

**CONTRACT FOR PURCHASE AND SALE**

THIS AGREEMENT OF SALE (the "Agreement") is made and entered into by and between TX ENERGY SERVICES, LLC, a Delaware limited liability company ("Seller") and ("Buyer" or "Purchaser").

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**WITNESSETH:**

ARTICLE I

**GENERAL**

1.01 **Agreement to Sell and Purchase.** Seller hereby agrees to sell and convey to Purchaser, and Purchaser hereby agrees to purchase and accept from Seller, for the Purchase Price (as hereinafter defined) and on and subject to the terms and conditions hereinafter set forth, all of the following described property (hereinafter referred to collectively as the "**Property**"):

(a) All of the real property described on **Exhibit "A"** attached hereto and made a part hereof (the "Land") together with (i) all and singular the rights, easements and appurtenances pertaining thereto, (ii) all right, title and interest of the Seller in and to any and all roads, easements, alleys, streets and rights-of-way bounding the Land, together with all rights of ingress and egress unto the Land, (iii) strips or gores, if any, between the Land and abutting properties, and (iv) any and all oil, gas and minerals that Seller may own, lying under, in, on or about or constituting a part of the Land, and regardless of whether or not the minerals are considered part of the surface estate or part of the mineral estate;

(b) Any buildings and improvements situated on the Land, but specifically excluding any improvements or fixtures owned by any tenant or licensee or otherwise considered the property of any tenant under any lease or any license (the "**Improvements**");

(c) All of the right, title and interest of Seller in and to all appurtenances pertaining to the Land and the Improvements, including all right, title and interest of Seller in an to adjacent streets, alleys, easements and rights-of-way (the "**Rights**");

(d) All of the right, title and interest of Seller in all fixtures, appliances, equipment, and other items of tangible and intangible personal property, if any, situated upon or used exclusively in connection with the Land and the Improvements, but specifically excluding any improvements or fixtures owned by any tenant or licensee or otherwise considered the property of any tenant or licensee under any lease or license.

1.02 Purchase Price. The purchase price (the "**Purchase Price**" to be paid for the Property shall be \_\_\_\_\_ **DOLLARS** (\$ \_\_\_\_\_) and shall be payable by Purchaser to Seller at the Closing (as hereinafter defined) as follows:

(a) Cash: \_\_\_\_\_  
DOLLARS (\$ \_\_\_\_\_);

1.03 Escrow Deposit. Purchaser shall deposit with **ALDRICH ABSTRACT COMPANY**, 1121 E. Houston Ave., Crockett, Texas 75835, (936) 544-2013, Attention: **Amie Moore** (the "**Agent**" or the "**Title Company**"), in escrow, the sum of \_\_\_\_\_ **DOLLARS** (\$ \_\_\_\_\_) (the "**Escrow Deposit**"), which shall be deposited with the Agent (in cash or other immediately available funds) upon the Effective Date (as hereinafter defined), and to be held and disbursed by the Agent. In the event Purchaser fails to deposit the Escrow Deposit with the Agent upon the Effective Date, Seller, at its option, may terminate this Agreement. At such time as the Closing shall have been consummated, the Escrow Deposit shall be returned to Purchaser or, at the option of Purchaser, disbursed to Seller and applied to the payment of the Purchase Price.

1.04 Non-Refundability of Escrow Deposit. If Buyer fails to close for any reason other than the failure of Seller to deliver clear title to the Property subject to all matters of record in the Houston County Clerk's Office, the Escrow Deposit will be paid to Seller, **MACHINERY AUCTIONEERS, INC.** and **RICHARD WESLEY RUSSELL, P.C.**, jointly.

## ARTICLE II

### TITLE COMMITMENT AND SURVEY; PERMITTED EXCEPTIONS

Within fourteen (14) calendar days after the Effective Date (as defined below), Seller, at the sole cost and expense of Seller, shall cause to be issued and delivered to Purchaser the following:

(a) a commitment for title insurance (the "**Title Commitment**") prepared by the Agent, accompanied by a copy of all recorded documents affecting the Property and listed as title exceptions therein; and

(b) Seller will deliver a survey of the Property at Seller's expense to Buyer dated within thirty (30) days of the Effective Date.

