
Transfers of Title

Prepared for
NBI Seminar
Title Law in Oklahoma

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1. Voluntary Transfers

a. Legal Requirements for an Effective Conveyance

Contract Defined. 15 O.S. § 1

A contract is an agreement to do or not to do a certain thing.

Requisites of a contract. 15 O.S. § 2

It is essential to the existence of a contract that there should be:

1. Parties capable of contracting.
2. Their consent.
3. A lawful object; and,
4. Sufficient cause or consideration.

Interpretation of Contracts.

Intent Controls. 15 O.S. § 152.

A contract must be so interpreted as to give effect to the mutual intention of the parties, as it existed at the time of contracting, so far as the same is ascertainable and lawful.

Interpretation Against Party Causing Uncertainty. 15 O.S. § 170.

In cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist. The promisor is presumed to be such party, except in a contract between a public officer or body, as such, and a private party, in which it is presumed that all uncertainty was caused by the private party.

Standards of Preference in Interpretation. Restatement of Contracts 2d, § 203(b).

Express terms are given greater weight than course of performance, course of dealing, and usage of trade, course of performance is given greater weight than course of dealing or usage of trade, and course of dealing is given greater weight than usage of trade.

Omitted Terms.

Supplying Omitted, Essential Terms. Restatement of Contracts 2d, § 204.

When the parties to a bargain sufficiently defined to be a contract have not agreed with respect to a term which is essential to a determination of their rights and duties, a term which is reasonable in the circumstances is supplied by the court.

Implied Terms.

Duty of Good Faith and Fair Dealing. Restatement of Contracts 2d, § 204.

Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement.

Implied Covenant of Good Faith and Fair Dealing. *Hall v. Farmers Ins. Exchange*, 713 P.2d 1027, (Okla.1985).

This court has long recognized that parties should be free to contract for any lawful purpose upon such terms and conditions as they believe to be in their mutual interest. Such freedom is not absolute however, and the interests of the people of Oklahoma are not best served by a marketplace of cut-throat business dealings where the law of the jungle is thinly clad in contractual lace. In this spirit, that each contract carries an implicit and mutual covenant by the parties to act toward each other in good faith.” *id.* at 1029. A contract consists not only of the agreements which the parties have expressed in words, but also of the obligations which are reasonably implied.... Every contract contains implied covenants that neither party shall do anything that will destroy or injure another party's right to receive the fruits of the contract.” *id.* at 1030.

1. Voluntary Transfers

b. Statute of Frauds

Statute of Frauds. 15 O.S. § 136.

The following contracts are invalid, unless the same, or some note or memorandum thereof, be in writing and subscribed by the party to be charged, by an agent of the party or by a broker of the party pursuant to Sections 858-351 through 858-363 of Title 59 of the Oklahoma Statutes:

1. An agreement that, by its terms, is not to be performed within a year from the making thereof;
2. A special promise to answer for the debt, default or miscarriage of another, except in the cases provided for in the article on guaranty;
3. An agreement made upon consideration of marriage, other than a mutual promise to marry; or
4. An agreement for the leasing for a longer period than one (1) year, or for the sale of real property, or of an interest therein; and such agreement, if made by an agent or a broker of the party sought to be charged, is invalid, unless the authority of the agent or the broker be in writing, subscribed by the party sought to be charged.

Assume that your client (buyer) seeks specific performance of a real property purchase and sale contract against the seller (the party to be charged).

Argument 1. Specific Performance should be ordered because the parties established a valid, express contract sufficient to meet the Oklahoma Statute of Frauds. The terms of the contract are sufficiently clear and are proved by writings and extrinsic evidence without resorting to parol evidence.

“...**be in writing**...” does NOT mean that you need one piece of paper that contains all the necessary elements. Rather, it is interpreted to mean that a complete contract may be made through several different writings that are so related to the subject-matter and are so connected with each other that it may be fairly said that they constitute one paper relating to the contract.

“...**subscribed**...” typically means signed. But, this requirement will be met if the party types their name at the end of an e-mail or text message.

In *Thompson v. Giddings*, 276 P.2d 229, (Okla. 1954), the court ordered specific performance of a contract to convey real property, that being an undivided one-eighth mineral royalty interest in a tract. The buyer tendered a check bearing the notation “5 A Royalty N 1/4 of Sec. 21-17-1.” The seller (the party to be charged) signed a receipt for the check, subsequently obtained a better offer for her royalty interest, and returned the check to the buyer, unsuccessfully arguing that the contract was terminated.

The *Thompson* court’s analysis focused on two parts. First, whether the memorandum met the “subscribed by the party to be charged” requirement. The court stated that a memorandum may consist of two or more writings and it is not essential that each of them be signed by the party to be charged, if the one signed refers to other and it appears that both were executed and exchanged as part of same transaction. The court reasoned that the check and receipt could be considered together as supplementing each other or curing any deficiencies in the other. Thus, your client may source the facts from two or more writings to determine whether the buyer subscribed to the writing.

Second, the *Thompson* court determined whether the writings contained the essential elements of the contract, namely 1) the identity of the contracting parties, 2) the property involved, and 3) the terms of sale.

As for the description of the Property, the *Thompson* court stated that if it appears that the party sought to be charged owns but one parcel of property answering the description in memorandum and the description is definite enough that buyer knows exactly what he is buying and the seller knows what she is selling and court can, then the court with the aid of competent extrinsic evidence, may apply the description to the exact property intended to be sold.

What if the seller argues that a contract does not exist because the seller stated “I can get something typed up for us to notarize if that works for you.” *Pierce Petroleum Corp. v. Hales*, 294 P. 160, (Okla. 1930), the court was faced with a similar issue and held that where parties have assented to all the terms of the contract, and they are fully understood in the same way by each of them, the mere reference in conjunction therewith of a future contract in writing will not negate the existence of a present contract.

Argument 2. Specific Performance should be ordered pursuant to the well-settled doctrine of Partial Performance.

In *Harris v. Arthur*, 36 Okla. 33, 127 P. 695, Okla. 1912, the court identified the acts done under a verbal contract for the sale of an interest in land that will prevent the use of the statute of frauds: 1) The delivery of possession to, or the assumption of exclusive and notorious possession by, the vendee under the verbal contract of sale, and with the knowledge of the vendor, accompanied by part payment of the consideration; **OR** 2) The expenditure of money by the vendee in making improvements, permanently beneficial to the estate, with the knowledge of the vendor, and in pursuance of such parol agreement of sale; **OR** 3) Where the parties have so acted under the parol agreement as to alter their position so that a restoration to the former position is impractical or impossible; **OR** 4) Where the parties have so acted under the agreement that to allow the defendant to take shelter under the statute, would be to inflict an unjust and unconscientious injury or loss upon the other party. (emphasis added)

In *Stinchcomb v. Stinchcomb*, 246 P.2d 727, (Okla. 1952). The court's analysis focused on two parts. First, whether an oral contract existed. The court stated that a contract must be fairly definite and certain in order that it can be enforced (emphasis added). Second, the *Stinchcomb* court applied the *Harris* factors and determined there were sufficient acts to establish partial performance.

Argument 3. Specific Performance should be ordered pursuant to the doctrine of Promissory Estoppel.

In *Lacy v. Wozencraft*, 188 Okla. 19, 105 P.2d 781, the court estopped the imposition of the Statute of Frauds in a real property dispute. The *Lacy* court held that the owner of real property who enters into an oral agreement with his tenant to execute to the latter a written three year lease on the premises, and, without protest or warning, knowingly permits the lessee to act upon said agreement to his material detriment, is estopped to interpose the Statute of Frauds.

In making the decision, the *Lacy* court stated "The statute of frauds was never intended to be used as a shield or as a breastwork to aid anyone in the perpetration of a wrong." To remain silent when one should speak constitutes a wrong in such case.

Four elements are necessary to establish a cause of action for promissory estoppel: (1) a clear and unambiguous promise; (2) foreseeability by the promisor that the promisee would rely upon it; (3) reasonable reliance upon the promise to the promisee's detriment; and (4) hardship or unfairness can be avoided only by the promise's enforcement. *Garst v. University of Oklahoma*, 8 P.3d 927, 2001 OK CIV APP 144.

2. Involuntary Transfers Mechanics and Materialmen's Lien Foreclosure

The homestead, a family residence that is cherished and protected under the law, is exempt from a forced sale for the collection of a debt, except for three occasions: 1) the non-payment of taxes; 2) a default in mortgage; and, 3) the failure to satisfy a mechanics and materialmen's lien ("M&M Lien").

Yes, an M&M Lien is strong enough to trump even the vaunted homestead. This powerful tool is available to contractors, subcontractors and materialmen in both commercial and residential work. It secures payment of a private debt (the lien cannot be used in a public construction project). Our lawmakers consider construction so vital to the Oklahoma economy that it gave those engaged in the industry special protections with this lien.

But there's a catch. Since the M&M Lien did not exist at common law and is a creature of statute, one must be careful to strictly adhere to the law's requirements. Filing the lien one day late, for example, is fatal. Liberality should be given to the enforcement of the lien, after the lien has clearly attached, and not in determining the question as to whether a lien exists. *American Tank & Equip. Co. v. T. E. Wiggins*, 42 P.2d 115. There are many traps and gray areas in lien law, so err on the side of caution.

What if one loses his rights to the M&M Lien? In such case, the creditor will be forced to sue for breach of contract, wait for two years to get his day in court, and hopefully be able to collect on the judgment after he prevails. Meanwhile, the debtor can file bankruptcy and wash out the judgment.

As a side bar, the name "Mechanics and Materialmen's Lien" is a little annoying, right? It should be called the Builders and Supplier's Lien.

Why is the Lien So Strong?

1. Mortgages have an "event of default" provision that states that the note will be accelerated if the borrower allows a lien to attach to the property;
2. In a lien foreclosure action, one must join as party defendants all those that claim an interest in the property. 42 O.S. § 173. Thus, a mortgagee and other lien claimants must be joined. A tactful call to the lender, informing it that a foreclosure suit is imminent, and the lender will be a party defendant will sometimes be all the pressure the lien claimant need apply;
3. Attorneys' fees are granted to the prevailing party. 42 O.S. § 176;
4. The lien is a cloud on the property's title. The property cannot be sold nor borrowed against until the lien is satisfied, or the foreclosure period expires. 2016 Title Examination Standards Handbook, Real Property Law Section of the Oklahoma Bar Association; Ch. 24.10 Mechanics and Materialmen's Liens
5. It is preferred to all other liens or encumbrances which may attach to or upon such land, buildings or improvements or either of them after construction begins. 42 O.S. § 141.
6. When perfected, the lien claimant becomes secured, acquiring collateral in the property and preferred in bankruptcy;

7. The lien may be perfected post-bankruptcy petition without violating the stay; and
8. Misapplication of construction funds by an owner, contractor or subcontractor can lead to a charge of embezzlement by bailee. The managing officers of the offending entity may be charged. 42 O.S. § 152 and 42 O.S. § 153

The beauty of the M&M Lien is that it frequently coerces payment without filing a lawsuit. It can be stacked with other powerful creditor remedies like the Oklahoma Construction Trust Act, attachment of payment bonds, and the Oklahoma Laborer's Lien.

The “You Cannot File a Lien” Clause in a Contract

Some will give up their lien rights before performance of the contract when they agree to a contract term preventing a lien filing. However, an Oklahoma case held that the filing of a lien did not violate a contract clause that prevented the filing of liens "arising out of and in the course of [its] performance of [the] sub-contract." The Court reasoned that the contractual requirement is aimed at compelling a subcontractor to pay for the labor and materials it uses on the job so as to prevent the filing of liens and did not purport to extinguish the subcontractor's statutory right of protection against nonpayment of the contract price. *M & W Masonry Constr., Inc. v. Head*, 562 P.2d 957, 1976 OK CIV APP 34

That being said, this writer believes that a carefully crafted clause agreed to between parties of equal bargaining power would be enforceable. For example, an owner may proffer this clause, referred to as a “negative lien clause”:

“Contractor shall not file any liens and shall not allow its subcontractors to file any liens on Company’s property. Contractor shall ensure that all subcontractors, as a condition of providing work or services for Contractor covered by the Contract, shall execute a Waiver of Lien in the form set forth in Exhibit B hereto. Contractor shall provide Company with a list of subcontractors, together with documents evidencing that all laborers, subcontractors, and suppliers of materials and equipment have been paid and are not claiming liens on Company’s property for such labor, services, or materials under the provisions of applicable state statutes, rules and regulations.”

In response, a contractor may counter with this clause:

“Contractor shall not encumber Company’s property unless either 1) Company fails to pay for work as described in 5.1, or 2) Company shall file a petition in bankruptcy or for reorganization or for an arrangement pursuant to any present or future federal or state bankruptcy law or under any similar federal or state law, or shall be adjudicated a bankrupt or insolvent or shall make an assignment for the benefit of its creditors or shall admit in writing its inability to pay its debts generally as they become due.”

Definitions

Title 42 of the Oklahoma Statutes governs M&M Liens. It provides for these definitions:

“Original Contractor” is one that furnishes labor or labor and materials pursuant to a direct contract with the owner. Check the county assessor records to determine who owns the property.

“Subcontractor” is one who enters into a contract for the performance of an act with a person who has already contracted to perform the act, or one who takes a portion of a contract from the Original Contractor.

“Materialman” is one that furnishes material rather than labor. If one combines labor with the furnishing of material, he is a contractor rather than a materialman.

“Person” means any individual, corporation, partnership, unincorporated association, or other entity.

“Lien claimant” is one who has filed a lien.

“Lien debtor” is one who has a lien filed against it.

Computation of Time

Completion of work determines commencement of time for computing deadlines for filing the M&M Lien. Frequently, this writer receives a call from contractors that have missed the lien-filing deadline, and the question then asked is “can I go out to the jobsite, kick some dirt around, and revive my filing deadline?” No. The commencement of computing deadlines is the completion of “substantive work” not completion of punch-list items, or invoice date, or a contrived act intended to beat a missed deadline.

“Months” mean months. For example, the original contractor must file the M&M Lien within four (4) months of completion of work. So, if the work were completed on February 4, then the lien must be filed by June 4.

“Days” mean days. A subcontractor must deliver a pre-lien notice within seventy-five (75) days of completion of work. One must include all weekends and holidays, but do not include the day the work is completed. Thus, if a subcontractor completes work on February 4, then the pre-lien notice must be delivered by April 20. (yes, the pre-lien notice is considered delivered when mailed).

If the lien filing deadline falls on a weekend or a state holiday, then the deadline is extended to the next business day.

Do not wait for the last day to file a lien. Inevitably, your computer will fail, or your car will not start, or the county clerk may not file the lien. This writer discovered that a rural county would not file liens after 3:30 P.M. even though its offices were open until 4:30 P.M.

Filing the Lien Statement

The lien, whether by a contractor, subcontractor, or materialman, must be filed with the county clerk of the county in which the property is located. After the lien is filed, the county clerk mails a copy of the lien statement (or a statement of lien filing) via certified mail to the lien debtor and contractor if applicable. 42 O.S. § 142 Some scallywags will not accept certified mail. So, remember to check with the county clerk to ensure that the green card, confirming receipt was returned to the clerk. If the card was not received, send a process server to deliver the lien statement, and file the server's affidavit with the county clerk.

Liens by Contractors (and Materialmen) with Contract with Property Owner

The M&M Lien is a legal claim of one person upon the property of another person to secure the payment of a private debt. The contract that gives rise to the M&M Lien may be oral or written.

Oklahoma law states that "Any person who shall, under oral or written contract with the owner of any tract or piece of land, perform labor, furnish material or lease or rent equipment used on said land for the erection, alteration or repair of any building, improvement or structure thereon..." and "...shall have a lien upon the whole of said tract or piece of land, the buildings and appurtenances in an amount inclusive of all sums owed to the person at the time of the lien filing." The lien has priority over all other liens or encumbrances that attach "...to or upon such land, buildings or improvements or either of them subsequent to the commencement of such building." 42 O.S. § 141 Thus, judgment liens or mortgages filed after commencement of the project are inferior to a M&M Lien.

A lien statement, must include: (1) a statement setting forth the amount claimed and identifying the material or labor supplied; (2) the name of the owner or owners, contractor and claimant; (3) the description of the property subject to the lien; and (6) a verification of the lien by affidavit. 42 O.S. § 141 Remember to attach invoices or other itemized statements setting forth the amount claimed.

Contractors must file the lien within four (4) months of the date equipment was last furnished or labor last performed on the project. 42 O.S. § 141 Any contractor who falsifies any statement regarding liens on labor or material to any owner of a dwelling, upon conviction, shall be guilty of a felony. 42 O.S. § 142.4

Liens by Subcontractors and Lower Tier Contractors and Suppliers

Any person who shall furnish any such material or lease or rent equipment used on said land or perform such labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor, may obtain a lien upon such land, or improvements, or both, from the same time, in the same manner, and to the same extent as the original contractor. 42 O.S. § 143

The subcontractor's lien statement requires the same contents as the original contractor: (1) a statement setting forth the amount claimed and identifying the material or labor supplied; (2) the name of the owner or owners, contractor and claimant; (3) the description of the property subject to the lien; and (6) a verification of the lien by affidavit.

Before the subcontractor files a lien, it must first send a pre-lien notice to the property owner and general contractor. 42 O.S. § 142.6(B)(1) This is a common error by the subcontractor, either not sending the pre-lien notice, or omitting the required information. In such case, the M&M Lien rights are lost.

The pre-lien notice must be sent within seventy-five (75) days of the date equipment was last furnished or labor last performed on the project, and contain specific language as required by the Oklahoma statute. The notice may be hand delivered or sent certified mail, return receipt requested. Notice by certified mail is effective on the date mailed. Remember, you can use certified mail after hours via a self-service kiosk at the post office. There are exceptions to the pre-lien notice requirement, but it's a best practice to send the notice regardless.

The pre-lien notice must contain:

- a. a statement that the notice is a pre-lien notice,
- b. the complete name, address, and telephone number of the claimant, or the claimant's representative,
- c. the date of supply of material, services, labor, or equipment,
- d. a description of the material, services, labor, or equipment,
- e. the name and last-known address of the person who requested that the claimant provide the material, services, labor, or equipment,
- f. the address, legal description, or location of the property to which the material, services, labor, or equipment has been supplied,
- g. a statement of the dollar amount of the material, services, labor, or equipment furnished or to be furnished, and
- h. the signature of the claimant, or the claimant's representative.

The subcontractor's lien statement must be filed within ninety (90) days. 42 O.S. § 143 If the owner pays the contractor within ninety (90) days, the owner suffers the risk of loss; that is the risk that the contractor will not pay the subcontractor or materialman. The owner may protect itself by withholding payment for ninety (90) days, or by making a joint payee check to the contractor and the materialman or subcontractor.

At the time of the filing of the lien statement, the claimant must furnish to the county clerk a notarized affidavit verifying compliance with the pre-lien notice requirements. Any claimant who falsifies the affidavit shall be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

There is no requirement to wait 15 days to file the lien after the pre-lien notice is delivered. Some nationwide materialmen send a pre-lien notice as a matter of course, whether or not the debt is in default.

Consider whether provisions of the Fair Debt Collections Practices Act apply to the notice. This writer routinely adds the “mini-Miranda” to all notices to individual debtors. Likewise, attorneys will add the mini-Miranda to foreclosure petitions to individual defendants.

Liens by Materialmen

If a materialman has a contract with the owner, then it has the same filing deadline as a contractor: 4 months. In contrast, if the materialman does not have a contract with the owner, then it has 75 days to file a pre-lien notice and 90 days to file the lien.

A materialman makes a prima facie case of being entitled to a lien by showing (1) the material was sold to the contractor with knowledge of a contract between the owner and the contractor, (2) delivery of the materials to the site, and (3) use of the materials in the project. *Roofing & Sheet Metal Supply Co. of Tulsa v. Golzar-Nejad Khalil, Inc.*, 925 P.2d 55, 1996 OK 101

Delivery and signed documents evidencing delivery should be maintained. As always, documents signed with printed name, title, date, address and project name, and materials delivered.

If your client is a materialman, and is unsure where the materials will be used in the construction project, then consider an article 9 clause: “Company shall maintain a purchase money security interest in the Goods for any portion of the purchase price not paid at the time of delivery and retain this interest until Company has received the full purchase price for the goods.”

Amending the Lien Statement

The lien statement cannot be amended for the amount claimed. 42 O.S. § 172 So, check and double-check the math before the lien statement is recorded. If an error does occur in the amount claimed, consider releasing the erroneous lien and refile, provided of course the time-to-file has not expired. Besides the amount claimed, in most instances defects in the lien statement can be remedied even when the time for filing has expired. *Corbett v. Logan*, 20 P.2d 894, 1933 OK 140

Priority

Often, questions of priority exist between a mortgage lien, a judgment lien and others that have filed M&M Liens. Regarding the mortgage lien and judgment lien, the M&M Lien refers back and applies from the date the first labor or material is furnished to the project. Thus, if the work began on the project prior to the recording of a mortgage or judgment lien, then the lien of the contractor, subcontractor or supplier is superior. *American-First Title & Trust Co. v. Ewing*, 403 P2d 488, 1965 OK 98

If others hold perfected M&M Liens, then they stand in equal status toward each other. In other words, the lien claimant who supplies material at the end of a project will be equal in priority to the lien claimant, such as an engineer or surveyor, who provided services at the beginning of the project. That being said, this writer will only cooperate with other lien claimants after determining that a lien claimant's lien statement is perfected.

Releasing the Lien

A lien debtor can neutralize the M&M Lien by depositing with the county clerk either an amount of money equal to 125% of the lien amount, or a bond (called a lien-release bond) in an amount equal to 125% of the lien amount. 42 O.S. § 147.1 This tactic is typically used when the lien debtor disputes the charges or for some other reason feels that the charges are unjustified. In such case, the lien claimant's attorney will foreclose on the bond surety rather than the property.

Foreclosure

If the lien debtor does not pay the amount owed, then one is required to foreclose on the M&M Lien within one year of filing the lien statement. 42 O.S. § 147.1 Frequently, the lien debtor has more than one M&M Liens filed against the property. In such case, the attorneys for the various lien claimants will discuss strategy and share information, and the attorney representing the lien claimant with the largest claim will typically take the lead in the foreclosure action, unless of course a lien claimant is in danger of missing the one-year deadline.

If an attorney is confident in her case, she may elect to foreclose soon after the lien statement is filed, reasoning that she now is entitled to attorneys' fees even if the dispute is resolved by settlement. Remember to add both *in rem* (foreclosure of lien) and *in personam* (breach of contract) causes of action to the foreclosure petition in the event the *in rem* action fails. And, consider filing a *lis pendens* notice of the foreclosure in the county clerk's records.

Attorneys' Fees

The prevailing party awarded attorneys' fees in a in a foreclosure suit. 42 O.S. § 147.1

Work on Leased Property

Construction projects on leased property (e.g. tenant improvements) can be significant. A restaurant build-out in a shopping mall can easily cost more than \$300,000, for example. Yet, in this type of project, the construction professional may not enjoy the full benefits of the lien. If the contractor/subcontractor/materialman does not have privity with the property owner, then the lien attaches to the buildings and improvements on such property separately from the real estate. 42 O.S. § 141 See *Bell v. Tollefsen*, 782 P.2d 934, 1989 OK 149 In other words, the builder would have a lien on the fixtures and improvements only.

Bankruptcy

A creditor may file an M&M Lien after a debtor has filed bankruptcy, provided the filing deadlines have not passed. However, it may not take any enforcement steps such as foreclosure without leave of court.

Lien Checklist

1. Who is the lien claimant?
2. Who is the debtor?
3. What is the date labor last performed or materials last supplied (not invoice date; not punch list items)?
4. Where is the project?
5. Who owns the property per county assessor?
6. Does the debtor have any counterclaims?
7. How much is the lien claimant owed?
8. What steps have you taken to collect the debt?
9. When and what was the last conversation with debtor?
10. Written contract? Any COs? Any negative lien clause?
11. Do you want future business from the debtor?
12. Would you consider property in lieu of cash?
13. Typically, I make a “last call” to the debtor. What are your thoughts?
14. Sometimes, I send a pre-lien notice even if the law doesn’t require it. Thoughts?
15. Is there a bond on the project?
16. Prevailing party awarded attorneys’ fees.

Before Filing Lien

1. Is the lien claimant in good standing the Oklahoma Secretary of State?
2. Is the lien claimant current with its licenses?
3. All permits obtained?
4. Check the county records for other lien claimants and mortgages?
5. Check the assessor records and or county records for property descriptions.
6. Check OSCN and Pacer for court records.
7. Check OK County for UCC liens.
8. What about bonds?
9. Can I use other liens?

