**Right of First Refusal Agreement**

THIS AGREEMENT provides as follows:

**Recitals**

1. Party A Two LLC is a Washington limited liability company and is the owner of improved commercial real property located at XXX (hereafter referred to as the “Party A Two LLC Property”). The legal description of the Party A Two LLC Property is as follows:

Tax Parcel No.

1. The Party B Capital Company LLC is a Delaware limited liability company and is the owners of improved commercial real property located at XXX hereinafter referred to as the “Party B Property”). The legal description of the Party B Property is as follows:

Tax Parcel No.

1. In connection with the resolution of a dispute between the Parties, each Party has agreed to grant to the other a purchase right of first refusal in and to the property of the other.

**NOW, THEREFORE, For good and valuable consideration,** receipt of which is acknowledged, the Parties agree as follows:

1. **Party A Two LLC Grant of Right of First Refusal to Party B.**
2. Party A grants to Party B a right of first refusal with respect to the Party A Two LLC Property.
3. If Party A receives a bona fide third party offer for all or any portion of the Party A Two LLC Property that Party A is willing to accept, Party A shall deliver to Party B a true and complete copy of such offer (“Acceptable Third Party Offer”) within 5 days of Party A’s receipt of such offer.  Party A shall refrain from accepting the Acceptable Third Party Offer for 10 days after delivery of such Acceptable Third Party Offer to Party B.
4. By notice delivered to Party A during such 10-day period, Party B may elect to purchase the Party A Two LLC Property on the same terms as in the Acceptable Third Party Offer, including any feasibility or due diligence period provisions, provided, however, Party B may exercise this right without having to match any non-monetary terms or conditions in the offer that are specific or unique to the prospective purchaser and are not reasonably capable of performance by Party B.  In the event of such election, Party B shall be obligated to purchase and Party A shall be obligated to sell the Party A Two LLC Property, and the parties shall promptly prepare and execute a purchase and sale agreement reflecting all applicable terms.
5. If Party A, after complying with the requirements of this Section does not enter into a binding purchase and sale with a third party or Party B for the Party A Two LLC Property, the Right of First Refusal shall be reinstated with respect to the Party A Two LLC Property.  If Party A, after complying with the requirements of this Section, does enter into a binding purchase and sale with a third party, but such purchase and sale to the third party does not close for any reason, then the Right of First Refusal shall be reinstated with respect to the Party A Two LLC Property.
6. The Right of First Refusal shall not apply to (a) transfers among the members of Party A Two LLC or their immediate family members, including transfers made for estate planning purposes; or (c) the rights of Party A’s secured lienholders, if any.
7. **Party B Grant of Right of First Refusal to Party A.**
8. Party B grants to Party A a right of first refusal with respect to the Party B Property.
9. If Party B receives a bona fide third party offer for all or any portion of the Party B Property that Party B is willing to accept, Party B shall deliver to Party A a true and complete copy of such offer (“Acceptable Third Party Offer”) within 5 days of Party B’s receipt of such offer.  Party B shall refrain from accepting the Acceptable Third Party Offer for 10 days after delivery of such Acceptable Third Party Offer to Party A.
10. By notice delivered to Party A during such 10-day period, Party A may elect to purchase the Party B Property on the same terms as in the Acceptable Third Party Offer, including any feasibility or due diligence period provisions, provided, however, Party A may exercise this right without having to match any non-monetary terms or conditions in the offer that are specific or unique to the prospective purchaser and are not reasonably capable of performance by Party A.  In the event of such election, Party A shall be obligated to purchase and Party B shall be obligated to sell the Party B Property, and the parties shall promptly prepare and execute a purchase and sale agreement reflecting all applicable terms.
11. If Party B, after complying with the requirements of this Section does not enter into a binding purchase and sale with a third party or Party A for the Party B Property, the Right of First Refusal shall be reinstated with respect to the Party B Property.  If Party B, after complying with the requirements of this Section, does enter into a binding purchase and sale with a third party, but such purchase and sale to the third party does not close for any reason, then the Right of First Refusal shall be reinstated with respect to the Party B Property.
12. The Right of First Refusal shall not apply to (a) transfers among the members of Party B Capital Company LLC or their immediate family members, including transfers made for estate planning purposes; or (c) the rights of Party B’s secured lienholders, if any.

**3. Governing Law.** This Agreement shall be interpreted and enforced according to the laws of the State of Washington.

**4. Consent to Jurisdiction and Venue.** All parties shall submit and not object to jurisdiction and venue in the King County Superior Court, State of Washington, in connection with any claims arising out of this Agreement.

**5. Binding Effect.** This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, legatees, representatives, receivers, trustees, successors, transferees and assigns.

**6. Attorney Fees.** Should it be necessary for any party to this Agreement to initiate legal proceedings to enforce this Agreement, the party or parties to such legal proceedings who substantially prevail shall be entitled to reimbursement of their attorneys fees, costs, expenses and disbursements (including the fees and expenses of expert and fact witnesses) reasonably incurred or made by the substantially prevailing parties in preparing for suit, during suit, on appeal, on petition for review, and in enforcing any judgment or award, from the party or parties who do not substantially prevail.

**7. Entire Agreement.**  This Agreement constitutes the entire agreement of the parties on these subjects. This Agreement may not be modified, interpreted, amended, waived or revoked orally, but only by a writing signed by all parties. This Agreement supersedes and replaces all prior agreements, discussions and representations on these subjects, all of which are merged into, and superseded by, this Agreement. No party is entering into this Agreement in reliance on any oral or written promises, inducements, representations, understandings, interpretations or agreements other than those contained in this Agreement.

**8. Full Understanding; Independent Legal Counsel.** The parties each acknowledge, represent and agree that they have read this Agreement; that they fully understand the terms thereof; that they have been fully advised by their legal counsel; that they are executed by them upon the advice and recommendation of their independent legal counsel; and that they have voluntarily and freely signed this Agreement.

**9. Counterparts.** This Agreement may be executed in duplicate counterparts with each signed duplicate counterpart signed by each of the parties having the same legal force and effect as one signed original.

**10. Recording.** Either Party may arrange for the recording of this Agreement with the King County Recorder.

 IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the date first above mentioned.

**Party A Two LLC, a Washington Limited Liability Company**

By: *(Signature)*

Member

**The Party B Capital Company LLC, a Delaware Limited Liability Company**

By: *(Signature)*

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

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

STATE OF WASHINGTON )

 ) ss.

COUNTY OF KING )

 I certify that I know or have satisfactory evidence that **PARTY A** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledge it as the **Member of Party A Two LLC** to be the free and voluntary at of such party for the uses and purposes mentioned in the instrument.

 DATED \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Type/Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTARY PUBLIC in and for the State of

Washington, residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 My Commission Expires:

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

 ) ss.

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

 I certify that I know or have satisfactory evidence that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that they he/she is authorized to execute the instrument and acknowledge it as the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of **Party B Capital Company LLC** to be the free and voluntary at of such party for the uses and purposes mentioned in the instrument.

 DATED \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Type/Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTARY PUBLIC in and for the State of

Washington, residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 My Commission Expires: