

REAL ESTATE DEVELOPMENT/LAND TRANSFER AGREEMENT

This Real Estate Agreement ("Agreement") is entered this 16th day of May, 2012 ("Effective Date") by and between the Town of Barrington, through its Board of Selectmen, being a municipal corporation having the powers set forth in RSA 31:3, and having an address of PO Box 660, 333 Calef Highway, Barrington, New Hampshire 03825 ("Seller") and Turbocam, Inc., P.O. Box 830, Barrington, New Hampshire 03825-0830, or its successors and assigns ("Buyer").

1. Background and Purpose.

1.1 Seller is the owner of an undeveloped parcel of real property known as the Clark Goodwill property consisting of approximately 35 acres and identified as Barrington Tax Map 234, Lot 1 (f/k/a Map 11, Lot 0006), said property more particularly identified in a deed recorded in the Strafford County Registry of Deeds at Book 2326, Page 758 (hereinafter the "Premises"). Seller agrees to convey a portion of the Premises to Buyer in Phases as hereinafter provided, and Buyer agrees to accept same from Seller, upon the terms and conditions set forth in this Agreement.

1.2 **Development Plan.** The purpose/intent of this agreement by Seller, and Buyer, is to create a six-lot commercial/industrial/municipal development to benefit Buyer, as well as to create jobs, enhance the real property tax base for the Town of Barrington and provide Town-owned developed/developable lots. No residential uses shall be sought or permitted. No portion of the Premises conveyed to Buyer shall be conveyed or thereafter re-conveyed to any entity that is tax-exempt, except the Town of Barrington, without the express written approval of the Town of Barrington Selectmen in their sole discretion.

1.2.1 The parties intend subdivision and development pursuant to the Conceptual Site Plan prepared by Jones & Beach Engineers, Inc. with revisions through 2/13/2012 ("Proposed Site Plan") attached hereto and incorporated herein as **Exhibit 1**.

1.2.2 The Buyer shall at its sole cost and in accordance with the schedule(s) and Phases set forth herein, subdivide, design, permit, develop and build-out its portion of the premises together with the roadway, access drives and other on site improvements, described herein, in Phases, inclusive of any required off-site improvements, including roadway(s), to be constructed to applicable town and/or NHDOT (in the case of the Route 9 Driveway Connection) specifications. Buyer shall secure all development costs with a payment/performance bond, letter of credit or such other collateral as is acceptable to Seller in its sole discretion. Buyer shall seek approvals for six (6) separate lots in accordance with the Proposed Site Plan. The specifics of the development may be amended from time to time by written agreement of Buyer and Seller; however, the present intention is as follows:

Lot 1 – Proposed 20,000 square foot building to be developed by the Buyer and subsequently conveyed to Buyer in Phase II.

Lot 2 – Proposed 18,000 square foot building to be used for municipal purposes. This lot will be retained by Seller. Except for driveway stub, Buyer shall not be responsible to develop this lot. Buyer shall undertake no activities on this lot except as necessary to construct the road and related subdivision improvements.

Lot 3 – Proposed two (2) forty thousand square foot (40,000 s.f.) buildings and one (1) eight thousand square foot (8,000 s.f.) reception/cafe/tertia/recreation building to be developed by the Buyer in Phase I.

Lot 4 – Proposed 18,000 square foot building to be used for municipal purposes. This lot will be retained by Seller. Except for driveway stub, Buyer shall not be responsible to develop this lot. Buyer shall undertake no activities on this lot except as necessary to construct the road and related subdivision improvements.

Lot 5 – Proposed forty thousand square foot (40,000 s.f.) building on Lot 5 to be subsequently conveyed to Buyer in Phase III and developed by Buyer.

Lot 6 –Presently intended for proposed recreation or other municipal purposes. This lot will be retained by Seller. Except for driveway construction (see Section 5.1), Buyer shall not be responsible to develop this lot. Buyer shall undertake no activities on this lot except as necessary to construct the road and related subdivision improvements.

- 1.2.3** The lot sizes shown on the Proposed Site Plan are conceptual. Any increase or decrease in lot size and/or buildable area greater than 10% of the area shown on the Proposed Site Plan requires the approval of the Seller which approval will not be unreasonably withheld.
- 1.2.4** As shown on the Proposed Site Plan Buyer will include a 30 ft. wide access easement to the adjacent Legion property.