Buyer may, within three (3) calendar days after Buyer's receipt of the survey and Title Commitment object in writing to any matter which constitutes a defect of title on the Title Commitment and/or on the survey.

Any items or exceptions to title that are disclosed on the Title Commitment and/or survey are hereinafter referred to as the "**Permitted Exceptions**."

## ARTICLE III

### REPRESENTATIONS OR WARRANTIES BY SELLER

3.01 Representations and Warranties. The Seller represents and warrants to the Purchaser that:

(a) Seller is a limited liability company. The execution and delivery of this Contract by the Signatories hereto on behalf of Seller and the performance of this Contract by the signatories hereon on behalf of Seller and the performance of this Contract by Seller have been duly authorized by Seller, and this Contract is binding on Seller and enforceable against Seller in accordance with its terms. No consent to such execution, delivery and performance is required from any joint venturer, creditor, investor, judicial or administrative body, governmental authority or other party other than any such consent which already has been unconditionally given. Neither the execution of this Contract nor the consummation of the transactions contemplated hereby will violate any restriction, court order or agreement to which seller or the Property is subject.

(b) Seller is not prohibited from (i) executing or delivering this Contract, (ii) complying with the terms of this Contract, or (iii) consummating the transactions contemplated by this Contract by any applicable governmental requirement, agreement, instrument, restriction, or by a judgment, order or decree of any governmental authority having jurisdiction over Seller or Seller's properties;

(c) Seller is not a "foreign person" but is a "United States person" as such terms are defined in Section 1445 and 7701 of the Internal Revenue Code of 1986, as amended (the "Code"); that is to say, the Seller is a citizen or resident of the United States, a domestic partnership, a domestic corporation, or an estate or trust which is not a foreign estate or foreign trust within the meaning of Section 7701(a)(31) of the Code;

(d) The Seller has good and indefeasible title to the Property, subject only to matters of record in the real property records of the county where the Land is located;

(e) There are no parties in possession of any portion of the Property except for Seller. There are no adverse parties in possession of any portion of the Property whatsoever;

(f) The Property is free and clear of all mechanic's liens, liens, mortgages, or encumbrances of any nature except those which the Property will be conveyed subject to and those which are to be satisfied on or before Closing, and no work has been performed or is in progress by Seller, and no materials have been furnished to the Land or the Improvements or any portion thereof, which might give rise to mechanic's, materialman's or other liens against the Land, the Improvements or the Personalty, or any portion thereof. At Closing, there will be no unpaid bills or claims in connection with any construction or rehab of the Improvements or work on the Land;

(g) Seller has not received any notice from any insurance company insuring any of the Improvements or the Personal Property of any defects or inadequacies therein, or in any part thereof, which would adversely affect the insurability thereof or the cost of such insurance;

(h) There is no suit, action, legal or other proceeding pending, or to Seller's best knowledge, threatened, which affects the Property;

(i) Seller has paid all ad valorem taxes due and payable for the Property, and, on the Closing Date, the Property will be subject to no liens other than the lien for 2019 ad valorem taxes. All assessments, payback agreements or other charges for utilities, roads, or the widening of such roads, or any other fees imposed by any governmental or quasi-governmental authority with respect to the Property which are due and payable have been paid in full;

(j) Seller has not received any notice of any condemnation or similar proceedings having been instituted or threatened against the Property or any part thereof nor, to Seller's best knowledge, is any such proceeding threatened or contemplated of which Seller has not received formal notice; and

(k) All items delivered or to be delivered by Seller pursuant to this Contract, including, without limitations, the Submission Items, are and will be true, correct and complete in all respects and fairly present the information set forth in a manner that is not misleading; no such item omits to state information necessary to make the information contained therein or herein not misleading.