EXHIBIT A

Contract Drafting Tips

1. Oklahoma is a big right to contract state. In other words, Oklahoma courts will enforce the terms of the contract, provided its terms are clear, and the parties have equal bargaining power.
2. Draft your contract as if you'll be in court defending it.
3. Be careful with letters of intent. Ensure to clearly identify "binding" and "non-binding" terms.
4. Option contracts require independent consideration. Such consideration may be nominal but must be tendered.
5. Control the keyboard by delivering the first draft. As a courtesy, attorneys should deliver opposing counsel editable versions of the contract. Any changes should be redlined, using "track changes" feature.
6. Don't identify the contract's effective date in the preamble. Rather, define the Effective Date as the last date signed by either party. See § 22 of Exhibit B, Purchase Contract.
7. Make liberal use of recitals, which set the stage for the contract. Describe the parties, purpose of the contract, and other simultaneous transactions. Incorporate recitals into the contract.
8. Identify warranties and representations that survive closing. See § 3.01 of Exhibit B, Purchase Contract.
9. Remember to use allocations, mainly for tax purposes. For example, allocate a portion of purchase price to surface and portion to minerals. Or, allocate a portion of purchase price to goodwill or restrictive covenant. See § 2.01 of Exhibit B, Purchase Contract.
10. Identify Exhibits on last page of contract.
11. Pay attention to notice clauses. Many contract disputes, especially in construction, involve a failure to notify.
12. When drafting amendments. Strike the entire clause, and replace with the superseding language.
13. Sources of Oklahoma real property forms: Vernon's Okla. Real Estate Forms and Practice©; LexisNexis Oklahoma Real Estate Forms©; and the Oklahoma Real Estate Commission Contract Forms at www.ok.gov/OREC.
14. Option clauses require separate consideration.
15. Look to factoring agreements and MSAs for broad contract clauses.
16. Remember to require bonds of any GC.
17. Personal guarantees.
18. Remember the 1031 exchange.
19. Minimum interest rate must apply.

EXHIBIT B

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (the or this "Agreement") entered by and between LuLu Belle's Investments, LLC, a Texas limited liability company, having a principal place of business at 6363 Cypress Bend Cove, Cedar Hill, TX 75104 ("Seller") and Bailey's Recreation, LLC, an Oklahoma limited liability company, having a principal place of business at 2906 West Pennsylvania Ave., Yukon, OK 73099 ("Buyer"). Collectively, Seller and Buyer hereinafter referred to as "Parties."

Recitals

1. Seller holds title to property in Cherokee County, Oklahoma;
2. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, all of Seller's surface and mineral estate in the property, whether described correctly herein or not, upon the terms and conditions set forth in this Agreement;
3. These recitals are hereby incorporated into this Agreement; and
4. For and in consideration of the premises and the mutual covenants contained herein, the Parties hereby agree as follows:

Terms and Conditions

§ 1. Property.

§ 1.01. Subject to the conditions and terms herein, Buyer agrees to purchase from Seller and Seller agrees to sell, transfer and convey to Buyer the following described property with all and singular the rights and appurtenances thereto in any way belonging, including all air, surface, subsurface, mineral and riparian rights (the "Property"):

- A. Fee title to the surface of the real estate ("Land") more fully described in Exhibit "A" annexed hereto and made a part hereof;
- B. All of the buildings, structures and improvements in, upon and under the Land, including, but not limited to a single-family dwelling (the "Improvements");
- C. All of the appurtenances belonging to the Land and in and to all streets, alleys and other public or private ways adjacent thereto, before or after vacation thereof;
- D. All of Seller's right, title and interest in and to all surface lease(s) and other occupancy

agreements, whether oral or written, with other persons ("Tenants") relating to the Property ("Leases"), together with all security deposits and damage deposits ("Deposits") deposited by Tenants in connection with the Leases, all as more particularly listed as of the date hereof on Exhibit "B" attached hereto and made a part hereof (the "Lease Schedule");

- E. All of the royalty and rentals payables under any existing oil and gas lease(s) on the Property;
- F. All tangible and intangible personal property owned by the Seller and located on the Land or used in the ownership, operation and maintenance of the Improvements including, without limitation, a mobile home specifically described on Exhibit "C" attached hereto and made a part hereof (the "Personal Property");
- G. All minerals and mineral interests, including but not limited to oil, gas, helium, coal, asphalt, iron, zinc, and other minerals whether metallic or non-metallic in, under, and that may be produced from the Property;
- H. All water and air rights;
- I. All permits, approvals, authorizations and licenses relating to or affecting any of the Property which Buyer approves; and
- J. All of Seller's claims, rights of action and remedies that may have accrued to Seller by virtue of its ownership of the Property from the beginning of time.

§ 2. Consideration.

§ 2.01. The total purchase price for the Property shall be One million, two hundred thousand dollars (\$1,200,000.00) (the "Purchase Price") of which Ten thousand dollars (\$10,000.00) shall be allocated to the Personal Property and the balance shall be allocated to the Land and Improvements.

§ 2.02. The Purchase Price for the Property shall be paid as follows: Twelve thousand dollars (\$12,000.00) earnest money payable in cash (or by certified or cashier's check) deposited on the Effective Date herewith with Tahlequah Abstract & Title Co., 316 S. Cherokee Avenue, Tahlequah, OK 74464 (the "Title Company") to be held in a separate interest bearing account until Closing (as hereinafter defined) and applied against the Purchase Price (the "Earnest Money"). The further sum of One million, one hundred eighty-eight thousand dollars (\$1,188,000.00) in cash or by certified check at Closing, which amount shall be subject to credits, adjustments and prorations as hereinafter provided.

§ 3. Warranties and Representation of Seller.

§ 3.01. To induce Buyer to enter into this Agreement, Seller makes the following representations and warranties (paragraphs § 3.02. to § 3.21. hereunder) each of which is material and is being relied upon by Buyer and shall survive closing under this Agreement:

§ 3.02. Seller has not received any notice, and has no knowledge, that the Property or any portion or portions of the Property is or will be subject to or affected by:

1. any special assessments, whether or not presently a lien thereon; or
2. any condemnation, eminent domain, adverse possession, change in grade of public streets, or similar proceeding.

§ 3.03. There are no actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the Property or any portion or portions of the Property or relating to or arising out of the ownership of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, or agency or other governmental instrumentality. Seller possesses all licenses, certificates, permits and authorizations of any kind required to own, operate, or maintain the Property.

§ 3.04. Seller has the full right, power and authority to enter into and deliver this Agreement and to consummate the purchase and sale of the Property in accordance with this Agreement and to perform all covenants and agreements of Seller under this Agreement and the person executing this Agreement on behalf of Seller is duly authorized to execute and deliver this Agreement. Seller covenants to maintain such authority to and until closing and agrees to furnish Buyer with indicia of such authority upon request.

§ 3.05. All indebtedness incurred and/or secured by the Property, including but not limited to mortgages, and mechanics and materialmen's liens, will be removed and satisfied before Closing.

§ 3.06. No commitments have been made to any governmental authority, utility company, school board, church or other religious body, or any homeowners association, or to any other organization, group, or individual, relating to the Property which would impose an obligation upon Buyer or its successors or assigns to make any contribution or dedications of money or land or to construct, install, or maintain any improvements of a public or private nature on or off the Property, and no governmental authority has imposed any requirement that any developer of the Property pay directly or indirectly any special fees or contributions or incur any expenses or obligations in connection with any development of the Property or any part of the Property. The provisions of this paragraph shall not apply to any general real estate taxes.

§ 3.07. Seller has not received any notice and has no actual knowledge that the Property has ever been used by previous owners or operators or Seller to generate, manufacture, refine, transport, treat, store, handle or dispose of a hazardous substance. Seller has no actual knowledge of the Property having ever contained asbestos, PCB or other toxic materials.

§ 3.08. There are no pollutants, contaminants, petroleum products or by-products, asbestos or other substances, whether hazardous or not, on or beneath the surface of the Property.

§ 3.09. Seller holds, and hereby agrees to deliver to Buyer by dully executed warranty deed and other instruments of conveyance, good and valid marketable title to the Property, including but not limited to the entire surface and mineral estate.

§ 3.10. No person, firm or other legal entity other than Buyer has any right or option whatsoever to acquire the Property or any portion or portions of the Property or any interest in the Property.

§ 3.11. To the best of Seller's knowledge, Seller is not in violation of any law, regulation or ordinance governing the Property.

§ 3.12. The execution and delivery of this Agreement and the consummation of the transaction contemplated in this Agreement shall not and do not constitute a violation or breach by Seller of any provision of any agreement or other instrument to which Seller is a party or to which Seller may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Seller.