1.2.5 While the Proposed Site Plan shows well radii and a 4,000 square foot leaching area for each lot, no test pitting has been done so these designations are entirely conceptual and likely to change in the subdivision process. For example, the Seller has indicated that the configuration of Lot 4 on the Proposed Site Plan will warrant review in the design phase, which could result in some movement of the location of the road. The parties acknowledge that community well systems for each parties lots would, if feasible, allow for the optimal development of the Premises while minimizing the expense otherwise associated with having a well on each lot. Similarly, if shared drainage facilities can be designed and constructed as part of the development plan, expense will be minimized while meeting all environmental requirements. During the design phase prior to submission to the Planning Board, Buyer's engineer will pursue consideration of these alternatives in a manner that will not disproportionately negatively affect any lot.

2. Consideration/Deposits/Payments.

2.1 Consideration. In consideration of the fact that Buyer will develop the site as set forth herein at its sole cost, there shall be no purchase price paid to Seller at the Closing. Upon the transfer of title as set forth herein, Seller shall commence annual property tax assessment of the portion of the Premises conveyed to Buyer, in its normal course based on the standard tax year.

2.2 Transfer Tax. Buyer shall pay upon transfer of any lot its portion of the transfer tax imposed on the fair market value of the real estate to be conveyed in its then state of

development, pursuant to the State of New Hampshire Tax on the Transfer of Real Property. The Town is exempt from Transfer Tax on this transaction.

2.3 Recording Costs. Buyer shall pay any and all recording costs associated with this Agreement.

2.4 Deposit: Upon the Effective Date Buyer shall pay to Seller's counsel, as Escrow Agent, the sum of \$10,000 as an earnest money deposit to be placed in an interest bearing escrow account. Upon the Phase I closing, the deposit with interest thereon shall be released to Buyer. Upon Buyer's breach or default, the deposit, together with accrued interest, shall, at the sole option of the Seller and in addition to any and all other remedies at law, or as set forth herein, be released to Seller as liquidated damages.

3. Permitting Schedule & Requirements.

3.1 The order of action hereupon shall be:

3.1.1 Agreement execution, creating Effective Date.

3.1.2 Seller compliance with RSA 41:14-C requirements (see Section 3.2 below).

3.1.3 Buyer shall then pursue any and all necessary Subdivision and other local, state and federal approvals ("All Applicable Permits") to create the six (6) lots shown on the Proposed Site Plan and improve/develop the site infrastructure, including building the road, driveway stubs, driveways, offsite improvements and Buildings 1 and 2 on Lot 3 as set forth herein, and as set forth on Exhibit 1.

3.1.4 Upon final non-appealable subdivision approval together with All Applicable Permits, Seller in Phase I shall convey to Buyer Lot, 3 and

the roadway as set forth on **Exhibit 1** together with a Notice of the Buyers rights to Lots 1 and 5 and a right of first refusal on Lot 4 (see Section 3.7), and as set forth herein.

3.1.5 Buyer shall pursue any and all necessary approvals to improve/develop the remaining Buildings on Lots 1, 3 and 5 during Phases II and III.

3.2 RSA 41:14-C Compliance. This sale is conditioned upon the Town of Barrington Board of Selectmen fulfilling its obligation under RSA 41:14-C, including notice and consultation with the Planning Board and the Conservation Commission and holding two public hearings as required by RSA 41:14-c, (the provisions of which were adopted by the Town of Barrington by a vote of 752 Yes 507 No in Warrant Article 25 at the 2003 Barrington Town Meeting). Seller shall within sixty (60) days of the Effective Date schedule the hearing required thereunder.

To the extent said conveyance is required to be reviewed publicly, the Board of Selectmen shall be solely responsible for conducting said hearing(s) and for notifying the public of the occurrence of said hearing(s). Buyer may attend said hearing(s), and may invite any legal representatives or land use professionals as desirable, but shall not otherwise be responsible for the conduct of the hearing(s) or any cost or obligation incurred thereby or arising as a result thereof. The Board of Selectmen shall diligently pursue said process as soon as practicable after execution of this agreement. If no approval is obtained within one hundred twenty (120) days of the Effective Date hereof, either party may at its option terminate this agreement, and all deposits shall be returned.

3.3 Within seventy (70) days of the Effective Date, Buyer shall (subject to the contingencies/conditions set forth herein) apply for full (not conceptual) Subdivision approval

from the Town of Barrington Planning Board. Buyer shall diligently and in the ordinary course pursue such approvals, together with any and all other required local, state or federal approvals.

