

0.548 Acres (Vacant Land)  
Landrum Court  
Gahanna, Ohio

## CONTRACT

THIS CONTRACT, dated \_\_\_\_\_, 2008, is between **The City of Gahanna, Ohio**, 200 South Hamilton Road, Gahanna, Ohio 43230 ("Seller") and **Emerald Light Investments, Ltd.**, an Ohio limited liability company, c/o Barb Miller, P.O. Box 400, Lewis Center, Ohio 43035 ("Purchaser").

1. **CONVEYANCE:** Seller agrees to sell and convey, or cause to be sold and conveyed, to Purchaser by general warranty deed, and Purchaser agrees to purchase from Seller, the real estate consisting of 0.548 acres more or less, being vacant land in the Gahanna Industrial Zone, Parcel ID 025-006161-00 with frontage on Landrum Court in the City of Gahanna, more particularly described on Exhibit "A" attached hereto and incorporated herein (the "Premises").

2. **PRICE:** The price (the "Price") shall be Eighty Thousand and 00/100 Dollars (\$80,000.00). The Price shall be paid at Closing (hereafter defined).

3. **CONDITIONS:**

(a) Conveyance shall be subject to matters generally excepted by title insurance companies in their title policies issued in the state in which the Premises are located; special taxes or special assessments, if any, for improvements not yet completed; installments not due at the date of this Contract of any special tax or special assessment for improvements previously completed, if any; general real estate taxes, if any, for the year in which closing occurs; covenants, conditions, agreements, reservations and restrictions of record; zoning and building laws or ordinances; private, public and utility easements and roads and highways, whether or not of record; all matters which a current, accurate survey of the Premises would disclose; the terms, reservations and conditions of this sale. The deed conveying the subject property shall also contain the following "AS IS" statement: "THE PREMISES ARE SOLD TO AND ACCEPTED BY PURCHASER "AS IS" AND "WHERE IS ", WITH ALL FAULTS, IF ANY, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED."

4. **EARNEST MONEY:** Within five (5) banking days following a fully executed contract by both Seller and Purchaser and formal approval by the City of Gahanna, Purchaser shall tender to Escrowee (hereinafter defined) the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) for consideration of this Contract, which amount will be applied to the Price at Closing.

5. **CLOSING:** Provided this Contract has not been terminated pursuant to the terms of Article 6 below, the Closing (the "Closing") of the sale of the Premises shall occur with thirty (30) days after the expiration of the Contingency Period (hereinafter defined) or fifteen (15) days following Purchasers waiving the Conditions Precedent in Article 6 below. The sale shall be closed by LandAmerica Lawyers Title, Chris Yoder, 4111 Executive Parkway, Suite 304, Westerville, Ohio 43081; (614) 865-1562; [cyoder@landam.com](mailto:cyoder@landam.com) ("Escrowee"). The exact Closing date shall be mutually agreed upon in writing between Purchaser and Seller.

(a) At Closing the following shall occur:

(1) Purchaser shall deliver or cause to be delivered to Seller.

(i) Certified funds or a bank cashiers check made payable to Escrowee in the amount of the Price, due credit being given for the Earnest Money; and

(ii) Any documents Purchaser is required to execute by the terms of this Contract or to consummate Closing; and

(iii) Evidence reasonably satisfactory to Seller and Escrowee that the person executing the closing documents on behalf of Purchaser has the full right, power, and authority to do so.

(2) Seller shall deliver or cause to be delivered to Purchaser the following:

(i) A recordable general warranty deed subject to those items set forth in Article 3 and all other items set forth in this Contract;

(ii) Evidence reasonably satisfactory to Purchaser and Escrowee that the person or persons executing the closing documents on behalf of Seller have the full right, power and authority to do so;

(iii) Affidavit of title;

(iv) Physical possession of the Premises.

(v) Any documents Seller is required to execute by the terms of this Contract or to consummate Closing.

