

# WSH WARD, SHINDLE & HALL

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September 22, 2023

**VIA HAND DELIVERY**

Elmer Borough Land Use Board  
Attn: Dawn Williams  
215 Union Street  
Elmer, NJ 08318

**RE: Site Plan and Use Variance Application  
424 Broad St – Block 22, Lot 4**

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Dear Ms. Williams:

This office represents the applicant, ASP, LLC, with regard to the above-referenced application, which we request be placed on the October 5, 2023 Land Use Board agenda. Enclosed for filing, please find the following documents:

- 3 full size sets of plans
- 15 reduced size sets of plans
- Application Cover Sheet
- Schedule “A” – General Requirements
- Schedule “E” – Preliminary Site Plan Application Plan Details and Information Requirements
- Schedule “F” – Final Major Site Plan Details and Information Requirements
- Schedule “J” – Use Variance Plan Details and Information Requirements
- Tax Verification<sup>1</sup>
- Agreement of Sale for Purchase of Real Estate (full version in digital PDF version only)
- Two pictures of the exterior of the property

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<sup>1</sup> As we understand, the tax collector’s office is only open on Tuesdays, and we were not able to obtain a verification prior to filing. However, the owner made a tax payment on 9/21/23, which is listed as pending on the online portal. A copy of the payment receipt and web portal status is attached. We will obtain a verification from the tax office as soon as possible prior to the meeting.

The following items address certain requirements found in the Schedule “A” and “J” checklists:

Schedule “A” - #8: William P. Gilmore, PE, CME  
2205 Delsea Drive, Suite 7  
Franklinville, NJ 08322  
Phone: (856) 885-8679

Schedule “A” - #9: We are requesting a waiver of Schedule “E” checklist for preliminary site plan item #18 as we are not proposing any new streets or watercourses, and such information is not necessary to evaluate the site plan given that no new development or footprint changes are proposed. We are also requesting a waiver of Schedule “E” checklist item #22 as all buildings are already existing.

Schedule “J” – “Use Variance Check List #3: The existing property was most recently utilized as a furniture store. The applicant intends convert the existing building into a warehouse/distribution center for its business of distributing wholesale cleaning, janitorial, office, and safety supplies. The building will not be leased to any outside companies, and the applicant will retain control of all shipping and receiving operations to ensure minimal impact to the surrounding neighborhood.

We will provide you with proof of publication and proof of mailing prior to the meeting on October 5, 2023.

Thank you, and please do not hesitate to contact my office with any questions or concerns.

Very truly yours,  
**WARD, SHINDLE & HALL**



M. BRIAN HALL

Cc: Sally Walker, Clerk (via hand delivery)  
Teal Jefferis, PE (via hand delivery)  
Joseph DiNicola, Jr., Esq. (via hand delivery)

Enclosures

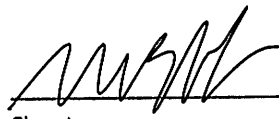
**ELMER BOROUGH LAND USE BOARD  
APPLICATION COVER SHEET  
(to be completed for all applications and appeals)**

1. Applicant Name(s): ASP, LLC
2. Applicant Address: 430 Danbro, Unit 6, Pitman, NJ 08071
3. Applicant Telephone Number(s): 856-718-4183
4. Applicant E-mail: aad@advancedspecialty.com
5. Owner Name(s) (if other than applicant): Excess One, LLC
6. Owner Address: 318 Carlin Rd, Mansfield, TX 76063
7. Type of Application: Preliminary and Final Site Plan Review and Use Variance
8. Property Address | Location: 424 Broad St, Elmer, NJ
9. Property Tax Map Block(s) and Lot(s): Block 22, Lot 4
10. Zoning District: LR-1
11. Present Use of Property: Furniture Store
12. Proposed Use of Property: Warehouse/Distribution Center for Applicant's business only
13. Amount of Fees Paid: \$1,000
14. Amount of Escrow Deposited: \$5,000

**APPLICANT:** The undersigned hereby confirms that (1) all information provided with this application is true, complete and correct; and (2) each applicant understands and will comply with the requirements of the Elmer Borough Land Development Ordinance, including but not limited to the applicant's ongoing obligations to replenish review escrows upon request, and to reimburse the Borough for all professional review fees and costs relating to the application.

M. Brian Hall, Esquire  
Attorney for Applicant

9-22-23



Name: Adam Diekewicz for ASP, LLC

Date:


Signature:

**OWNER (if other than applicant):** The undersigned hereby confirms that (1) the person(s) or entity(ies) named in line 5, above, are the only owner(s) of the property; (2) the applicant has entered into a written agreement with the owner(s) to purchase, lease, or otherwise use or occupy the property; (3) a true and complete copy of that agreement is attached to this application (with or without prices deleted); and (4) the owner has reviewed and consents to this application.

WENDY L MILLER 9/27/23

Name:

Date:



Signature:

**ELMER BOROUGH LAND USE BOARD  
C H E C K L I S T  
SCHEDULE "A" — GENERAL REQUIREMENTS**

Applicants must file all information and materials specified in this checklist unless inapplicable. Applicants must indicate that all required information and materials have been included in the application by marking an "X" in the left column space that corresponds to each required item. "N/A" indicates inapplicability. If a submission waiver is requested, applicants must indicate "W" and include the checklist item requested to be waived in the list referred to in item A-9, below, with an explanation of why the waiver should be granted.

Applicant Please Check	This application includes the following:	Verification (Official Use Only)
✓	1. Copies of all plans, documents, and other materials comprising the application including the following: 3 full size plan sets (24" x 36"), 15 reduced plan sets (11" X 17"), and 1 digital copy (PDF). Sixteen (16) copies of all accompanying documents should be included. Digital copies are preferred.	
✓	2. A completed Application Cover Sheet confirming payment of all required fees and escrow deposits, signed by all applicants (and also signed by all owners if the property is not owned by the applicant). The applicant's attorney may sign the application on behalf of the applicant, and the owner's attorney may sign the application on behalf of the owner, but no other person may sign on behalf of either.	
✓	3. All checklists, materials, and information required as part of the application.	
✓ *	4. A certification or receipt from the Tax Collector confirming that all real estate taxes and water bills have been paid in full through the quarter in which the application is filed.	
✓	5. If the applicant is <u>not</u> the owner of the property, a complete copy of the document creating the applicant's interest in the property (such as a contract for purchase or lease). Prices may be deleted. If the applicant owns the property, indicate "N/A."	
✓	6. If the applicant is a corporation or limited liability company, or if the applicant is an individual or partnership represented by an attorney, the application includes correspondence from the applicant's attorney confirming the attorney's representation of the applicant and the attorney's name, address and telephone number. If the applicant is not a corporation or limited liability company, or if the applicant is not represented by an attorney, indicate "N/A."	
✓	7. If the applicant is a corporation, partnership or limited liability company, and if the application is one for which disclosure is required pursuant to <i>N.J.S.A. 40:55D-48.1, et seq.</i> , all such disclosures are included in the application. If the applicant is not a corporation, partnership or limited liability company, or if the application does not require such disclosure, indicate "N/A."	
✓	8. The names and addresses of all witnesses and their expertise. If no witnesses are proposed, indicate "N/A."	
✓	9. A list of all checklist items for which submission waivers are being requested, with an explanation of why each waiver should be granted. If no submission waivers are requested, indicate "N/A."	