3.4 During the pendency of the Subdivision approval process, Buyer shall diligently pursue all other local, state and federal permits and approvals required to obtain Subdivision approval and thereafter proceed with the development concept set forth herein.

3.5 Conditioned upon Buyer's reasonable and diligent efforts, Buyer shall obtain subdivision and All Applicable Permits within 210 days of the Effective Date, failing which either party may terminate this agreement without penalty and all deposit(s) shall be returned, unless this agreement is extended in writing by mutual agreement or pursuant to Section 5.2.1.

3.6 Upon Subdivision approval, no further subdivision of lots 1, 3 or 5 will be permitted; provided however, this shall not preclude a lot line adjustment if necessary to accommodate a subsequent non-residential use of these lots.

3.7 The Seller shall be permitted to utilize Lots 2, 4 and 6 for any permitted or approved purpose(s) including but not limited to: Library; town offices/municipal buildings; recreation. The Town may sell any of said lots to a third party in its sole discretion subject to a Right of First Refusal with respect to Lot 4 which shall be in the form of Exhibit 2 for a term of fifteen (15) years and shall be granted to Buyer at the Phase I closing.

3.8 A conceptual drainage layout is shown on the Proposed Site Plan. Upon final approval of the Site Plan, Lots 2, 4 and 6 shall not bear a disproportionate share of drainage or other overall site support. Buyer shall proceed with best efforts to avoid such drainage and other design features utilizing Lots 2, 4 and 6 except as necessary to deal with drainage and related issues on Lots 2, 4 and 6 and to insure that Lots 1, 3 and 5 are viable for the significant non-residential development proposed under this Agreement.

3.9 The Town of Barrington Selectmen must review and approve all Plans prior to submittal, and must sign or approve in writing all permit/approval/applications, which signature/approval shall not be unreasonably withheld. Plans will be submitted to the Town for review in a minimum of two stages of preparation before final submission so as to give the Town a reasonable opportunity to comment thereon and suggest changes. Any such comments or suggested changes shall be provided in a timely fashion so as to allow the parties to meet the acknowledged aggressive development schedule provided for herein.

3.10 Upon execution, Seller shall provide to Buyer copies of all plans, surveys, tests investigations and/or reports with respect to the property that are in Seller's possession.

4. Closing.

4.1 Phase I Time and Place. Seller shall deliver to Buyer a Warranty Deed for Lot 3 and the roadway and the Right of First Refusal on Lot 4, together with a Notice in recordable form of Buyer's rights under this Agreement to acquire and develop Lots 1 and 4 and other such documents and commitments referenced herein, and/or which are customary to a real estate transaction, at a closing to be held at a mutually convenient place and time within fifteen (15) days following expiration of any applicable appeal period(s) relating to Buyer's receipt of All Applicable Permits, including subdivision approval, for the Subdivision identified on **Exhibit 1**. Buyer shall be entitled to one extension of up to thirty (30) days upon notice to Seller within five (5) days of the closing.

4.2 Provided Phase I improvements are substantially complete (defined as Occupancy Permit Issued), the Phase II conveyance of Lot 1 by Warranty Deed with all

customary documentation at a mutually convenient place and time upon sixty (60) days notice from Buyer to Seller shall occur on or before three (3) years from the Effective Date.

4.3 Provided Phase I and II improvements are substantially complete, the Phase III conveyance of Lot 5 by Warranty Deed with all customary documentation at a mutually convenient place and time upon sixty (60) days notice from Buyer to Seller shall occur on or before six (6) years from the Effective Date.

4.4 Notwithstanding the foregoing, if Buyer has not built the buildings on Lots 1 and 5 within seven (7) years from the date of the Phase I closing and the recording of the deed, Seller may, at its election, either: convey Lots 1 and 5 to Buyer and Buyer shall be responsible for all real estate tax assessments thereon; or terminate this agreement and keep or convey Lots 1 and 5 to any other person/entity.

