DEGREES 59 MINUTES 07 SECONDS EAST, A DISTANCE OF 36.32

FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 58 SECONDS WEST, A DISTANCE OF 464 64 FEET TO THE
POINT OF BEGINNING.

EXHIBIT B
Property Map
(next page)



Woolf Crossing

Recorded by
City Clerk's Office
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
ELECTRONIC RECORDING
20140802654,12/05/2014 03 58,
C9466-11-1-1--,N

CITY OF GLENDALE, ARIZONA
DOCUMENT TO BE RECORDED:
SETTLEMENT AGREEMENT
AND MUTUAL RELEASE
(Agreement C-9466)

(PLEASE DO NOT REMOVE ~ THIS IS PART OF THE OFFICIAL DOCUMENT)