§ 3.13. There are no service contracts, maintenance or management agreements, commission or brokerage agreements, or other similar agreements affecting the Property.

§ 3.14. All taxes due on the Property have been paid and are current.

§ 3.15. Seller has good and marketable title to all of the Personal Property.

§ 3.16. Seller has the sole right to collect any rents under the Leases, and such Leases are in full compliance with their terms.

§ 3.17. There are no encroachments within the boundary lines of the Land.

§ 3.18. The Property does not lie within a flood plain.

§ 3.19. Seller has disclosed to Buyer any material defects of which Seller or Seller's agents or employees, has knowledge with respect to the physical condition and maintenance of the Property and not susceptible to discovery by Buyer from normal inspection and management of the Property; and to the best of Seller's knowledge and belief, there exist no facts or circumstances which materially and adversely affect the Property or any portion thereof which have not been disclosed to Buyer in writing.

§ 3.20. Seller will not take or cause to be taken any action, or fail to perform any obligation, which would cause any of the foregoing representations or warranties to be untrue as of the Closing. Seller shall immediately notify Buyer, in writing, of any event or condition known to Seller which occurs prior to Closing hereunder, which causes a change in the facts relating to, or the truth of, any of the above representations or warranties.

§ 3.21. Beginning September 1, 2015, Mr. David Jones as tenant leased the Property for cattle pasture. Said lease is oral. Seller will terminate this lease and ensure that Mr. Jones's cattle and other personal property are removed from the Property by Closing.

§4. Risk of Loss.

Until Closing, risk of loss to the Property shall be upon Seller; after Closing such risk shall be upon Buyer.

§ 5. Title, Inspections and Closing Date.

§ 5.01. Seller shall, at Seller's expense, promptly seek a commitment (the "Commitment") from a title insurance company of Buyer's choice which is licensed to do business in the State of Oklahoma for an owner's title insurance policy on ALTA Owner's Policy of title insurance from the Title Company. Copies of all instruments constituting an exception in the Commitment shall accompany the Commitment. Additionally, the Title Company shall provide a Uniform Commercial Code search (as to both fixture filing and central filing) which reflects that all Personal Property is free and clear from any security interest except any in favor of the holder of any mortgage which will be satisfied and removed prior to Closing. If the Commitment shows exceptions to title which have a material adverse effect upon the marketability of the title to the Property, in Buyer's sole opinion, Buyer shall give Seller notice thereof within ten (10) days following Buyer's receipt of the Commitment and, unless Seller gives Buyer written notice within ten (10) days thereafter that Seller will cure the title defects at or prior to Closing, Buyer may, at Buyer's election: (i) terminate this Agreement, in which event the Earnest Money shall be promptly returned to Buyer, or (ii) waive all those title defects and proceed with Closing hereunder as if the additional title defects did not exist.

The owner's policy, when issued, shall insure over encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey and inspection, and shall delete all exceptions relating to survey matters and to mechanics and materialmens liens.

Seller shall pay the abstracting charges and the premium for the owner's policy of title insurance.

§ 5.02. Seller shall obtain and deliver to Buyer at Seller's expense, within thirty (30) days after the execution of this Agreement, a current "as built" survey of the Property prepared by a duly licensed surveyor selected by Seller. If the survey shows that the Improvements are not within the boundary lines of the Land or violate any setback requirements, or that adjoining structures encroach on the Land, Buyer may, at Buyer's election, upon giving Seller written notice thereof within ten (10) days following Buyer's receipt of the survey, (i) terminate this Agreement, in which event the Earnest Money shall be promptly returned to Buyer, or (ii) waive the defect and proceed with Closing hereunder.

§ 5.02. Within one (1) day following the date of this Agreement, Buyer shall have the right, at Buyer's expense, during ordinary business hours, to have an engineer or other independent inspector of Buyer's choice inspect the Property, provided Buyer gives Seller reasonable notice of any inspection. If the inspection reveals any matter that Buyer, in Buyer's sole opinion renders the Property unsuitable, then Buyer may terminate this Agreement in which event the Earnest Money shall be promptly returned to Buyer.

Upon compliance with the inspection provided in the preceding paragraph, Buyer agrees to accept delivery of the Property in an "as is" condition on the date of Closing, subject to ordinary

wear and tear. Seller agrees that prior to Closing, Seller shall not permit any deterioration or waste of the Property, acts of God excepted.

§ 5.03. The purchase and sale contemplated by this Agreement shall be consummated at settlement (the "Closing"), which shall take place on December 12, 2015, or such earlier date as may be mutually agreed upon by Seller and Buyer. The Closing shall take place at the offices of the Title Company or at such other location as may be mutually agreed upon by Seller and Buyer.

§ 6. Conditions of Closing.

The Parties agree that closing shall be conditioned upon the contingencies and requirements contained in this Agreement have been provided for, waived, or otherwise satisfied.

§ 7. No Brokers.

The Parties represent that it has not used the services of any real estate broker, agent or finder.

§ 8. Possession.

Possession of the Property shall be delivered to Buyer at Closing.

§ 9. Events Occurring at Closing.

§ 9.01. In addition to other conditions precedent set forth elsewhere in this Agreement, Seller shall deliver to Buyer at the Closing all of the following, the delivery of which shall be a condition to Buyer's obligation to consummate the purchase of the Property.

(a) Representation and Warranties. A certificate that the representations and warranties set forth in this Agreement are true and correct on and as of the Closing, except as may be expressly stated in the Certificate, and that Seller has performed all covenants and agreements to be performed on Seller's part prior to Closing.

(b) Warranty Deed. A general warranty deed which shall convey good and marketable, fee simple title to the Land and Improvements, free and clear of all liens, encumbrances, easements and restrictions of every nature and description, except: (i) the Permitted Title Exceptions; and (ii) those additional title exceptions waived by the Buyer.

(c) Bill of Sale. A bill of sale, with general warranty of title, duly executed by the Seller and transferring, assigning and conveying to the Buyer: (i) good and marketable title to all the Personal Property; (ii) all rights of Seller as lessee under any leases of the Personal Property; (iii) all warranties and guarantees pertaining to the Personal Property; and (iv) such authorizations as are transferable from Seller to Buyer.

(d) Assignment of Leases. A duly executed, valid assignment of all the Leases and the Deposits to Buyer.

(e) Contracts. A duly executed assignment of contracts conveying Seller's rights in and to all contracts with third parties disclosed to Buyer and relating to the ownership, maintenance and operation of the Property.

(f) Original Leases. The originals of all Leases then in effect together with assignments thereof to Buyer.

(g) Deposits. All Deposits held by Seller under the Leases.

(h) Other Documents. The originals or true copies of all agreements and documents affecting the Property such as, by way of example only, real and personal property tax bills, correspondence with Tenants, maintenance contracts, service agreements, garbage removal contracts and security contracts, ad valorem tax records, utility bills for prior periods, certificates of occupancy and inspection, and invoices and bills for tenant work and other improvements, management agreements, service agreements, garbage removal contracts and security contracts shall be assigned to Buyer.

(i) Affidavit. A "bills paid affidavit" executed by Seller and verifying that there are no unpaid bill for labor performed, material supplied or services provided for or to the Property prior to Closing.

(j) Notice to Tenants. A notice to all Tenants of the sale in a form approved by Buyer and Seller.

(k) Termite Certificate. A certificate by a recognized exterminator, doing business in the State of Oklahoma, stating that the Improvements are free of existing termite and other vermin infestation and damage.

(l) Release of Mortgage. Seller shall deliver a valid release of mortgage in a form suitable to Buyer.

§ 9.02. At the Closing and contemporaneously with Seller's compliance with the provisions of Paragraph § 9.01 above, Buyer shall pay to Seller the cash portion of the purchase price, adjusted for the prorations hereinafter provided for and reduced by the Earnest Money.

§ 10. Prorated Items and Adjustments.

§ 10.01. Prorations. At Closing the following adjustments and prorations shall be computed as of the date of Closing and the cash portions of the purchase price shall be adjusted to reflect such prorations. All prorations shall be based on 30-day months.

(a) Rent. All rentals collected by Seller up to the date of Closing, which are allocable to the period from and after Closing, shall be paid by Seller to Buyer. That portion of any past due rentals payable to Seller at or prior to Closing which are allocable to the period prior to Closing shall be remitted to Seller by Buyer as and if collected by Buyer. Payments received by Buyer shall be applied first to current rent due and then to past due rent starting with the most recent delinquency. Buyer shall use reasonable diligence to collect past due rents.