3.02 Covenants. In addition to Seller's other agreements and undertakings hereunder, Seller hereby covenants and agrees with the Purchaser that, at its sole cost and expense;

(a) Seller will not enter into any maintenance, management or other service contracts without the prior written approval of Purchaser;

(b) Seller will cause fire and extended coverage insurance relating to the Property to be maintained in full force and effect at an amount no less than the full replacement cost of the Property;

(c) Seller will promptly notify Purchaser in writing of the levy (or threatened levy) of any special governmental assessment or similar occurrence and will pay any such assessment levied prior to the Closing;

(d) Seller will promptly notify Purchaser in writing of any violation, alleged violation or anticipated violation, of any law, regulation, ordinance, order or other requirement of any governmental authority having jurisdiction over and affecting the Property, or any part thereof, or any communication with the National Park Service or the Texas Historical

Commission with respect to the historic rehab tax credits of which it gains knowledge or is notified, and will cure any such violation of which it gains knowledge or is notified prior to the Closing;

(e) Seller will not, without the prior written consent of Purchaser, permit any structural modifications or additions to the Property; and

(f) Seller will promptly pay and discharge all ownership, leasing, operating, management and maintenance fees, costs and expenses incurred with respect to periods prior to the Closing, specifically including, without limitation, costs and expenses relating to materials supplied and labor performed;

3.03 OTHER THAN STATED ABOVE, PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER (NOR ANY OF SELLER'S AGENTS OR REPRESENTATIVES) HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, INCLUDING, WITHOUT LIMITATION, THE AMERICANS WITH DISABILITIES ACT AND ANY RULES AND REGULATIONS PROMULGATED THEREUNDER OR IN CONNECTION THEREWITH, AND THE TEXAS ARCHITECTURAL BARRIERS ACT AND ANY RULES AND REGULATIONS PROMULGATED THEREUNDER OR IN CONNECTION THEREWITH, (E) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, OR (F) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING SOLID WASTE, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, OR THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, AND APPLICABLE STATE LAWS, AND REGULATIONS PROMULGATED THEREUNDER, PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF

SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS, WHERE IS" CONDITION AND BASIS "WITH ALL FAULTS."

3.04 Also see Special Provision as shown on the Addendum attached hereto as Exhibit "C" hereto and made a part hereof for all purposes.

#### ARTICLE IV

##### REPRESENTATIONS AND WARRANTIES WITH RESPECT TO PURCHASER

As a material inducement to Seller to enter into this Agreement and consummate the transactions contemplated hereby, Purchaser represents and warrants to, and covenants and agrees with, Seller as follows:

(a) Purchaser has full legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated herein, and this Agreement constitutes a legal, valid and binding obligation of Purchaser, enforceable in accordance with its term;

(b) In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by Purchaser, Purchaser shall perform, execute and deliver or cause to be performed, executed and delivered prior to the Closing, at the Closing or after the Closing, any and all further acts, deeds and assurances as the Seller or Title Company may reasonably require to consummate the transactions contemplated herein.

#### ARTICLE V

##### THE CLOSING

5.01 The Closing Date. The consummation of the transactions contemplated by this Agreement (the "**Closing**") shall take place in the offices of the Agent set forth on or before the **15th day of October, 2019** (the "**Closing Date**").

5.02 Seller's Obligations at the Closing. Subject to the terms, conditions and provisions hereof and contemporaneously with the performance by Purchaser of its obligations set forth in Section 5.03 below, Seller shall deliver or cause to be delivered to Purchaser the following at the Closing:

(a) a Special Warranty Deed (the "**Deed**"), executed by Seller, conveying the Land, Improvements and Rights to Purchaser, subject to the Permitted Exceptions, in the form of a Texas Bar form;

(b) a bill of sale (the "**Bill of Sale**"), executed by Seller, assigning to Purchaser the Personal Property, subject to the Permitted Exceptions;

(c) all keys to the Property, any certificates of occupancy relating to the Property and any other documents concerning the Property, if any, which in each case are in the possession of Seller; and

(d) Title Policy. At Closing, Seller shall furnish Purchaser, at Seller's sole cost and expense, with an Owner's Policy of Title Insurance issued by the Title Company on the standard form in use in the State of Texas, on the policy of a Title Insurance Company satisfactory to Purchaser, insuring good and indefeasible title to the Property in the Purchaser, subject only to the Permitted Exceptions and the standard printed exceptions.