5. **Development Schedule and Requirements.**

5.1 Within three (3) years of the Effective Date and after the Phase I conveyance is completed on a timely basis pursuant to Section 4 hereof, Buyer shall at its own cost and pursuant to the timetable set forth below construct to Town of Barrington specifications the entire roadway, and driveway stubs at least sixteen feet into/onto each lot, including those retained by Seller. In addition, Buyer shall construct a gravel driveway to the recreation area, not to exceed 400 feet in length. The cost to construct the road/driveways and related improvements to completion shall, at Buyer's expense, be fully secured via a payment/performance bond, an Irrevocable Letter to Credit or such other terms as are acceptable to Seller in its sole discretion. Upon completion, the subdivision road will be accepted as public by the Town of Barrington.

5.2 Within seventy (70) days of the Effective Date and after the public hearing in satisfaction by the Seller of the 41:14-c contingency, Buyer shall apply for, and thereafter shall diligently pursue all required state, local (including but not limited to site review) and federal permits and approvals. Upon grant of All Applicable Permits and subsequent conveyance, shall improve Lots 1, 3 and 5 (together with the road, walking trail and other related on and off-site improvements required by the Planning Board or other authorities) pursuant to **Exhibit 1** and as set forth below:

5.2.1 **Lot 3** – a) 40,000 square foot building (#1) and an 8,000 square foot building (#2) and related improvements completed on or before 10/31/2013, assuming final unappealable local, state and federal approvals are obtained by 12/01/12, and extended monthly in writing for each month that final approvals are delayed beyond 12/01/12, for a maximum of six (6) months. Any such extension shall extend the dates below for subsequent buildings.

5.2.2 **Lot 3** - Second 40,000 square foot building on or before 12/31/16.

5.2.3 **Lot 1** – 20,000 square foot building on or before 12/31/18.

5.2.4 **Lot 5** - 40,000 square foot building on or before 12/31/19.

5.3 Buyer shall, at its sole cost, included in its overall development of the site, construct a walking trail(s), including raised boardwalks over wetland, around the perimeter of the site as depicted on Exhibit 1, as approved by the Town of Barrington Planning Board. Construction may proceed in Phases related to the development of lots in the subdivision and public access shall be documented by an appropriate easement to be recorded.

5.4 On-Site Gravel/Material. Except as incidental to construction or alteration of buildings, structures, roads, utilities and related infrastructure, no mining or excavation of gravel and/or other materials shall be permitted by either party other than in the course of lot development for uses permitted under the covenants on the Premises that Buyer will prepare and submit to Seller for its review and approval after the Town has completed the 41:14-c process and before subdivision approval is obtained.

5.4.1. Prior to conveyance of Lots 1, 3 and 5, Buyer, in conjunction with its geotechnical work for building siting and subdivision layout, shall at its option and sole expense perform such studies as deemed necessary to assess on-site gravel availability.

5.4.2. Seller desires 10,000 cubic yards of gravel for its use. Provided there is enough suitable material usable following best management practices from the location of the roadway and Lots 1, 3 and 5 for construction of the roadway and access drives (including Lots 2, 4 and 6 stubs/driveway) and the construction and building activities on Lots 1, 3 and 5 combined, then Buyer shall either:

- a. provide/give to Seller 10,000 yards of suitable material; or
- b. at Buyer's option, Buyer may pay to Seller the then-current fair market price for 10,000 yards of suitable material, or provide same from an offsite source. The suitable material shall be provided or payment made prior to the third lot conveyance. Said covenants will be attached hereto as Exhibit 3 upon their completion.

5.4.3 No material shall be removed by Buyer from the portion of the Premises (Lots 2, 4 and 6) retained by Seller except as required for road construction, access drives for those lots, slopes, and drainage.

6. **Seller's Representations and Warranties.**

Seller represents, warrants and covenants to Buyer, as of the date of this Agreement and as of the Closing, as follows, acknowledging that Buyer shall be relying upon such representations and warranties:

6.1 Subject to approval pursuant to RSA 41:14-C, Seller has authority to sell the property pursuant to the terms hereof.

6.2 As of the date of closing there are/will be no real estate taxes or assessments owing with respect to the premises and the premises shall not be subject to current use taxation.

6.3 **Contractual Obligations.** The transaction contemplated by this Agreement is neither in violation of, nor prohibited by, the terms of any agreement, license or other commitment, oral or written of the Seller. There are no contracts with or commitments to third parties, either oral or written, respecting the Premises pursuant to which Buyer would become a party after the closing.

6.4 **Litigation and Claims.** There are no litigations or proceedings pending or threatened which affect the Premises or Seller's right or power to transfer title to the Premises to Buyer.