\* Payment made on 9/21/23. Tax cert to be obtained on 9/26/23 when tax collector returns to the office.

**ELMER BOROUGH LAND USE BOARD**  
**C H E C K L I S T**  
**SCHEDULE "E" — PRELIMINARY SITE PLAN APPLICATION**  
**PLAN DETAILS AND INFORMATION REQUIREMENTS**

Applicant Please Check	All applications for preliminary site plan approval must meet all requirements of, and provide all of the materials and information required by this checklist:	Verification (Official Use Only)
✓	1. The preliminary site plan must be clearly and legibly drawn or reproduced at a scale of not less than one-inch equals fifty feet. It must be prepared under the supervision of, and be signed and sealed by a licensed New Jersey land surveyor and any engineering design work shall be done, signed and sealed by a licensed New Jersey professional engineer.	
✓	2. The site plan shall clearly show the conditions on and adjacent to the site at the time of application, the features of the site which are being incorporated into the proposed use or building and the appearance and function of the proposed use or building.	
✓	3. A key map at an appropriate scale showing the location of the site and its relationship to surrounding areas and to existing street locations.	
✓	4. Name and address of owner, applicant, and the persons preparing plan.	
✓	5. The tax map sheet, block and lot numbers.	
✓	6. The names of all adjoining property owners as disclosed by the current tax records.	
✓	7. The entire property in question must be shown, even though only a portion of the property may be involved in the site plan, provided, however, where it is physically impossible to show the entire property on the required sheet, a separate map at an appropriate scale may be submitted.	
✓	8. The location, design and dimensions of each existing and proposed use and structure.	
✓	9. The setback distances from all property lines.	
✓	10. The location, dimensions and arrangement of all existing and proposed streets, vehicular accessways and driveways, off-street parking areas, methods of separating land traffic and parking traffic within off-street parking areas, and loading and unloading areas.	
✓	11. A survey prepared by a land surveyor licenses by the State of New Jersey shall accompany site plans and shall show the boundaries of the parcel and the limits of all proposed streets, recreation areas and other property to be dedicated to public use or to common open space. In the case of new or proposed commercial, industrial or public buildings or structures, the site plan shall be accompanied by preliminary architectural floor plans and elevations with the name, address, professional number and seal of the architect involved.	

N/A	12. Location of all existing trees having a five (5)-inch or greater diameter, and all tree masses, indicating general sizes and species of trees. If no five inch diameter or greater trees, or if no tree masses, indicate "N/A".	
✓	13. The location, design, and dimensions of existing and proposed open areas, buffer areas, pedestrian walkways, and any recreation areas and facilities proposed by the developer.	
✓	14. Landscaping and buffering plan showing what will remain and what will be planted, indicating names of plants and trees and dimensions, approximate time of planting and method of planting.	
✓	15. Contours at two foot intervals for slopes averaging 5% or greater and one foot contours for slopes less than 5%, unless determined by the Borough Engineer to be unnecessary in whole or in part.	
✓	16. Grading plan showing existing and proposed spot elevations based upon the U. S. Coastal Geodetic datum at all building corners, all floor levels, center lines of abutting and other pertinent locations.	
✓	17. The location, size and direction of flow of all streams, brooks, ditches, lakes and ponds. The boundaries of the floodplains of all watercourses shall also be submitted.	
WAIVER	18. Cross sections and centerline profiles of all existing or proposed streets or watercourses.	
N/A	19. Plans and design data for storm drainage facilities prepared in accordance with all Ordinance requirements.	
N/A	20. Preliminary plans and profiles of proposed utility layouts and water and sewer facilities.	
N/A	21. If on-site sewage disposal is required, the results and location of all percolation tests and test borings shall be shown on the plan.	
WAIVER	22. At a minimum, the floor plan and front elevation of all proposed principal buildings and all contemplated accessory buildings and structures.	
✓	23. The size, type and location of all proposed signs.	
✓	24. The location and design of proposed lighting for buildings, signs and grounds.	
✓	25. All other information required for review and approval of preliminary site plan applications pursuant to the Elmer Borough Land Development Ordinance	
✓	26. Soil Erosion and Sediment Control Plan or statement of non-applicability.	

N/A	27. Environmental Impact Statement if site plan requires disturbance of 5,000 sq. ft. or more of the land surface area. If less than 5,000 s.£ land disturbance proposed, indicate "N/A".	
✓	28. All other documents, materials and information required by the Elmer Borough Land Use Ordinance.	
✓	29. A written description of the proposed use and development of the property, as well as past and current development and uses.	
✓	30. Copies of all Land Use Board (or former Planning Board or Zoning Board of Adjustment) resolutions approving or denying prior site plan, subdivision, variance, or other development applications for the property. If none, indicate "N/A".	

**ELMER BOROUGH LAND USE BOARD  
C H E C K L I S T  
SCHEDULE "F" – FINAL MAJOR SITE PLAN  
PLAN DETAILS AND INFORMATION REQUIREMENTS**

Applicant Please Check	All applications for final site plan approval must meet all requirements of, and provide all of the materials and information required by this checklist:	Verification (Official Use Only)
<i>To be provided</i>	1. The revised final plans and all other documents, materials and information required by the preliminary major site plan approval and the Elmer Borough Land Use Ordinance.	
<i>To be provided</i>	2. A certification by a New Jersey licensed professional engineer confirming that all detailed drawings, specifications and estimates of the application for final approval conform to the standards established by the Elmer Borough Land Use Ordinance, the conditions of preliminary major subdivision approval, and all applicable requirements of the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1, <i>et seq.</i> ).	
<i>To be provided</i>	3. A certification by a New Jersey licensed professional engineer confirming that final approvals have been obtained from all other agencies having jurisdiction over the project.	