All exceptions, conditions or requirements described in Schedule C of the Title Commitment shall be released and/or satisfied prior to or at Closing and such items and requirements shall not be exceptions to the Owner's Policy of Title Insurance to be provided by Seller.

(e) Such other documents as shall be reasonably required by the Title Company as a condition to issuing to Purchaser a title insurance policy (the "**Title Policy**"), insuring title to the Property in Purchaser and containing no exceptions other than the Permitted Exceptions.

(f) All documents necessary to transfer ownership of any wells permitted by the Texas Railroad Commission.

5.03 Purchaser's Obligations at the Closing. Purchaser shall deliver or cause to be delivered to Seller the following at the Closing:

- (a) The Purchase Price in cash or immediately available funds, by wire transfer, cashier's check, or other "good funds" as that term is then defined by the Texas Department of Insurance, immediately available to Seller;
- (b) All documents necessary to transfer ownership of any wells permitted by the Texas Railroad Commission.

5.04 Closing Costs. Seller shall be responsible for the basic premium for issuing the Title Policy. Purchaser shall be responsible for extended coverage, amendments or endorsements to the Title Policy, all escrow fees, and the recording cost or fee for the Deed. Except as otherwise provided herein, each party shall pay its own attorney's fees.

5.05 Prorations. All rents, any prepaid or advanced rents, all other amounts payable by the tenants under the Tenant Leases, including, but not limited to, contributions for taxes, insurance, management, advertising, common area maintenance, reserves and other required contributions by such tenants, income, utilities and all other operating expenses with respect to the Property, including, without limitation, payments under service contracts, and real estate and personal property

taxes and other assessments with respect to the Property for the month, quarter or year, as the case may be, in which the Closing occurs, shall be prorated to the Closing Date.

(a) If the Closing shall occur before rents and all other amounts payable by the tenants under the Tenant Leases, including, but not limited to, contributions for taxes, insurance, management, advertising, common area maintenance, reserves and other required contributions by such tenants, and all other income from the Property have actually been paid for the month, quarter or year, as the case may be, in which the Closing occurs, the apportionment of such rents and other amounts and other income shall be upon the basis of such rents and other amounts and other income actually received by Seller. Subsequent to the Closing, if any such rents and other amounts and other income are actually received by Purchaser, immediately upon its receipt of such rents and other amounts and other income, Purchaser shall pay to Seller its proportionate share thereof for such month, quarter or year, as the case may be. Purchaser shall make a good faith effort and attempt to collect any such rents and other amounts and other income not apportioned at the Closing for the benefit of Seller.

(b) If the Closing shall occur before the actual amount of utilities and all other operating expenses with respect to the Property, including, but not limited to, payments under service contracts, for the month, quarter or year, as the case may be, in which the Closing occurs are determined, the apportionment of such utilities and other operating expenses shall be upon the basis of an estimate by Seller of such utilities and other operating expenses for such month, quarter or years, as the case may be. Subsequent to the Closing, when the actual amount of such utilities and other operating expenses with respect to the Property for the month, quarter or year, as the case may be, in which the Closing occurs are determined, the parties agree to adjust the proration of such utilities and other operating expenses and, if necessary, to refund or repay such sums as shall be necessary to effect such adjustment. Utility deposits held by third parties are not included in the "Property", and shall belong and be returned to Seller by the party holding such utility deposits.

(c) If the Closing shall occur before the tax rate or the assessed valuation of the Property is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation. Subsequent to the Closing, when the tax rate and the assessed valuation of the Property is fixed for the year in which the Closing occurs, the parties agree to adjust the proration of taxes and, if necessary, to refund or repay such sums as shall be necessary to effect such adjustment. Tax refunds paid by the appropriate taxing authorities resulting from an overpayment of taxes or for any other reason with respect to the Property for any period of time prior to the Closing Date are not included in the "Property," and shall belong and be refunded to Seller by the appropriate taxing authority handling such tax refund.