6.5 **Mechanic's Liens.** There are no mechanic's liens outstanding against the Premises; and that no materials have been received or services rendered prior to the date of execution of this Agreement which could give rise to a mechanic's lien against the Premises.

6.6 Non-Foreign Status. Seller is not a "foreign person" and that accordingly the transaction contemplated by this Agreement is not subject to the withholding requirements imposed by Section 1445 of the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated thereunder.

6.7 No Other Representations. Seller makes no representations or warranties concerning itself or the Premises except as set forth herein or the agreements or instruments to be delivered by Seller at the Closing.

7. Buyer's Representations and Warranties.

Buyer represents, warrants and covenants to Seller, as of the date of this Agreement and as of the Closing, as follows, acknowledging that Seller shall be relying upon such representations and warranties:

7.1 Contractual Obligations. The transactions contemplated by this Agreement are not in violation of, nor prohibited by, the terms of any agreement, license or other commitment, oral or written of the Buyer.

7.2 Independent Investigation. Buyer acknowledges that in making the decision to enter into this Agreement and consummate the transactions contemplated hereby, Buyer has and will rely solely on its independent investigation and upon the express representations, warranties, covenants and agreements set forth in this Agreement.

7.3 Prior to conveyance, Buyer shall have diligently pursued, at its sole expense, all required local state and/or federal permits and approvals to subdivide and develop the Premises according to the Schedule set forth herein.

7.4 Buyer shall at its expense obtain the appropriate payment/performance bond(s), letters of credit or otherwise insure to Seller's sole satisfaction that the project, including roads and any required off-site improvements is completed as planned/approved. The subdivision/site plans and all related Plans and approvals are incorporated herein.

7.5. Buyer and any person or entity operating on Buyer's behalf, shall obtain and provide to Seller adequate proof of property, casualty, liability building risk, and any other required insurances, naming Seller as an additional insured as its interests may appear. Buyer shall provide Seller with proof of such insurance as and when obtained, and at any time when requested by Seller. Buyer and Seller agree and acknowledge that the Premises are undeveloped land, the condition of which is unknown to Seller. Buyer, for itself, any person or entity acting for or through Buyer, assumes all rights of damages, injury, death or other loss or cost, to any person or property, resulting from Buyer's pre-conveyance actions or activities on or relating to the Premises. Buyer, for itself and any person or entity acting by, for or through Buyer, releases, shall indemnify and hold Seller harmless from any such loss, cost, damage, injury, death to any person or property, resulting from any pre-conveyance actions or activities on or relating to the Premises.

8. Conditions/contingencies to Buyer's obligations.

8.1.1 **Title Examination.** Buyer shall within sixty (60) days of the Effective Date, at Buyer's sole expense, obtain a title examination from a law firm of Buyer's own choosing, for the purpose of evaluating the title to the Premises showing in Seller a marketable and insurable title at standard rates, with standard exceptions deleted and with such endorsements as Buyer may reasonably require, in accordance with title standards adopted from time to time by the New Hampshire Bar Association and approved by Buyer's counsel, to be evidenced by a

commitment for title insurance issued by a company licensed to do business in New Hampshire and satisfactory to Buyer, together with legible copies of all the instruments cited in such commitment. Buyer, or his counsel, shall within said sixty (60) days advise Seller of title defects, if any. If the title is found to be defective, Buyer shall notify Seller, in writing, specifying the defects. If the defects cited render the title unmarketable, Seller shall have sixty (60) days from the receipt of such notice to cure the defects. Seller may in its discretion use reasonable efforts to remove any defects in title to correct the title in a manner, which would satisfy the requirements of this Section 6.A. If, after reasonable diligence, Seller shall not have cured the defects, or if Seller elects not to use such reasonable efforts, Buyer shall have the option (to be exercised in writing within five (5) days of the later of: notice from Seller of Seller's efforts/outcome with respect to remedying title defect(s); or, expiration of 90 days from the Effective Date)of: (1) accepting the title "as is", or (2) terminating this Agreement and being released by Seller of all further obligations under this Agreement. Seller shall immediately deliver to Buyer any known current or prior title insurance policy relating to the Premises, or any portion thereof.

8.1.2. Title Insurance. Buyer may cause to be issued, at Buyer's sole expense at the Closing, an owner's title policy in the amount of the fair market value of the Premises to conform to the title commitment as accepted by Buyer.