(b) Real Property Taxes. Ad valorem real and personal property taxes, assessments and all other public or governmental charges against the Land and Improvements which are or may be payable on an annual basis (including charges, assessments, or encumbrances for sewer, water, drainage or other public improvements completed or commenced on or prior to the date of this Agreement or subsequent thereto) shall be adjusted and apportioned as of the date of Closing and assumed and paid thereafter by Buyer, whether assessments have been levied or not as of the date of Closing. If the exact amount of ad valorem taxes is not known at Closing, the proration will be

based on the prior year's taxes, but when the exact amount of such taxes becomes known, such proration shall be adjusted upon demand by appropriate cash payment or refund between Seller and Buyer.

(c) Service Contracts and Utilities. All prepayments made or payments due under any continuing service contracts affecting the Property, including water, sewer, electric, gas and utility bills, parking, garbage removal, and maintenance agreements shall be adjusted and apportioned as of the Closing and thereafter assumed by Buyer.

(d) Sales Taxes. All sales taxes payable in connection with Personal Property shall be paid by Buyer. Such taxes shall be collected by Seller at Closing and thereafter paid over to the State of Oklahoma within the time required by law.

(e) Miscellaneous. All other charges and fees customarily prorated and adjusted in similar transactions shall be prorated at Closing and thereafter assumed by Buyer. In the event that accurate prorations and other adjustments cannot be made at Closing because current bills or statements are not obtainable (as, for example, utility bills), the parties shall prorate on the best available information, subject to adjustment upon receipt of the final bill or statement. Seller shall use its best efforts to have all utility meters read on the date of Closing so as accurately to determine the proration of current utility bills.

§ 10.02. Seller's Costs. Seller shall pay the following costs and expenses in connection with the Closing:

- (i) Abstracting charges;
- (ii) Title policy premium;
- (iii) Documentary stamp taxes or other transfer fee;
- (iv) Recording fees for any title curative documents;
- (v) Oklahoma mortgage tax;
- (vi) The cost of the survey;
- (vii) One-half (1/2) of any escrow of closing fees charged by the Title Company; and
- (viii) The fee for a title opinion of the mineral estate, which is to be provided by an attorney of Buyer's choosing.

§ 10.02. Buyer's Costs. Buyer shall pay the following costs and expenses in connection with the Closing:

- (i) Recording fees for the warranty deed;
- (ii) The sales tax due and payable on the transfer of the Personal Property;
- (iii) One-half (1/2) of the escrow or closing fees charged by the Title Company.

§ 10.03. Other Costs. All other expenses incurred by Seller or Buyer with respect to the consummation of the transaction contemplated by the Agreement, including but not limited to

attorney's fees of Buyer and Seller, are to be borne and paid exclusively by the party incurring same, without reimbursement except to the extent otherwise specifically provided in this Agreement.

§ 11. Default and Remedies.

§ 11.01. Earnest Money Deposit: Payment to Seller at Closing. At Closing, the Earnest Money, including all interest earned thereon, shall be paid by the Title Company to Seller and applied to the payment of the cash portion of the purchase price. If Closing does not occur, the Earnest Money, including all interest earned thereon, shall be paid over in accordance with the terms of this Agreement.

§ 11.02. Buyer's Default; Liquidated Damages. Buyer and Seller each acknowledge that it would be difficult to ascertain the actual damages which would be suffered by Seller if Buyer defaults in consummating the purchase and sale contemplated by this Agreement. Accordingly, if all conditions precedent to Buyer's obligation to consummate the transactions contemplated by this Agreement have been satisfied or waived, but Buyer fails, refuses or is unable to consummate the purchase and sale contemplated by this Agreement, then Seller's sole remedy shall be to give the Title Company and Buyer written notice of Buyer's default, in which event the Title Company shall pay the Earnest Money, together with interest earned thereon, to Seller. Upon payment of the Earnest Money, including the interest earned thereon, to Seller, neither party to this Agreement shall have any further liability to the other and this Agreement shall be and become null and void and of no further force and effect, either at law or in equity.

§ 11.03. Seller's Default. If all conditions and other events precedent to Seller's obligations to consummate the transactions contemplated by this Agreement have been satisfied or waived, but Seller fails, refuses or is unable to consummate the purchase and sale contemplated by this Agreement, then Buyer, in addition to any other right or remedy, shall have the right to give the Title Company written notice of Seller's default, in which event the Title Company shall pay the Earnest Money, together with interest earned thereon, to Buyer.

§ 12. Time is of the Essence.

Time is of the essence in regards to this Agreement.

§ 13. Assignment.

This Agreement shall be binding upon the Parties hereto, their respective heirs, successors and assigns, but shall not be assigned by any Party hereto without the written consent of the other Party.

§ 14. Headings.

The headings contained in this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

§ 15. Choice of Law.

This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Oklahoma.

§ 16. Conflicts.

This Agreement is a final expression of the intent of the Parties and shall be modified only by a duly executed written instrument.

§ 17. Binding Effect and Special Conditions.

This Agreement and the terms, covenants and provisions hereof, shall inure to the benefit of and be binding upon the successors and permitted assigns of both Parties hereto.

§ 18. Counterparts.

This Agreement may be executed in multiple original counterparts, each of which shall be deemed to be an original, but which together shall constitute but one and the same instrument. Pages containing signatures may be detached from the respective counterparts and reassembled together to form a completely executed document. Facsimile or other electronically transmitted copies of this Amendment and signatures thereon shall be deemed to be valid original versions of this Amendment and such signatures shall be effective for all purposes.

§ 19. Severability.

If any one or more of the provisions of this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable under applicable law, this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The remaining provisions of this Agreement shall be given effect to the maximum extent then permitted by law.

§ 20. Forbearance; Waiver.

Failure to pursue any legal or equitable remedy or right available to a Party shall not constitute a waiver of such right, nor shall any such forbearance, failure or actual waiver imply or constitute waiver of subsequent default or breach. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement or of any succeeding breach of the same provision. No delay in acting with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such provision.

§ 21. Notices.

Any notices required or permitted to be given by either Party to the other shall have been deemed to have been served when hand delivered or, if the United States Mail is used, on the third (3rd) business day after the notice is deposited in the United States Mail, postage prepaid, registered or certified mail, and addressed to the Parties as follows:

To Seller:

LuLu Belle's Investments, LLC
6363 Cypress Bend Cove
Cedar Hill, TX 75104

To Buyer:

Bailey's Recreation, LLC
2906 West Pennsylvania Ave.
Yukon, OK 73099

With a carbon copy to Gary Quinnett, Attorney, 2932 NW 122nd Street, Suite B,
Oklahoma City, OK 73120

§ 22. Effective Date.

When used in this Agreement, the term "Effective Date" or the phrase "the date of this Agreement" shall mean the last date that either Buyer or Seller execute this Agreement.

§ 23. Construction.

This Agreement shall be construed without regard to the Party or Parties responsible for its preparation and it shall be deemed to have been prepared jointly by all parties, acting upon advice of counsel. This Agreement is the product of negotiation among the parties and, therefore, the Parties waive any right to require that any ambiguity or question about the terms of the Agreement be construed adversely against any Party.

§ 24. Disputes.

Before either Party may take any legal action against the other party, a face-to-face meeting shall occur between LuLu Belle Quinnett and Bailey Meyer with a neutral third-party present. In the event of any litigation arising from this Agreement, the prevailing party shall be awarded attorneys' fees and costs.

Exhibit A: Legal Description

Exhibit B: Lease Schedule

Exhibit C: Personal Property

Remainder of page intentionally blank.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement and affixed their seals as of the date and year noted.

Seller: **LuLu Belle’s Investments, LLC**

By: _____
LuLu Belle Quinnett

Its: Managing Member

Date of Execution: _____

Buyer: **Bailey’s Recreation, LLC**

By: _____
Bailey Meyer

Its: Managing Member

Date of Execution: _____

STATE OF OKLAHOMA)
) ss.
COUNTY OF)

This instrument was acknowledged before me on this ___ day of October, 2015, by LuLu Belle Quinnett as Managing Member of LuLu Belle’s Investments, LLC, an Oklahoma limited liability company.

Notary Public: _____ SEAL

My Commission Expires: _____

STATE OF)
) ss.
COUNTY OF)

This instrument was acknowledged before me on this ___ day of October, 2015, by Bailey Meyer as Managing Member of Bailey’s Recreation, LLC, a Texas limited liability company.