## ARTICLE VI

### DAMAGE OR CONDEMNATION PRIOR TO THE CLOSING

If prior to the Closing there shall occur:

(a) the damage or destruction to all or any substantial portion of the Property caused by fire or other casualty; or

(b) the taking or condemnation of all or any substantial portion of the Property by eminent domain or deed in lieu thereof;

Purchaser, at its option, may terminate this Agreement by written notice given to Seller within ten (10) calendar days after Seller notified Purchaser of such damage or destruction caused by casualty or such taking or condemnation by eminent domain or deed in lieu thereof, but in no event later than the calendar day preceding the Closing Date, in which event the Escrow Deposit, together with all interest accrued thereon, shall be paid to Purchaser. If Purchaser does not so elect to terminate this Agreement, the Closing shall take place as provided herein, Seller shall deliver to Purchaser at the Closing any proceeds actually received by Seller attributable to the Property from such occurrence, and there shall be no reduction of the Purchase Price. For purposes of this Article VI, a "substantial portion" of the Property shall be deemed to include any damage or destruction caused by casualty to or any taking or condemnation by eminent domain or deed in lieu thereof of the Property, the cost of which to repair is equal to or exceeds the sum of \$150,000.00 and shall not include any damage or destruction caused by casualty to or any taking or condemnation by eminent domain or deed in lieu thereof of the Property, the cost of which to repair is less than the sum of \$150,000.00. In the event the damage or destruction caused by casualty to or the taking or condemnation by eminent domain or deed in lieu thereof of the Property does not affect all or any substantial portion of the Property, Purchaser shall not have the right to terminate this Agreement, the Closing shall take place as provided herein, Seller shall deliver to Purchaser at the Closing any proceeds actually received by Seller attributable to the Property from such occurrence, and there shall be no reduction of the Purchase Price. Notwithstanding anything to the contrary contained in this Article VI, in the event the proceeds payable with respect to the Property as a result of any damage or destruction caused by casualty or any taking or condemnation by eminent domain or deed in lieu thereof of the Property exceed the Purchase Price for the Property, Seller shall have the right to terminate this Agreement by delivering written notice of such election to Purchaser within fifteen (15) calendar days after Seller becomes aware of the proceeds payable with respect to such damage or destruction caused by casualty to or such taking or condemnation by eminent domain or deed in lieu thereof of the Property, but in no event later than the Closing Date.

## ARTICLE VII

### PROVISIONS WITH RESPECT TO DEFAULT

7.01 Default by Seller. In the event Seller fails to consummate the transactions contemplated herein for any reason, except a breach or violation by Purchaser of any representation or warranty

of Purchaser set forth herein, a failure by Purchaser to perform its obligations hereunder or to consummate the transactions contemplated herein or the termination hereof pursuant to a right granted to Purchaser or Seller hereunder to do so, Purchaser may either (a) terminate this Agreement by notifying Seller thereof, and thereupon shall be entitled to the Escrow Deposit as its sole and exclusive remedy and relief hereunder, or (b) enforce specific performance of this Agreement, as its sole and exclusive remedy and relief hereunder. Seller shall not be liable to Purchaser for any actual, punitive, speculative, consequential or other damages.

7.02 Default by Purchaser. If the sale and purchase of the Property contemplated by this Agreement is not consummated because of Purchaser's default, Seller shall terminate this Agreement by notifying Purchaser thereof, and thereupon shall be entitled to the Escrow Deposit as its sole and exclusive remedy and relief hereunder and as liquidated damages for such default of Purchaser.

It is hereby agreed that Seller's damages in the event of a default by Purchaser hereunder are uncertain and impossible to ascertain, and that the Escrow Deposit constitutes a reasonable pre-estimate of such damages and Seller's retention thereof is intended not as a penalty, but as full liquidated damages. The right to retain the Escrow Deposit as full liquidated damages is Seller's sole and exclusive remedy in the event of default hereunder by Purchaser.