8.1.3. Terms of Title. Buyer shall take title subject to: (1) zoning and other restrictions imposed by all governmental authorities with jurisdiction over the Premises; and (2) utility and other easements appearing of record, reasonably acceptable to Buyer which do not materially impair

the ability of Buyer to carry out the development as proposed herein and shown on Exhibit 1.

8.2. Environmental Assessment. At its option and sole cost Buyer may obtain a qualified environmental engineer. In the event Buyer is not reasonably satisfied with the environmental condition of the Premises, Buyer may notify Seller of its intent to cancel this Agreement within sixty (60) days of the Effective Date and all deposit(s) shall be returned. Failure of the Buyer to so notify Seller shall constitute Buyer's waiver of its right of cancellation.

8.3. Land Use Approvals. Subject to the default provisions hereof, in the event of failure of the Buyer to obtain, while exercising reasonable diligence and good faith and within the time periods set forth in this agreement, the local, state and/or federal approvals required to permit Buyer to establish and construct the proposed development of the Premises, Buyer may notify Seller in writing that it cancels this Agreement and all deposit(s) shall be returned.

8.4 Financing. Buyer may at its option pursue/obtain financing in order to fulfill its obligations hereunder; however, Buyer's obligations are not contingent/conditioned upon financing.

9. Default.

9.1 Default by Seller. Upon default by Seller, Buyer shall have the right to pursue Specific Performance, or, in the alternative and at the election of Buyer, all other legal and equitable remedies.

9.2 Default by Buyer. Upon default by Buyer to include failure to pursue/meet Buyer's obligations with respect to the dates and deadlines set forth herein:

9.2.1 Seller shall be entitled to and Buyer shall forthwith provide all of Buyer's applications, plans, permits and approvals for subsequent use as Seller sees fit in its sole discretion.

9.2.2 Default prior to conveyance. If Buyer fails to apply for full subdivision approval within seventy (70) days of the Effective Date and provided Seller successfully completes the 41:14-c process, or if Buyer defaults with respect to any other pre-conveyance obligation for any Phase, Seller may at its option terminate this agreement, and the \$10,000 deposit, with any accrued interest thereon, shall be released to seller as Liquidated Damages.

9.2.3 **Default after Conveyance of Phase I.** If Buyer defaults with respect to its post-conveyance development obligations as set forth herein, Seller may at its option and in its sole discretion:

9.2.3.1 Deed the Phase II and III lots (1 and 5) to Buyer and require Buyer to pay thereafter all real estate taxes thereon; or

9.2.3.2 Terminate this agreement, thus keeping the not yet conveyed lot(s).

10. **Brokerage.**

Buyer and Seller acknowledge there are no brokers involved in this transaction. Seller hereby agrees to indemnify and hold harmless Buyer regarding payment of any and all brokerage commissions due under this Agreement or at the Closing.

11. **Notices.**

Any notice given under this Agreement must be in written form and must be dated and properly signed by the noticing party. All notices shall be hand delivered, sent by certified mail,

return receipt requested, or by overnight carrier. All notices shall be sent to the following addresses (unless notice is given of a change in such address):

11.1 To Seller. If to Seller, to the Town of Barrington, ATTN: Board of Selectmen, PO Box 660, 333 Calef Highway, Barrington, NH 03825; with a copy to R. Timothy Phoenix, Esq., Hoefle, Phoenix & Gormley & Roberts, PA., 402 State Street, P.O. Box 4480, Portsmouth, NH 03802-4040.

11.2 To Buyer. If to Buyer, to Turbocam, Inc., P.O. Box 830, Barrington, NH 03825; with a copy to: Lizabeth M. MacDonald, Esq., Donahue, Tucker & Ciandella, PLLC, 225 Water Street, Exeter, NH 03833.

12. Miscellaneous.

12.1 Liabilities not Assumed. Except as set forth herein, each of Buyer and Seller does not assume and shall not otherwise be liable or responsible for any liability or obligation of the other, whether known or unknown, now existing or hereafter occurring, except for such liabilities and obligations that such party has expressly assumed hereunder.

12.2 Closing Expenses. Each party is to bear its own attorneys' fees and disbursements related to the negotiation of this Agreement and the Closing of the transaction contemplated by this Agreement.