Notary Public: _____ SEAL

My Commission Expires: _____

EXHIBIT C

PROMISSORY NOTE

THIS PROMISSORY NOTE (the or this "Note") is made between US1 Insurance Group, LLC ("Debtor"), and DVR Technologies Investments, LLC ("Secured Party").

For value received, Debtor hereby promises to pay to the order of Secured Party, without offset, in immediately available funds in lawful money of the United States of America, at DVR Technologies Investments, LLC, 7100 NW 83rd St., Oklahoma City, OK 73132, the principal sum of Fifty Thousand and no/100's Dollars (\$50,000.00), together with interest on the unpaid principal balance of this Note from day to day outstanding at the rate of two percent (2%) per annum, principal and interest being due and payable in the following manner:

- A. Commencing on July 1, 2017, and continuing on the first day of each month thereafter, Debtor shall pay to Secured Party the unpaid principal and accrued balance of this Note in equal monthly installments of **XXXX** for a total of Two hundred forty (240) equal and consecutive monthly payments, according to the payment schedule attached as Exhibit "A."
- B. A final payment equal to the outstanding principal balance of this Note, together with all accrued but unpaid interest shall be due and payable, in full, on **XXXX**.
- C. All monthly installments under the Note shall be due and payable on the first day of each month but shall not be delinquent until the sixth (6th) day of each month. If any installment is not paid by the thirtieth (30th) day of its due date, without notice or demand, Seller at Seller's option may declare the Debtor in default and to declare the entire unpaid principal balance to be immediately due and payable, and may exercise any and all rights and remedies under all instruments securing payment hereof, as well as any and all other rights and remedies at law or in equity or otherwise for the collection of the indebtedness evidenced hereby and all lawful charges thereon.
- D. All past due principal and interest shall bear interest at a rate of three (3) percentage points in excess of the interest rate herein before provided. The Debtor shall also pay (i) a late charge of five per cent (5%) of any monthly payment not made within five (5) days after the due date thereof, and (ii) costs of collection, including a reasonable attorney's fee if this Note is referred to an attorney for collection after default, whether or not any action shall be instituted to enforce or collect this Note. Time is of the essence hereof for all purposes.
- E. All payments on this Note shall be applied first to the payment of accrued but unpaid interest, and any remainder shall be applied to reduction of the principal balance hereof.

- F. Debtor shall have the right and privilege to prepay this Note, in whole or in part, at any time, without penalty.
- G. Debtor and any endorsers or guarantors hereof severally waive presentment and demand for payment, notice of intent to accelerate maturity, notice of acceleration of maturity, protest or notice of protest and nonpayment, bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and properties securing payment hereof. From time to time, without affecting the obligation of Debtor to pay the outstanding principal balance of this Note and to observe the covenants of Debtor contained herein, without affecting the duties and obligations of any endorser hereto, without affecting the duties and obligations of any guarantor hereof, without giving notice to or obtaining the consent of Debtor or any endorser hereto or guarantor hereof, and without liability on the part of Secured Party, the Secured Party may, at the option of Secured Party, extend the time for payment of interest hereon and/or principal hereof, reduce the payments hereunder, release anyone liable on this Note, accept a renewal of this Note, modify the terms and time of payment of this Note, join in any extension or subordination or exercise any option or election hereunder, modify the rate of interest or period of amortization or principal due date of this Note or exercise any option or election hereunder. No one or more of such actions shall constitute a novation.

1. If default be made in the payment in whole or in part of any sum provided for herein, or an event of default shall occur under any instrument executed as security for (including without limitation the Mortgage hereinafter referred to), as evidence of, or otherwise in connection with this Note or the indebtedness evidenced hereby (hereinafter all such instruments being collectively called the "Loan Documents"), then Secured Party may, at Secured Party's option, without further notice or demand (except as may be otherwise specifically provided for in the Loan Documents), declare the unpaid principal balance and accrued interest on this Note at once due and payable, foreclose all liens securing payment hereof, pursue any and all other rights, remedies, and recourses available to Secured Party, or pursue any combination of the foregoing, all remedies hereunder and under the Loan Documents being cumulative. Secured Party shall have the right to rescind any acceleration in payment of this Note for default, as aforesaid, if Secured Party so elects, in which event this Note shall be construed, interpreted and enforced in the same manner as if Secured Party had never elected to declare the unpaid principal balance and accrued interest of this Note at once due and payable. In addition to acceleration,
 - A. Secured Party may declare all obligations secured by this agreement immediately due and payable and may proceed to enforce payment and exercise any and all of the rights and remedies provided Secured Party by the UCC as well as any and all other rights and remedies possessed by Secured Party.
 - B. Secured Party shall have the right to remove collateral from Debtor's premises and may require Debtor to assemble collateral and make it available to Secured Party at a place to be designated by Secured Party that is reasonably convenient to both parties. For purposes of removal and possession of collateral, Secured Party or its representatives may enter any

premises of Debtor without legal process, and Debtor waives and releases Secured Party of and from any and all claims in connection with or arising from the same.

C. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party shall give Debtor reasonable notice of the time and place of any public sale of collateral, or of the time after which any private sale or other intended disposition of collateral is to be made. The requirement of reasonable notice shall be met if such notice is mailed, postage prepaid, to the address of Debtor shown at the beginning of this agreement at least [number] days before the time of such sale or disposition. The expenses of retaking, holding, preparing for sale, selling, or the like shall include reasonable attorney's and legal expenses of Secured Party.

D. Failure to exercise any of the foregoing options upon the happening of one or more of the foregoing events shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event, and no single or partial exercise of any right or remedy shall preclude other or further exercise of the same or any other right or remedy. Secured Party shall have no duty to exercise any or all of the rights and remedies herein provided or contemplated. The acceptance by Secured Party of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time, or nullify any prior exercise of any such option without the express written consent of the Secured Party.

2. This Note is secured, *inter alia*, by a Mortgage of even date herewith executed by Debtor in favor of Secured Party, covering certain real property situated in Cleveland County, Oklahoma, as more particularly described therein.
3. This Note shall be covered by and construed according to the laws of the State of Oklahoma, without regard to principles of conflict of laws. For any disputes arising out of the Mortgage, each of the parties stipulate to exclusive jurisdiction and venue in the District Court of Cleveland County, Norman, Oklahoma.
4. Debtor shall be liable on this Note and for all amounts covenanted to be paid by Debtor under the terms hereof (collectively the "Indebtedness") to the full extent of the security for the payment of this Note, being all those properties, rights and interests described or created by the aforesaid Mortgage and other Loan Documents. Debtor shall be fully liable to Secured Party: (i) for failure to pay taxes, assessments or other charges which can create liens or encumbrances on any portion of the property described in the Mortgage and other Loan Documents which would be senior to the liens of the Mortgage or other Loan Documents and are payable or accrue or are applicable to periods prior to foreclosure under the Mortgage or other Loan Documents, to the full extent thereof; (ii) for fraud or misrepresentation; and (iii) for the misapplication or misappropriation of (a) proceeds under any insurance policies paid or payable prior to foreclosure by reason of damage, loss or destruction to property described in the Mortgage and other Loan Documents, or any part thereof, to the full extent of such proceeds, (b) any proceeds or awards resulting from a condemnation, prior to foreclosure, of

the property described in the Mortgage and other Loan Documents, or any part thereof, to the full extent of such proceeds or awards, or (c) rents and other revenue from the property described in the Mortgage and other Loan Documents received or applicable to a period prior to foreclosure and after notice of default.

5. Unless otherwise required by law, any notice shall be in writing and will be deemed to have been given to the party designated to receive notice on the date delivered personally, or on the next business day if sent by a nationally recognized overnight courier, or on the fifth (5th) business day after sent by certified mail return receipt requested, to the following addresses, or to any other address designated in writing.