ARTICLE VIII

MISCELLANEOUS

8.01 Notices. Any notice to be given or to be served upon any party hereto in connection with this Agreement must be in writing, and may be given by facsimile or reputable overnight courier or certified or registered mail and shall be deemed to have been given and received upon deposit of a certified or registered letter containing such notice, properly addressed, with postage prepaid, in the United States mail; and if given other than by certified or registered mail, it shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notices shall be given to the parties hereto at the following addresses:

If to Seller, to: TX ENERGY SERVICES, LLC  
Attn: John Crisp  
3000 S. US Hwy 281  
Alice, Texas 78332-2962  
Phone No.: \_\_\_\_\_  
email: \_\_\_\_\_

With a copy to: Richard Wesley Russell  
Attorney At Law  
413 Lafayette  
Castroville, Texas 78009  
Phone No.: (830) 931-2271  
email: carol@rwrpc.com

And with a copy to:

MACHINERY AUCTIONEERS, INC.  
Attn: Terry Dickerson  
19760 S. IH 35  
Lytle, Texas 78052  
Phone No.:(210) 363-4349  
email: terry@machineryauctioneers.com

If to Purchaser, to:

Attn:  
Phone No.: ( )  
email:

With a copy to:

Attn:  
Phone No.:  
email:

Any party hereto may, at any time by giving five (5) calendar days' written notice to the other party hereof, designate any other address in substitution of the foregoing address to which such notice shall be given.

8.02 Commissions. Seller will pay to RICHARD WESLEY RUSSELL, P.C. and MACHINERY AUCTIONEERS, INC. a commission of Six Percent (6%) of the Purchase Price of the Property. Purchaser will pay to MACHINERY AUCTIONEERS, INC. a Three Percent (3%), or if purchased online a Six Percent (6%), Buyers Premium based on the Purchase Price of the Property. Seller and Purchaser each agree to indemnify and hold harmless the other from and against any and all liabilities, claims, demands or actions for or with respect to commission asserted by any person, firm or corporation (other than MACHINERY AUCTIONEERS, INC. or RICHARD WESLEY RUSSELL, P.C.) in connection with this Agreement or the transactions contemplated hereby, and any court costs, attorneys' fees or other costs and expenses arising therefrom, insofar as any such liabilities, claims, demands or actions are based upon a contract or commitment of the indemnifying party. Such indemnification shall survive the Closing or the termination of this Agreement, as applicable.

8.03 Entire Agreement. This Agreement embodies and constitutes the entire understanding between the parties hereto with respect to the transactions contemplated herein, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement.

8.04 Modification. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

8.05 Applicable Law. This Agreement shall be construed under the laws of the United States of America and, unless preempted thereby, the laws of the State of Texas. The parties hereto hereby stipulate that venue for any and all causes of action between the parties and arising under this Agreement or the closing documents shall be the District Court of Houston County, Texas.

8.06 Headings. Descriptive headings are used in this Agreement for convenience only and shall not control, limit, amplify or otherwise modify or affect the meaning or construction of any provision of this Agreement.

8.07 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns.

8.08 Assignment. Purchaser shall not have the right to assign this Agreement or its rights hereunder without the prior written consent of Seller; provided, however, Purchaser shall have the right to assign its rights under this Agreement on the Closing Date without the consent of Seller to any affiliate entity of Purchaser in which the majority ownership of such entity is the same as Purchaser only after giving Seller (a) five (5) business days prior written notice of such assignment and (b) the name of the proposed assignee, but only upon (I) the execution and delivery by the proposed assignee of an assumption agreement in form and substance satisfactory to Seller, and (ii) Purchaser's written confirmation to Seller of Purchaser's duties and obligations under this Agreement in form and substance satisfactory to Seller. Purchaser hereby agrees that any such assignment to the proposed assignee shall not release Purchaser from any of its duties or obligations under this Agreement.

8.09 Survival of Covenants, Representations and Warranties. The covenants, representations and warranties contained herein shall survive and be enforceable after the Closing and shall not be merged into the Deed, the Bill of Sale, the Assignment or any other documents executed at the Closing and shall not be affected by any investigation, verification or approval by any party hereto or by anyone acting on behalf of any party hereto. The indemnification provisions contained herein by Purchaser for the benefit of Seller shall survive the Closing or any termination of this Agreement by Seller or Purchaser pursuant to the terms hereof.