**ELMER BOROUGH LAND USE BOARD  
CHECK LIST  
SCHEDULE "J" – "USE" VARIANCE (N.J.S.A. 40:55D-70(d))  
PLAN DETAILS AND INFORMATION REQUIREMENTS**

Applicant Please Check	All applications for "use" variance relief pursuant to <i>N.J.S.A. 40:55D-70(d)</i> must meet all requirements of, and provide all of the materials and information required by this checklist:	Verification (Official Use Only)
✓	<p>1. Unless the variance application includes a site plan, the applicant must provide a survey prepared and certified by a New Jersey licensed professional surveyor, originally dated, or updated and re-certified, within three months prior to the date the application is filed, depicting the property in question and clearly showing the location of (a) all existing buildings, structures, improvements at and within twenty-five feet from the property in question; (b) all trees of greater than six-inches caliper; (c) all rights-of-way and other easements of record; and (d) all areas where new or expanded buildings, structures and improvements are being proposed. Accurate dimensions must be shown for all existing and proposed buildings, structures and improvements from all lot lines. The plan must also include tax map sheet, block and lot numbers, and the zoning district designation(s), a table of all zoning requirements. The survey must be clearly and legibly drawn or reproduced at a scale of not less than one-inch equals fifty feet. The survey must also confirm compliance with all applicable requirements of the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1, <i>et seq.</i>) If a site plan has been provided, indicate "N/A".</p>	
✓	<p>2. At least one recent photograph of the property.</p>	
✓	<p>3. A written description of the proposed use and development of the property, as well as past and current development and uses.</p>	
N/A	<p>4. Copies of all Land Use Board (or former Planning Board or Zoning Board of Adjustment) resolutions approving or denying prior site plan, subdivision, variance, or other development applications for the property. If none, indicate "N/A".</p>	
✓	<p>5. Application for site plan review or waiver of site plan.</p>	

## Verification of Taxes

<b>Block/Lot/Qual:</b>	22. 4.	<b>Tax Account Id:</b>	373
<b>Property Location:</b>	424 BROAD ST	<b>Property Class:</b>	4A - Commercial
<b>Owner Name/Address:</b>	EXCESS ONE LLC	<b>Land Value:</b>	143,700
	318 CARLIN ROAD	<b>Improvement Value:</b>	281,300
	MANSFIELD, TX 76063	<b>Exempt Value:</b>	0
		<b>Total Assessed Value:</b>	425,000
		<b>Additional Lots:</b>	None
<b>Special Taxing Districts:</b>		<b>Deductions:</b>	

Taxes		Utilities					
<a href="#">Make a Payment</a>	<a href="#">View Tax Rates</a>	<a href="#">View Current Bill</a>	<a href="#">Project Interest</a>				
Year	Due Date	Type	Billed	Balance	Interest	Total Due	Status
2024	02/01/2024	Tax	4,194.75	4,194.75	0.00	4,194.75	OPEN
2024	05/01/2024	Tax	4,194.75	4,194.75	0.00	4,194.75	OPEN
<b>Total 2024</b>			<b>8,389.50</b>	<b>8,389.50</b>	<b>0.00</b>	<b>8,389.50</b>	
2023	02/01/2023	Tax	4,093.82	0.00	0.00	0.00	PAID
2023	05/01/2023	Tax	4,093.81	0.00	0.00	0.00	PAID
2023	08/01/2023	Tax	4,295.69	4,295.69	88.29	4,383.98	OPEN
2023	11/01/2023	Tax	4,295.68	4,295.68	0.00	4,295.68	OPEN
<b>Total 2023</b>			<b>16,779.00</b>	<b>8,591.37</b>	<b>88.29</b>	<b>8,679.66</b>	
2022	02/01/2022	Tax	3,988.63	0.00	0.00	0.00	PAID
2022	05/01/2022	Tax	3,988.62	0.00	0.00	0.00	PAID
2022	08/01/2022	Tax	4,199.00	0.00	0.00	0.00	PAID
2022	11/01/2022	Tax	4,199.00	0.00	0.00	0.00	PAID
<b>Total 2022</b>			<b>16,375.25</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	
Last Payment: 04/11/23 *** Payment Pending ***							

From: [donotreply@link2gov.com](mailto:donotreply@link2gov.com)  
 Date: September 21, 2023 at 12:39:49 PM CDT  
 To: [smiller@texfire.com](mailto:smiller@texfire.com)  
 Subject: Payment Confirmation

Thank you for submitting your payment using the FIS payment solution. This e-mail will serve as confirmation that your payment was received and will be credited to your account after it has cleared your financial institution. There may be a fee for any rejected payments. The transaction information is listed below:

Receipt Number: 3858484336  
 Payment Amount: \$4384.20  
 Merchant Specific: 22. 4.  
 Property Location: 424 BROAD ST  
 Owner Name: EXCESS ONE LLC  
 Transaction Date/Time: 09/21/2023 12:39 PM

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("Agreement") is entered into this \_\_\_\_\_ day of May 2023, by and between Excess One, LLC, of 318 Carlin Road, Mansfield, TX 76063-3456 ("Seller") and ASP, LLC of P.O. Box 127, Richwood, NJ 08074, its nominee or assignee ("Buyer"). In consideration of the mutual agreements herein set forth, the parties hereto, intending to be legally bound, agree as follows:

1. AGREEMENT TO SELL AND PURCHASE. For the Purchase Price and subject to the terms and conditions hereof, Seller agrees to sell to Buyer, and Buyer agrees to purchase, all Seller's right, title and interest in and to all and singular the following (which are herein sometimes collectively referred to as "Property"):

(A) That certain tract or parcel of land, situated in the Township of Pittsgrove, County of Salem, and State of New Jersey, more particularly described as Block 22, Lot 4 on the Tax Map, and more commonly known as 424 Broad Street, Elmer, NJ 08318 ("Land");

(B) The buildings, structures, improvements and fixtures erected or located thereon (collectively, "Improvements");

(C) The fixture and equipment which are located in or attached to Land or Improvements. Uninstalled air conditioning units within the property shall remain (collectively, the "Personalty");

(D) The tenements, hereditaments, appurtenances, rights of way, strips, gores, easements, rights and privileges in any way pertaining or beneficial to the Land or Improvements;

(E) Any land lying in the bed of any street, road, highway, avenue or alley (opened or unopened, existing or proposed, now vacated or hereafter to be vacated) in front of or adjoining the Land; and

(F) Damages, awards, claims and causes of action now or hereafter payable or assertable with respect to the Land, or the Improvements or the Personalty be reason of any exercise of the power of eminent domain, any change of grade of any street, road, highway, avenue or alley, or any damage, destruction, loss or removal of the Land, the Improvements or the Personalty.

2. PURCHASE PRICE.

(A) The purchase price for the Property is [REDACTED] [REDACTED] ("Purchase Price"), payable by Buyer as follows:

(1) [REDACTED] (the "Initial Deposit") payable on the date of this Agreement to Valerie J. Pepe, Esq. ("Escrow Agent"), to be held in escrow and applied to the purchase price at closing or otherwise disbursed by Escrow Agent as directed in writing by both parties or by Court Order.