12.3 Right of Inspection. Seller agrees that Buyer, and its authorized agents, consultants, surveyors, engineers, attorneys and contractors may access the Premises for the purposes of inspection, investigation and site development related activities prior to the Closing. Buyer assumes all risk of any such actions or activities, and agrees to indemnify, defend and hold harmless Seller, its officials, employees, agents, attorneys, heirs and assigns, from and against any and all damage, claim, liability, or loss to person or property, including reasonable

attorney's and other fees, arising from any activities, actions or omissions of Buyer, its agents (including any person or entity acting by, for, through or on behalf of Buyer) or its employees in undertaking the Investigation on the Premises prior to the Closing.

12.4 Applicable Law. This Agreement shall be deemed a contract and construed according to the laws of the State of New Hampshire. All parties shall submit to the jurisdiction of New Hampshire courts.

12.5 Beneficial Rights. It is acknowledged and agreed that the Premises shall also include, without limitation, any rights which Seller has which benefit the Premises, whether for purposes of access and egress, drainage easements, easements for the obtaining of utilities, or otherwise and that the Deed shall include a specific conveyance of said rights.

12.6 Modification. This document together with those documents incorporated by reference in relevance contains the entire agreement of the parties. All amendments, modifications, changes, deletions or additions to this Agreement must be in writing and, to be valid, must be either signed or initialed by both parties or their authorized representatives.

12.7. Assignment and Subsequent Transfer. Buyer may assign its interest under this Agreement, and its rights hereunder prior to the Closing to a New Hampshire entity of which Buyer is the sole or majority owner, however, such assignment shall not impose upon Seller any additional obligation, nor release or alter any obligation of Buyer to perform under this Agreement, or otherwise alter the Consideration which Seller reasonably expects to receive at the Closing. Subsequent to the closing and passage of title, Buyer, or its assignee or successor, may transfer any completed portion of the premises without restriction provided it provides Seller with written notice of its intent to do so within thirty (30) days of the transfer along with documentation in a form reasonably acceptable to Seller whereby every obligation under this

Agreement proposed to be assumed and performed by the Buyer's transferee, if any, are specified.

12.8 Interpretation of This Agreement. Wherever applicable in this Agreement, the singular shall include the plural, and the plural shall include the singular. The captions are for convenience in identification only and shall not be deemed to be determinative as to the contents of a section, should such captions be inconsistent with the body of the respective sections. The terms of this Agreement are to be binding on the heirs, executors, administrators, assigns or other successors in interest to the parties to this Agreement. This Agreement supersedes any and all oral understandings or writings concerning this sale and purchase the parties might have entered into previously. This Agreement sets forth all the promises, covenants, agreements, conditions and understandings between the parties to this Agreement and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, expressed or implied, oral or written, except as contained in this Agreement.

12.9 Time is of the Essence. Time is of the essence of this Agreement, acts of God and permitting delays, caused by the reviewing authority and beyond the control of the parties, excepted. The period of any such delay will act only to toll the period to perform and shall not excuse nonperformance for any other reason.

Witnesseth, this Real Estate Agreement has been executed by the undersigned as of
the Effective Date.

SELLER – TOWN OF BARRINGTON, through its duly authorized Board of Selectmen

Date: 5-23-12

By: Michael Clark

Michael Clark
Board of Selectmen

Witness John Sauter

Date: 5-23-2012

By: Dawn Hatch

Dawn Hatch
Board of Selectmen

Witness John Sauter

Date: 5-23-2012

By: Keith Pratt

Keith Pratt
Board of Selectmen

Witness John Sauter

Date: 5-23-2012

By: Susan Gaudiello

Susan Gaudiello
Board of Selectmen

Witness John Sauter

Date: 5-23-2012

By: Dennis Malloy

Dennis Malloy
Board of Selectmen

Witness John Sauter

BUYER – TURBOCAM, INC.

Date: 5/1/2012

By: Marian Noronha

Marian Noronha, President
duly authorized

Witness Tail a Mail

S:\TM-TZ\Turbocam\Barrington, Town of\agreement compared phoenix to dtc redlined 040912 phoenix comments 4.10.12 DTC
clean.18 April 12.docx

EXHIBIT 1

CONCEPTUAL PLAN

EXHIBIT 2

RIGHT OF FIRST REFUSAL

TO BE COMPLETED BY COUNSEL DURING THE 41:14-c CONTINGENCY PERIOD

EXHIBIT 3

COVENANTS

TO BE ATTACHED WHEN COMPLETED