8.10 Time of Essence. Time is of the essence of this Agreement and of each covenant and agreement that is to be performed at a particular time or within a particular period of time. However, if the date or the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of Texas, in such event, the date or the time of such period shall be extended to the next date which is not a Saturday, Sunday or legal holiday, but such extended dates shall not be cumulative. For purposes of this Agreement, "legal holiday" shall mean New Year's Day, Easter, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

8.11 Invalid Provision. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

8.12 Attorney's Fees. In the event it becomes necessary for either party hereto to file suit to enforce this Agreement or any provision contained herein, the party prevailing in such suit shall be entitled to recover, in addition to all other remedies or damages as provided herein, reasonable attorneys' fees incurred in such suit.

8.13 Multiple Counterparts. This Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement.

8.14 Execution by Purchaser. In the event Seller executes this Agreement prior to the execution thereof by Purchaser, Seller, at its option, may terminate this Agreement in the event Purchaser fails to execute and deliver this Agreement to Seller within three (3) calendar days from the date hereof.

8.15 Confidentiality. Purchaser shall not issue any public announcement concerning the sale and purchase contemplated by this Agreement without the prior written consent of Seller, except as required by law. Purchaser shall not disclose the terms, provisions and conditions of this Agreement to any person or entity, without the prior written consent of Seller. Furthermore, Purchaser agrees to keep strictly confidential any information (except information publicly available) regarding Seller or the Property. Any failure by Purchaser to observe the terms and provisions of this confidentiality and nondisclosure provision shall cause Seller to suffer substantial, immediate and irreparable injury for which there is no adequate remedy at law, and the failure of Purchaser to comply with its obligations under this Section 9.15 shall therefore be enforceable by all available equitable remedies, including, without limitation, immediate injunctive relief.

8.16 NOTICE. SECTIONS 8.01, 8.02, 8.09, 8.17 HEREOF CONTAIN INDEMNITY OR RELEASE PROVISIONS AND SHOULD BE REVIEWED CAREFULLY.

8.17 Waiver of Consumer Rights. Purchaser acknowledges and agrees, on its own behalf and on behalf of any permitted assigns and successors of Purchaser hereafter, that the Texas Deceptive Trade Practices-Consumer Protection Act, Subchapter E of Chapter 17 of the Texas Business and Commerce Code (the "DTPA") is not applicable to this transaction. Specifically, Purchaser acknowledges that the transaction contemplated by this Agreement constitute written contract involving consideration of more than \$100,000.00 which is not related to Purchaser's residence, and is therefore exempt from the DTPA as stated in Section 17.49(f)(1). Accordingly, Purchaser's rights and remedies with respect to the transaction contemplated under this Agreement, and with respect to all acts or practices of Seller, past, present or future, in connection with such

transaction, shall be governed by legal principles other than the DTPA. In furtherance thereof, Purchaser agrees as follows:

(a) Purchaser represents that it is a business consumer and that it seeks to acquire by purchase the goods that are the subject of this Agreement for commercial or business use. Purchaser further represents that it has knowledge and experience in financial and business matters that enable it to evaluate the merits and risks of the business transaction that is the subject of this Agreement. Purchaser also represents that it is not a significantly disparate bargaining position in relation to Seller.

(b) Purchaser represents that it has been represented by legal counsel in seeking or acquiring the goods or services that are the subject of this Agreement and that the transaction contemplated this Agreement does not involve the purchase or lease of a family residence occupied as the residence of Purchaser.

(c) Purchaser agrees, on its own behalf and on behalf of its permitted assigns and successors, to WAIVE and RELEASE all of Purchaser's rights and remedies under the DTPA, a law that gives consumers special rights and protections. After consultation with an attorney of Purchaser's selection, Purchaser voluntarily consents to this waiver, including specifically, without limitation, all rights and remedies resulting from or arising out of any and all acts or practices of Seller in connection with this transaction, whether such acts or practices occur before or after the execution of this Agreement.

(d) The provisions of this Section 8.17 shall survive the Closing.

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement on the respective dates set forth below, but to be effective as of the Effective Date.