(2) [REDACTED] being the balance of the Purchase Price, less the prorations and adjustments herein provided, and less interest on the Deposit, shall upon delivery of the Deed (below

defined) for the Property at Closing (below defined), be paid in cash or by bank, certified or title insurance company plain check, at Buyer's option.

3. CLOSING. The closing of the conveyance of the Property ("Closing") shall be held on or before August 16, 2023 (the "Closing Date"). Closing shall be held at the office of buyer's choice of local title company. Buyer shall be entitled to exercise one Thirty (30) day extension of the closing date, if required for Buyer's financing or governmental approvals.

4. QUALITY OF TITLE.

(A) Warranties. Seller represents and warrants to Buyer that title to the Property at Closing shall be good and marketable, fee simple absolute, free and clear of all encroachments, boundary disputes, covenants, restrictions, easements, rights of way, mortgages, security interests, liens, encumbrances and title objections, excepting only such easements, restrictions and covenants presently of record which will not, in Buyer's sole judgment, interfere with or impair Buyer's intended use of the Property, reduce the value of the Property, or prevent Buyer from obtaining financing of Buyer's acquisition of the Property at market terms. At Closing such title shall be insurable by any title insurance company selected by Buyer at such company's regular rates, pursuant to a standard Form ALTA owner's form of policy, free of all exceptions, including without limitation exceptions for unfiled mechanics', materialmen's or municipal liens, excepting only the

aforesaid easements, restrictions and covenants which are not objectionable to Buyer. It is a condition precedent to Buyer's obligation to complete Closing that such policy, upon Buyer's payment of the premium therefor, shall be issued at Closing.

(B) Cure. If title to the Property cannot be conveyed to Buyer at the time of closing in accordance with the requirements of this Agreement, Seller shall take appropriate action to cure the defect or remove the exception as the case may be, and at Buyer's option, Closing may be postponed for a reasonable time, not exceed thirty (30) days, to permit Seller to correct the title.

(C) Remedies. If title shall not be as aforesaid, and Buyer is unable to cure the defect or remove the exception as the case may be, within the time permitted above, then Buyer shall have the option of either taking such title as Seller can convey without an abatement of the purchase price, or of terminating and cancelling this Agreement and being repaid all monies paid on account of the purchase price together with the cost of examining the title, making the survey, making the building inspection, and all monies paid by Buyer for a mortgage application and processing fees, appraisals and legal fees. The foregoing shall be Buyer's sole rights and remedies in the event title shall not be as aforesaid.

5. SELLER'S REPRESENTATIONS AND WARRANTIES.

(A) Seller's Representations and Warranties. In order to induce Buyer to enter into this Agreement and to complete Closing, and in addition to other representations and warranties of Seller

stated herein, Seller represents and warrants to Buyer that to the best of Seller's knowledge:

(1) Environmental. There has been no treatment, disposal, burial or placement of toxic or hazardous waste, debris or other foreign matter in, under, on or about the Property (including, without limitation, any surface or ground water). To the best of Seller's knowledge, the Property and Seller are not in violation of any of the applicable requirements of law in connection with the disposal, storage, treatment, processing and other handling of waste or the emission or discharge of any effluent, contaminant, pollutant or other material, and no other person or entity has used the Property or any lands contiguous to the Property in violation of any of those requirements of law. There are no underground tanks on the Property

(2) Contracts. There are no management, service, employment, equipment, supply, maintenance, water, sewer, utility or other agreement to which Seller is a party with respect to or affecting the Property which will affect the Property or Buyer in any manner whatsoever after Closing.

(3) Assessments. The property is not subject to or affected by any general or special assessment which is not fully paid, whether or not presently a lien on the Property.

(4) Zoning Classification. **Not Applicable: The properties' previous use was a grandfathered, non-conforming use.** The zoning classification of the Property permits the Property to

be used for the purposes now used. There are no variances, special exceptions, conditions or agreements pertaining to the Property imposed or granted by, or entered into with or enforceable by any state, county or municipal government, agency or body, or any neighborhood or civic group, or any similar body.

(5) Tax Abatements. There are no tax abatements or exemptions affecting the Property.

(6) One Tax Lot. The Property constitutes one lot for tax purposes.

(7) Insurance Notices. No insurer of the Property has imposed any requirement with respect to the Property which is unfulfilled, or has called attention to the need for any work, repair or installation in connection with the Property, or has threatened to withdraw, cancel, reduce or adversely affect the insurance protection with respect to the Property, or to increase materially the premium costs thereof. Any such notices or requests received proper to Closing shall be fully complied with by Seller at Seller's expense prior to Closing.

(8) Condition of Property. All Improvements, including without limitation, all roofs, walls, floors, and all loading, unloading, electrical, heating, air conditioning, ventilating, mechanical, sprinkler, fire protection and alarm systems, and all the fixtures, machinery and equipment which are part of the Property are conveyed strictly in their "as-is"



condition, with Seller making no warranties or representations as to their condition.

(9) Outstanding Agreement. There is no existing agreement, commitment, option or right with, in or to any person to acquire the Property or any interest therein.

(10) No Default. No default or breach exists under any easement, covenant, agreement or restriction affecting the Property.

(11) Outstanding Leases. There are no other leases or other occupancy agreements or rights affecting the Property.

(12) Public Utilities. All public utilities required for the operation of the Property either enter the Property through adjoining public streets, or if they pass through adjoining private land, do so in accordance with valid irrevocable easements which run to the benefit of the owner of the Land.

(13) Seller's Employees. There are no employees regularly employed by Seller in connection with the operation of the Property.

(14) Municipal Assessments. Seller has no knowledge of any notice of assessments or assessment, or violation notice issued or about to be issued by any governmental agency, public body or authority adversely affecting, or requiring work on or with respect to the Property or abutting streets or sidewalks or requiring the correction of any violation.

(15) Public Water and Sewer. The Property is supplied with public water and sewer.

(B) Reaffirmation. If, after the execution of this Agreement any event occurs or condition exists which renders any of the foregoing representations and warranties untrue or misleading, Seller shall promptly notify Buyer. All such representations and warranties shall be deemed made by Seller on the date of this Agreement and at the time of Closing.

(C) Buyer's Obligation. All obligations of Buyer under this Agreement, including, without limitation, Buyer's obligation to complete Closing, are subject to the conditions precedent that (i) the representations and warranties of Seller herein contained shall be true and correct at all times, including, without limitation, the time of Closing, (except that the representations and warranties of Seller herein contained that are qualified by Seller's knowledge shall be true and correct as though not qualified by Seller's knowledge) and (ii) Seller shall have performed all agreements and obligations required by this Agreement to be performed on its part prior to or as of Closing. Seller shall produce at Closing such documents and other materials as Buyer reasonably may deem necessary to confirm fully the accuracy of such representations and warranties and the performance of such agreements and obligations.