Notice to Debtor:

US1 Insurance Group, LLC
6400 88th Street
Noble, OK 73068

Notice to Secured Party:

DVR Technologies Investments
7100 NW 83rd St., Oklahoma City, OK 73132
With a cc to Gary Quinnett Law Offices, 1800 North Interstate Drive, Suite BP-2014,
Norman, OK 73072

6. If this Note is executed by more than one party, each such party shall be jointly and severally liable for the obligations of Debtor under this Note.
7. This Note is given for an actual lending transaction for business purposes and not for personal, residential or agricultural purposes.
8. The records of the holder thereof shall be prima facie evidence of the amount owing on this Note.
9. This Note may not be terminated orally, but only by a discharge in writing and signed by the party who is the owner and holder of this Note at the time enforcement of any discharge is sought.
10. Notwithstanding any provisions herein or in the Mortgage securing this Note to the contrary, the total liability for payments in the nature of interest shall not exceed the limits now imposed by the usury laws of the State of Oklahoma, and no holder of this Note shall ever be entitled to receive, collect, or apply, as interest on the indebtedness, any amount in excess of the maximum legal rate of interest permitted to be charged by applicable law, and, in the event any holder of this Note ever receives, collects or applies, as interest, any such excess, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance of the indebtedness, and if the unpaid principal balance of the indebtedness is paid in full, any remaining excess shall be forthwith paid to the Debtor. In determining

whether or not the interest paid or payable under any specific contingency exceeds the highest lawful rate, the Debtor and any holder hereof shall, to the extent permitted by applicable laws: (a) characterize any non-principal payments as an expense, fee or premium rather than as interest; (b) exclude voluntary prepayments and the effect thereof; and (c) "spread" the total amount of interest throughout the entire term of the Note.

11. If any default, other than a default in payment, is curable and if Debtor has not been given a notice of breach of the same provision of this Note within the preceding twelve (12) months, it may be cured if Debtor, after Secured Party sends written notice to Debtor demanding cure of such default: (1) cures the default within ten (10) days; or (2) if the cure requires more than ten (10) days, immediately initiates steps which Secured Party deems in Secured Party's sole discretion to be sufficient to cure default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably possible.
12. Debtor grants to Secured Party a security interest in the collateral described in the Loan Documents of this Note to secure payment of all obligations arising under this agreement.
13. Warranties and representations. Debtor warrants and covenants that:
 - A. Debtor will not sell, mortgage, pledge, or encumber collateral, permit its identity to be lost, permit it to be levied on or attached under any legal process, create any security interest in the collateral, except that created by this agreement, or otherwise dispose of collateral or any of Debtor's rights in collateral or under this agreement;
 - B. Debtor will maintain collateral in good condition and repair, reasonable wear and tear excepted, and will pay and discharge all taxes, levies, and other impositions levied on collateral, as well as the costs of repairs to, or maintenance of collateral. If Debtor fails to do any of the above, Secured Party may pay the cost of such repairs and such taxes, levies, and impositions for Debtor's account, adding the amount of the same to the debt secured by this agreement. Debtor will permit Secured Party or its representatives to inspect collateral at all reasonable times.
14. Debtor grants to Secured Party a security interest in and to all proceeds of collateral, as defined by the UCC. This provision shall not be construed to mean that Debtor is authorized to sell, lease, or dispose of collateral without the prior written consent of Secured Party.
15. If in the judgment of Secured Party collateral materially decreases in value, or if Secured Party shall at any time deem itself insecure, Debtor shall either provide additional collateral sufficient to satisfy Secured Party or reduce the total indebtedness by an amount sufficient to satisfy Secured Party.
16. At the request of Secured Party, Debtor will join in executing or will execute, as appropriate, all necessary financing statements in a form satisfactory to Secured Party and will pay the cost of filing such statements. Debtor will further execute all other instruments deemed necessary

by Secured Party and pay the cost of filing such instruments. Debtor warrants that no financing statement covering collateral or any part of collateral is presently on file in any public office.

17. Debtor will not, without the prior written consent of Secured Party, sell, contract to sell, lease, encumber, or otherwise dispose of collateral or any interest in the same until this security agreement and all debts secured by this agreement have been fully satisfied.
18. Debtor shall keep collateral in good order and repair and shall not waste or destroy collateral or any part of it nor use collateral in violation of any statute or ordinance.
19. At the option of Secured Party and at any time, Secured Party may discharge taxes, liens, or interest on collateral, perform or cause to be performed for and on behalf of Debtor any action, condition, obligation, or covenant that Debtor fails or refuses to perform, or pay for the repair, maintenance, and preservation of collateral. All sums so expended shall bear interest from the date of payment at the rate of 10% per year, shall be payable at the address of Secured Party indicated at the beginning of this agreement, and shall be secured by this agreement.
20. This Note shall be construed without regard to the party or parties responsible for its preparation and it shall be deemed to have been prepared jointly by all parties, acting upon advice of counsel. This Note is the product of negotiation among the parties and, therefore, the parties waive any right to require that any ambiguity or question about the terms of the Note be construed adversely against any party.

Exhibit A: Payment Schedule

SIGNATURE AND ACKNOWLEDGEMENT PAGE TO FOLLOW

DATED the ____ day of _____, 2016.

Debtor:

By: _____

Its: _____

STATE OF OKLAHOMA)
)
COUNTY OF _____) SS.

Before me, a Notary Public in and for said county and state on this ____ day of _____, 2016, personally appeared _____, as _____ of US1 Insurance Group, LLC, known to me to be the identical persons who executed the within and foregoing instrument, who acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and seal the day and year last above written.

Notary Public

Commission No.: _____

My Commission Expires:

(SEAL)

EXHIBIT D

PERSONAL GUARANTY OF JOSHUA A. JONES

1. Joshua A. Jones and Brent D. Smith (the "Borrowers"), executed a Promissory Note of even date with Scott G. Lee ("Creditor");
2. Creditor is unwilling to extend credit to the Borrowers unless he receives a personal guaranty from both Joshua A. Jones and Brent D. Smith.
3. Joshua A. Jones shall act as personal guarantor covering the liabilities of the Borrowers to Creditor.
4. In consideration of the premises and of other good and valuable consideration and in order to induce Creditor, in its discretion, to extend or continue credit to Creditor, Joshua A. Jones promises the payment of all liabilities of the Borrowers to Creditor of whatever nature, whether now existing or hereafter incurred, whether matured or unmatured and whether absolute or contingent (all of which are herein collectively referred to as the "Liabilities of the Borrowers").
5. Joshua A. Jones agrees that, with or without notice or demand, Joshua A. Jones shall reimburse Creditor, to the extent that such reimbursement is not made by the Borrowers, for all expenses (including costs and attorneys' fees) incurred by Creditor in connection with any of the Liabilities of the Borrowers or the collection thereof.
6. This guaranty is a continuing guaranty and shall remain in full force and effect irrespective of any interruptions in the business relations of the Borrowers with Creditor.
7. All monies available to Creditor for application in payment or reduction of the Liabilities of the Borrowers may be applied by Creditor in such manner and in such amounts and at such time or times as it may see fit, and the obligations pursuant to this guaranty shall not be affected by any surrender or release by the Borrower of any other security held by it for any claim hereby guaranteed.
8. Joshua A. Jones hereby waives (a) notice of acceptance of this guaranty and of extensions of credit by Creditor to the Borrower (b) presentment and demand for payment of any of the Liabilities of the Borrowers (c) protest and notice of dishonor or default to Joshua A. Jones or to any other party with respect to any of the Liabilities of the Borrowers; (d) all other notices to which Joshua A. Jones might otherwise be entitled; and (e) any demand for payment under this guaranty.
9. This is a guaranty of payment and not of collection and Joshua A. Jones further waives any right to require that any action be brought against the Borrowers or any other person or to require that resort be had to any security or to any balance of any deposit account or credit on the books of Creditor in favor of the Borrowers or any other person. Joshua A. Jones and Brent D. Smith agree that their personal guaranties are joint and several.
10. No delay on the part of Creditor in exercising any rights hereunder or failure to exercise the same shall operate as a waiver of such rights; no notice to or demand on Joshua A. Jones shall be deemed to be a waiver of the obligations of Joshua A. Jones or of the right of Creditor to take further action without notice or demand as provided herein; not in any event shall any modifications or waiver of the provisions of this guaranty be effective unless in writing nor shall any such waiver be applicable except in the specific instance for which given.

11. This Guaranty shall be covered by and construed according to the laws of the State of Oklahoma, without regard to principles of conflict of laws. For any disputes arising out of the Guaranty, each of the parties stipulate to exclusive jurisdiction and venue in the District Court of Canadian County, El Reno, Oklahoma.

By: _____
Joshua A. Jones

Home Address: _____

SS No. _____

CA Drivers License No. _____

THE STATE OF CALIFORNIA §

§

COUNTY OF _____ §

BEFORE ME, in and for this state, on this _____ of September, 2016, personally appeared Joshua A. Jones, individually, to me known to be the identical person(s) who executed the within and foregoing instrument, and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

By: _____

Notary Public, the State of _____

My Commission Expires: _____