SELLER:

**TX ENERGY SERVICES, LLC**

By: \_\_\_\_\_  
John Crisp, President

PURCHASER:

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_ Printed name  
\_\_\_\_\_ Title

The Agent hereby acknowledges receipt of a fully executed copy of this Agreement and the Escrow Deposit referred to in Section 1.03 of this Agreement on \_\_\_\_\_, 2019, and agrees to accept, hold, deliver and disburse the Escrow Deposit, together with all interest accrued thereon and received by the Agent, strictly in accordance with the terms and provisions of this Agreement. In performing any of its duties hereunder, the Agent shall not incur any liability to anyone for any damages, losses or expenses, except for negligence, willful default or breach of trust, and it shall accordingly not incur any such liability with respect (i) to any action taken or omitted in good faith upon advice of its counsel, or (ii) to any action taken or omitted in reliance upon any instrument, including any written notice or instruction provided for in this Agreement, not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and accuracy of any information contained therein, which the Agent shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons and to conform with the provisions of this Agreement. Seller and Purchaser hereby agree to indemnify and hold harmless the Agent against any and all losses, claims, damages, liabilities and expenses, including reasonable costs of investigation and counsel fees and disbursements, which may be imposed upon the Agent or incurred by the Agent in connection with its acceptance or the performance of its duties hereunder, including any litigation arising from this Agreement or involving the subject matter hereof, unless such losses, claims, damages, liabilities and expenses arise out of Agent's negligence, willful default or breach of trust. In the event of a dispute between Seller and Purchaser, sufficient in the discretion of the Agent to justify its doing so, the Agent shall be entitled to tender into the registry of the District Court of Houston County, Texas, all money or property in its hands under this Agreement, together with such legal pleadings as it deems appropriate, and thereupon be discharged from all further duties and liabilities under this Agreement. Seller and Purchaser shall bear all costs and expenses of such legal proceedings.

**ALDRICH ABSTRACT COMPANY**

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

**Exhibit "A"**

**The Land**

10.10 acres, more or less, out of the J. H. Cummings Survey, Abstract 27, Houston County, Texas, and being 10.10 acres, more or less, out of the same land conveyed to TX ENERGY SERVICES, LLC by Denny M. Smith by Deed dated May 17, 2013, as recorded in Volume 2013, Page 2482, Official Public Records of Houston County, Texas, and being the same land depicted and outlined on a map created from Google Earth showing said Property attached hereto as Exhibit "D", to which reference is here made and the terms of which are hereby incorporated by reference the same as if copied herein fully at length.



**EXHIBIT "B"**

**List of Personal Property**

All Personal Property located on the Real Property as of the date of Closing of the transaction.

**Exhibit "C"**

**Special Provisions**

1. Buyer is purchasing the Property at an Auction Sale conducted on behalf of Seller by MACHINERY AUCTIONEERS, INC. and supervised by RICHARD WESLEY RUSSELL, P.C. for which Buyer will pay a Three Percent (3%), or if purchased online a Six Percent (6%), Buyer's premium on the Bid Purchase Price. Seller will pay the Commission contained in a Separate Agreement.

2. Neither Seller, MACHINERY AUCTIONEERS, INC., or RICHARD WESLEY RUSSELL, P.C. makes any representation concerning the Property other than warranty of title by the Seller only. Buyer is buying the Property "AS IS" and "WITH ALL FAULTS" after examination of the Property by Buyer. The language contained in Paragraph 3.03 of this Contract for Purchase and Sale will be contained in the Special Warranty Deed conveying the Property.

3. Buyer is aware that they are purchasing the Property on which there is located a Saltwater Disposal Well authorized by the Texas Railroad Commission. Buyer agrees that as part of the consideration for the purchase of the Property that they will assume all liabilities associated with the Saltwater Disposal Well or its operation. This agreement will survive closing.

4. The Purchaser of this 10.10 acre tract will execute a Well Sharing Agreement with the purchaser of the adjoining 64.90 acre tract whereby the well located on the adjoining 64.90 acre tract will supply water to this tract and the Purchaser of this tract will pay the purchasers of the adjoining 64.90 acre tract the usual and customary compensation for the water received.



EXHIBIT "D"

Line Path Polygon Circle 3D path 3D polygon  
Measure the distance or area of a geometric shape on the ground

Perimeter: 3,091.25 Feet  
Area: 10.10 Acres

Mouse Navigation Save Clear