6. CONDITIONS PRECEDENT.

(A) Conditions Precedent. Without limitation to other conditions or agreements stated herein, all obligations of Buyer under this Agreement, including, without limitation, Buyer's obligation to complete Closing, are subject to the conditions that on or before the Closing Date, all of the following events ("Conditions Precedent") shall have occurred:

(1) Approvals. Buyer shall obtain any and all municipal approvals deemed necessary by Buyer, in Buyer's sole discretion at Buyer's sole cost and expense.

(2) Documentation. Seller shall have produced such documents and other materials as Buyer reasonably may deem necessary to confirm fully the accuracy of Seller's representations and warranties contained in this Agreement.

(3) Compliance. Seller shall have performed, observed and complied with all agreements and obligations required by this Agreement to be performed, observed and complied with on its part prior to or as of Closing hereunder. Seller shall have produced such documents and other materials as Buyer reasonably may deem necessary to confirm fully such performance, observance and compliance.

(4) Litigation. At no time shall there be any litigation pending in any court, or in any other governmental body having jurisdiction, with respect to the Property, Buyer's intended use thereof, Seller's title to the Property or Seller's right to convey the Property in conformity with this Agreement.

(5) Mortgage. Buyer shall have obtained from a reputable lending institution, no later than July 15, 2023, an acceptable, binding written commitment for a loan on the following terms. The mortgage contingency period shall be subject to one automatic thirty (30) day extension. The principal amount of such loan shall be at least \$425,000. Such loan shall be for a term of Twenty Years with interest and points at prevailing rates. All additional terms of such loan, and the documents evidencing or securing same, shall be subject to Buyer's approval. Buyer shall apply for such financing no later than seven (7) days after the date hereof.

(B) Mortgage Contingency. If Buyer does not waive, or obtain the commitment for a loan satisfying the criteria set forth in Section 6A(6) on or before the end of the mortgage contingency period as may be extended, Buyer or Seller shall have the right to terminate this Agreement by written notice to Buyer, in which event Seller shall simultaneously direct the Escrow Agent to return the Deposit to Buyer immediately and this Agreement shall be void and of no further force and effect.

(C) Feasibility Study Period. Buyer shall have Forty Five (45) days from the Effective Date ("Feasibility Period") to make inspections and investigations of the property and inquiries to determine the feasibility of Buyer's intended uses. During the Feasibility Period, Buyer and its agents, at Buyer's own risk, shall have the right to enter the Property and buildings

and improvements thereon for the purposes of conducting tests, field investigations, soil borings, environmental audits, feasibility studies and the like in accordance with the provisions hereof. In the event Buyer determines, in Buyer's sole and absolute discretion, that the property is unsuitable for Buyer's intended purpose, Buyer may cancel this agreement, upon written notice to Seller given on or prior to the expiration of the Feasibility Period, in which event the contract shall terminate and Buyer shall receive return of its deposit without further obligation.

(E) If the Buyer conducts a Phase I, Phase II or Preliminary Assessment of the property which reveal areas of concern that Seller is unwilling to cure, Buyer may cancel this Agreement and receive return of the deposit without further obligation.

(F) Failure of Condition Precedent. If on the Closing Date any of the Conditions Precedent have not been satisfied, the parties may agree to extend the closing date or Buyer shall have the right to terminate the Contract upon written notice to the other party.

7. INSPECTIONS. Buyer acknowledges that Buyer has made all inquiry and inspections deemed necessary and is purchasing the property strictly in its "as-is" condition.

8. CONDEMNATION; CASUALTY.

(A) No Notice. Seller represents to Buyer that Seller has not received any notice of condemnation from any governmental authority or other body having the power or eminent domain that all or part of the Property has or may be taken or condemned.

(B) Remedies on Condemnation. If all or any part of the Property or any interest therein shall be taken or condemned as a

result of the exercise of the power of eminent domain, or if any body vested with the power of eminent domain informs Seller or Buyer that it intends to take or condemn all or part of the Property, Seller shall give notice to Buyer of such occurrence and then at any time thereafter Buyer shall have the right to terminate this Agreement. If Buyer shall not elect to terminate this Agreement as aforesaid, then (1) Buyer shall have the sole right, in the name of Seller if Buyer so elects, to negotiate for, claim, content and receive all damages on account thereof, (2) Seller shall be relieved of its obligation to convey to Buyer the Property or portion thereof so taken or condemned, (3) at Closing Seller shall assign to Buyer all of Seller's rights to all damages payable for such taking or injury of the Property and shall pay to Buyer all damages theretofore paid to Seller by reason thereof, and (4) following Closing, Seller shall give Buyer such further assurances of such rights and assignment as Buyer may from time to time reasonably request.

(C) Remedies on Casualty. If the Property, or a material part thereof, is destroyed, damaged or lost by fire or other casualty or cause prior to Closing, Seller shall give Buyer notice of such damage and Buyer shall have the right to terminate this Agreement. If Buyer shall not elect to terminate this Agreement, then at Closing Seller shall pay to Buyer all money, if any, theretofore paid to Seller by reason of such fire, casualty or cause, and shall assign to Buyer all of Seller's claims and rights with respect to such fire, casualty or cause, including without

limitation all rights and claims under all applicable policies of insurance, and shall pay to Buyer all sums which may have been paid to Seller by reason thereof and reimburse Buyer for any deductibles.

9. INSTALLMENT ASSESSMENTS. If, at the time of Closing, the Property is affected by any assessment which is or may become payable in annual installments, of which one or more is then payable or has been paid, then for the purpose of this Agreement, all the unpaid installments of any such assessment, including without limitation those which are to become due and payable after Closing, shall be deemed liens on the Property and shall be paid and discharged by Seller at or prior to Closing.

10. COVENANTS OF SELLER. Seller covenants that between the date of this Agreement and the Closing:

(A) Seller shall not modify or amend any Lease or enter into any new lease of the Property or any portion thereof without obtaining Buyer's prior written consent which consent shall not be unreasonably withheld.

(B) Seller shall (1) not receive or collect any rents from the Tenants for a period of more than one month in advance, (2) not pledge, transfer, mortgage or otherwise encumber or assign the Leases or the Rents, (3) not waive, excuse, condone, discount, set-off, compromise, or in any manner release or discharge any Tenant from any obligation, covenant, condition or agreement by such Tenant to be kept, observed or performed, including without limitation the obligation to pay the Rent in the manner and at the

place and time specified in the respective Lease, (4) not cancel, terminate or consent to any surrender of any Lease, (5) not modify, or in any way alter the terms of any Lease, (6) not consent to any subletting of the Property or any part thereof, or to any assignment of any Lease by any Tenant thereunder or to any assignment or further subletting of any sublease, without, in each such instance mentioned in this paragraph, the prior written consent of Buyer. Any such consent granted by Buyer shall not constitute a continuing consent, and each subsequent act or omission of Seller which is referred to in this paragraph shall require a separate written consent by Buyer.

(C) Seller shall not enter into any new service or leasing contract relating to the Property unless the same is terminable without penalty by the then owner of the Property upon not more than thirty (30) days notice.

11. SELLER'S CLOSING OBLIGATIONS. At the Closing, Seller shall deliver and execute (where applicable) the following to Buyer:

(A) A statutory form of Bargain and Sale Deed (the "Deed") with covenant against grantor's acts and properly executed in form satisfactory to Buyer and in form for recording so as to convey the title required by this Agreement.

(B) Such affidavits as Buyer's title company shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against persons or entities whose names are the same as or similar to Seller's name.



(C) Possession of the Property in the condition required by this Agreement and keys therefor.

(D) Any other documents required by this Agreement to be delivered by Seller.

(E) A Bill of Sale for any personal property included with the sale.

12. BUYER'S CLOSING OBLIGATIONS. At the Closing, Buyer shall deliver (and execute where applicable) to Seller:

(A) The balance of the Purchase Price, as adjusted for apportionments hereunder.

(B) Any other documents required by this Agreement to be delivered by Buyer.

13. APPORTIONMENTS AT THE CLOSING: Taxes and municipal utilities shall be apportioned between the parties as of the closing date.

14. TERMINATION. Whenever this Agreement specifies a right of Buyer or Seller to terminate this Agreement, such right shall be exercisable only by the exercising party giving written notice thereof to the other party. If Seller or Buyer shall exercise any such termination right, other than Seller's termination right by virtue of Buyer's default hereunder, then promptly following such exercise, the Deposit and all interest accrued thereon shall be refunded to Buyer, and upon such refund all further rights and obligations of the parties hereunder shall terminate, except to the extent otherwise expressed herein.

15. WAIVER OF TENDER. Tender at the time of the Closing of an executed Deed by Seller and the balance of the Purchase Price by Buyer are hereby mutually waived, but nothing herein contained shall be construed as to relieve Seller from the obligation to deliver the Deed or to relieve Buyer from the concurrent obligation to pay the balance of the Purchase Price.

16. TIME OF THE ESSENCE. Time wherever specified herein for satisfaction of conditions or performance or obligations by Seller or Buyer, including but not being limited to, the time for mortgage commitment and the time for closing, is NOT of the essence of this Agreement. Either party, upon reasonable belief that the other party is not diligently pursuing completion of an obligation within the contract's time periods can serve the other party with a Time of the Essence Notice to correct the deficiency, and to cancel this Contract if the deficiency is not corrected within a reasonable time; a reasonable time shall be 10 business days.

17. COSTS; TRANSFER TAXES. Seller shall pay for the drawing of the Deed, all sales commissions and the customary title company distribution charge and all real estate transfer taxes. Buyer shall pay for all searches, title insurance, survey, and other conveyancing and recording expenses.

18. BUYER'S DEFAULT. If at the time of Closing Buyer is in default in the observance or performance of its obligations hereunder, following notice and 10 days opportunity to cure, then Seller shall have the right at Closing to terminate this Agreement

to be paid the Deposit as liquidated damages for such breach. Upon such termination, Seller and Buyer shall be released from all further liability and obligations hereunder, it being understood that Seller's right to terminate this Agreement and to be paid the Deposit shall be the sole remedy available to Seller in the event of any default by Buyer hereunder.

19. SELLER'S DEFAULT. If on the date of this Agreement or at the time of Closing, title to the Property is not as required by this Agreement, or if Seller otherwise defaults in any of its obligations hereunder, then Buyer shall have the right to terminate its obligations hereunder or to take such title to the Property as Seller can give without adjustment of the Purchase Price, except for liens and encumbrances the amounts of which can be readily ascertained, which Buyer shall have the right to cause to be paid out of the Purchase Price at Closing. In either event, Buyer also shall have the right to seek whatever recourse is available to Buyer at law or in equity with respect to Seller's default. If Buyer so elects to terminate its obligations hereunder, then the Deposit shall be refunded promptly to Buyer, and Seller, upon demand of Buyer, shall reimburse Buyer for all costs and expenses incurred by Buyer in connection with this transaction, including, without limitation, costs and expenses incurred for legal counsel, surveys, engineering tests, permit applications and title searches.

20. NOTICES. All notices (including without limitation approvals, consents and exercises of rights or options) required by

or relating to this Agreement shall be in writing and shall be personally delivered or transmitted by telecopier or mailed United States registered or certified mail, return receipt requested, postage prepaid, to the other respective party at its address below set forth, or at such other address as such other party shall designate by notice, and shall be effective when delivered to such address.

21. BROKERS. - Each party warrants and represents to the other that no broker has assisted with this transaction, and none is entitled to a commission for bringing about this sale, except for Remax Preferred and Berkshire Hathaway/Fox and Roach Realtors which shall be paid a commission of 7% by the Seller, the same to be earned, due and payable at the time of Closing when and if title passes to Buyer, and Seller receives the full purchase price, to be divided as follows: 3.5% to Remax Preferred and 3.5% to Berkshire Hathaway/Fox and Roach Realtors.

22. CERTIFICATION OF NON FOREIGN STATUS. For purposes of Section 1445 of the United States Internal Revenue Code, as amended ("Code"), Seller hereby represents to Buyer, and at Closing, Seller shall execute and deliver to Buyer an affidavit to the effect that (a) seller is not a foreign corporation, foreign partnership, foreign trust, foreign estate or non-resident alien (as those terms are defined in the Code and applicable Income Tax Regulations), (b) Seller's U.S. Taxpayer identifying number (i.e., Employer I.D. Number or Social Security Number, as applicable) is (1.08 Seller's

Social Security Number or Employer I.D. Number), (c) Seller's correct address is set forth above, and (d) withholding of tax is not required by the Code upon the transfer of the Property in accordance with this Agreement. Such representation and affidavit may be disclosed by Buyer to the Internal Revenue Service.

23. WHOLE AGREEMENT; AMENDMENTS. This Agreement sets forth all of the agreements, representations, warranties and conditions of the parties hereto with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, representations, warranties and conditions. The exhibits and rider referred to above constitute parts of this Agreement. No alteration, amendment, modification or waiver of any of the terms or provisions hereof, and no future representation or warranty by either party with respect to this transaction, shall be valid unless the same be in writing and signed by the party against whom enforcement of same is sought.

24. CAPTIONS: PRONOUNS. The captions of the sections of this Agreement are for convenience only and have no meaning with respect to this Agreement or the rights or obligations of the parties hereto. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein: "person", as used herein, includes an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, or other entity; "Property" includes each portion of the Property and each estate and interest therein; "hereof", "herein" and "hereunder"

and other words of similar import refer to this Agreement as a whole; "Agreement" includes these presents as supplemented or amended from time to time by written instrument(s) entered into by Seller and Buyer; "Buyer" includes Buyer's heirs, administrators, executors, successors and assigns; "Seller" includes Seller's heirs, administrators, executors, successors and assigns; and "parties" means Buyer and Seller. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of pronouns or nouns shall include the plural and vice versa.

25. COUNTERPARTS. This Agreement may be executed by the parties hereto in any number of separate counterparts, all of which, when delivered, shall together constitute one and the same Agreement.

26. HOLIDAYS. Wherever this Agreement provides for a date, day or period of time on or prior to which action or events are to occur or not occur, and if such date, day or last day of such period of time falls on a Saturday, Sunday or legal holiday, then same shall be deemed to fall on the immediately following business day.

27. GOVERNING LAW. This Agreement and all issues arising hereunder shall be governed by the laws of the State of New Jersey.

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.


Excess One, LLC, Seller by:

Wendy Miller

May 26, 2023

Wendy Miller

ASP, LLC, Buyer by:

  
Adam Diekewicz, Sr., Member 05/25/23

Property Description  
**SCHEDULE C**

File No.: 16NJ00037

Policy No.: 1118-O-16NJ00037

LEGAL DESCRIPTION

The land referred to in this Policy is described as follows:

LAND AND PREMISES situate in the Borough of Elmer, County of Salem and State of New Jersey as follows:

BEGINNING at an iron pin found in the Southeasterly line of Broad Street (49.50 feet wide) said point being corner to Lot 10 Block 22 Tax Map, said point also being the following two (2) courses from the point of intersection of the centerline of said Broad Street with the centerline of Hitchner Avenue (50 feet wide);

a. Along the center line of Broad Street, South 54 degrees 00 minutes 00 seconds West a distance of 652.20 feet to a point; and

b. South 36 degrees 00 minutes 00 seconds East a distance of 24.75 feet to the beginning point, and running; thence

1. South 36 degrees 00 minutes 00 seconds East a distance of 202.18 feet (as surveyed) to a concrete monument found; thence

2. South 66 degrees 48 minutes 00 seconds West a distance of 16.34 feet (as surveyed) to a point; thence

3. South 13 degrees 27 minutes 00 seconds East a distance of 79.31 feet (as surveyed) to an iron pin set; thence

4. South 79 degrees 05 minutes 00 seconds West a distance of 155.13 feet to a masonry nail set; thence

5. South 10 degrees 55 minutes 00 seconds East a distance of 110.00 feet to a point in the Northwesterly line of Salem Street; thence

6. Along said Northwesterly line, South 79 degrees 05 minutes 00 seconds West a distance of 199.61 feet to an iron pin set; thence

7. North 10 degrees 55 minutes 00 seconds West a distance of 244.06 feet (as surveyed) to a railroad spike set in the Southeasterly line of Broad Street; thence

8. Along said Southeasterly line, North 54 degrees 00 minutes 00 seconds East a distance of 310.80 feet (as surveyed) to the point and place of beginning.

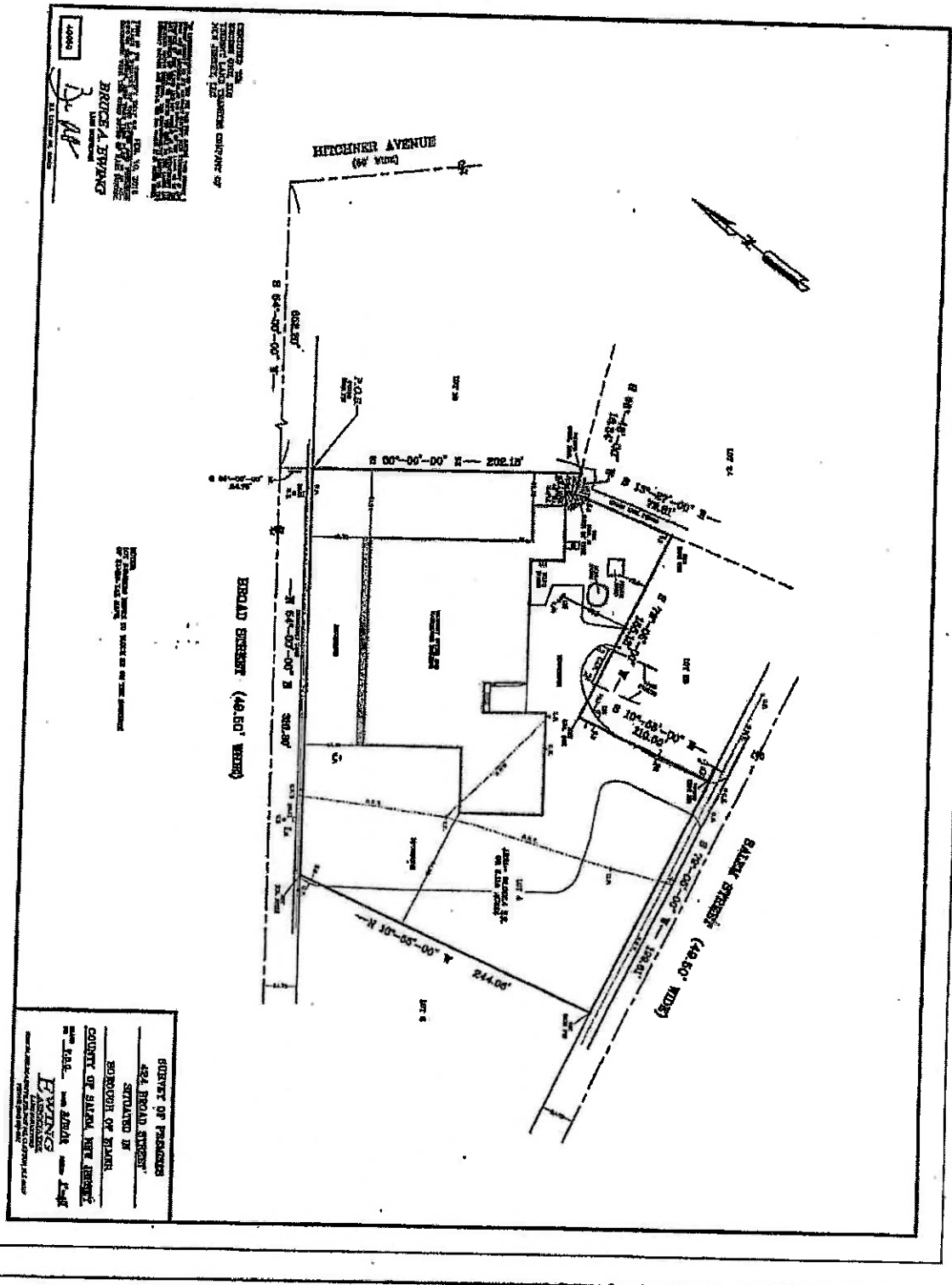
THE ABOVE DESCRIBED tract or parcel of land and premises being described according to a Survey of Premises made by Ewing Associates Land Surveyors, dated February 10, 2016.

TAX NOTE: Being known as Block 22, Lot 4 on the official tax map (For informational purposes only).



Signature: Wendy Miller  
 Wendy Miller (May 26, 2023 11:26 EDT)

Email: wendy@northstarantiques.com



AMENDMENT TO AGREEMENT OF SALE

THIS AMENDMENT TO AGREEMENT OF SALE ("Agreement") is entered into this \_\_\_\_\_ day of July 2023, by and between Excess One, LLC, of 318 Carlin Road, Mansfield, TX 76063-3456 ("Seller") and ASP, LLC of P.O. Box 127, Richwood, NJ 08074, its nominee or assignee ("Buyer"). In consideration of the mutual agreements herein set forth, the parties hereto, intending to be legally bound, agree as follows:

Buyer And Seller hereby amend the Agreement of Sale dated for that certain tract or parcel of land, situated in the Township of Pittsgrove, County of Salem, and State of New Jersey, more particularly described as Block 22, Lot 4 on the Tax Map, and more commonly known as 424 Broad Street, Elmer, NJ 08318 as follows:

A. CONDITIONS PRECEDENT FOR APPROVALS. Without limitation to other conditions or agreements stated herein, the obligations of Buyer under this Agreement, including, without limitation, Buyer's obligation to complete Closing, is subject to Buyer obtaining, in final and unappealable form any and all municipal approvals and other land use clearances deemed necessary by Buyer, in Buyer's sole discretion at Buyer's sole cost and expense.

B. Mortgage. Buyer shall have obtained from a reputable lending institution, no later than August 31, 2023, an acceptable, binding written commitment for a loan on the following terms. The principal amount of such loan shall be at least \$425,000. Such

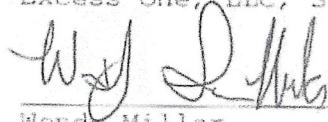
loan shall be for a term of Twenty Years with interest and points at prevailing rates. All additional terms of such loan, and the documents evidencing or securing same, shall be subject to Buyer's approval. Buyer shall apply for such financing no later than seven (7) days after the date hereof.

C. CLOSING. The closing of the conveyance of the Property ("Closing") shall be held on or before November 15, 2023 (the "Closing Date"). Closing shall be held at the office of buyer's choice of local title company.


The Agreement of Sale remains in full force and effect, except as modified and supplemented by this Amendment.

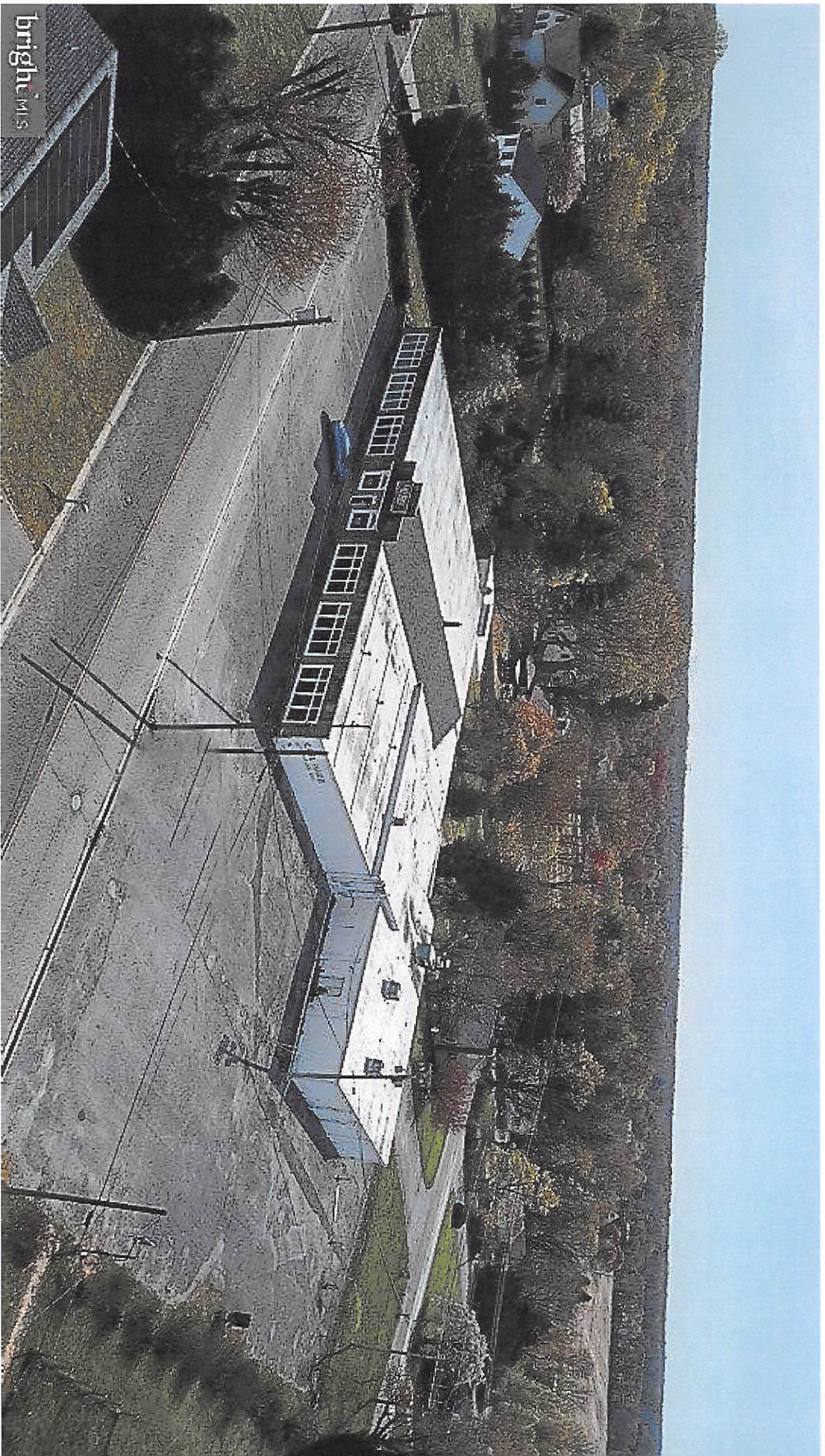
IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.

Excess One, LLC, Seller by:

 7-25-2023  
Wendy Miller

ASP, LLC, Buyer by:

 7-24-2023  
Adam Diekewicz, Sr., Member



brighthouse