(b) The sale and purchase of the Premises shall be closed by Escrowee in

accordance with the general provisions of the usual form of Deed and Money Escrow Agreement conforming to the terms of this Contract. Closing and settlement shall take place at the office of the Escrowee. The cost of recording the documents called for in this Contract shall be paid for by Purchaser. All current real estate taxes and assessments are to be pro-rated to the date of Closing and if the amount of such taxes is not ascertainable, the pro-rating shall be on the basis of the amount of the most recent ascertainable taxes. Seller covenants to pay the taxes prior to the date they are due. All state and county transfer and conveyance and or documentary stamps shall be paid by Purchaser. All local or city transfer stamps shall be paid by Purchaser. The costs of the escrow shall be paid by Purchaser.

6. **CONDITIONS PRECEDENT:** Purchaser's obligation to close this transaction is contingent upon Purchaser obtaining to Purchaser's satisfaction and at Purchaser's sole expense, inspection report(s) of the Premises (the "Inspections"). The Inspections may include the Premises' components, systems, elements, soil condition, a title report, which indicates that no restrictions of record interfere with Purchaser's intended use and which indicates that Purchaser will be able to obtain title insurance acceptable to Purchaser, survey, environmental condition, zoning confirmation and availability and sufficiency of utility lines and such other test and feasibility studies Purchaser deems reasonably necessary and advisable (referred to herein as the "Conditions Precedent"). Seller agrees to grant Purchaser reasonable access to the Premises to conduct the Inspections. Purchaser agrees to indemnify and hold Seller harmless from any and all claims, demands, damages, suits, liabilities, costs, and expenses arising out of the Inspections, whether conducted by Purchaser or its agents. Purchaser represents that it has adequate insurance for such purposes and shall deliver to Seller a certificate of insurance reasonably acceptable to Seller prior to Purchaser or its agents entering onto the Premises. Purchaser warrants and represents to restore the Premises to its original condition prior to the Inspection.

If the Inspection reveals defects in the property, which are reasonably unacceptable to Purchaser or if Purchaser reasonably determines that the property is unsuitable for its purpose, Purchaser may, as its sole remedy, terminate this Contract by providing Seller with written notice of its desire to so terminate within ninety (90) days after the last execution of this Contract ("Contingency Period"). Purchaser shall have the right to extend the Contingency Period for a additional two (2) thirty (30) day extensions for additional Ten Thousand and 00/100 Dollars (\$10,000.00) per extension that shall become a part of the Earnest Money. If Purchaser so timely terminates this Contract prior to the expiration of the Contingency Period, the Earnest Money and documents deposited in escrow shall be returned to the party depositing them and this Contract shall be null and void. Purchaser covenants to act in good faith and use due diligence to satisfy the conditions set forth above. If Purchaser fails to timely terminate this Contract prior to the expiration of the Contingency Period, this Contract shall remain in full force and effect and Purchaser shall be deemed to have waived its rights to so terminate. Purchaser agrees to pay all costs in connection with any and all of its due diligence in connection with this transaction, including but not limited to the examination, opinion and insurance of title. If Purchaser terminates this Contract, Purchaser shall furnish to Seller, at no cost or expense to Seller, copies of all surveys, reports, data, inspections, tests and analyses contained in the Inspection or for the benefit of Purchaser within ten (10) days after Seller's receipt of notice of such termination.

7. **INDEMNITY:** Purchaser covenants to indemnify, defend and hold Seller harmless against any and all losses, claims, damages, liabilities, costs (including reasonable attorney's fees and court costs), and causes of action including, with limitation, those arising from mechanics liens, injuries to persons or damage to property, including the Premises, suffered or incurred by Seller directly or indirectly, as a result of, the entry onto the Premises by Purchaser, Purchaser's agents, contractors, employees, and licensees.

8. **NOTICES:** All notices and demands required by this Contract shall be in writing and shall be sent by United States Certified mail or nationally recognized overnight carrier charges prepaid to Seller at: The City of Gahanna, Ohio, Attn: Sadicka White, Development Director, 200 South Hamilton Road, Gahanna, Ohio 43230; or to Purchaser at: Annie Upper, 4302 Sunbury Road, Galena, Ohio 43021; with a copy to, Edward T. McClellan, Esq., 880 Mendes Court, Columbus, Ohio 43235.

9. **REMEDIES:** If this transaction is not closed due to the fault or nonperformance of either party, the other party may, at its election, and as its sole remedy, declare this Contract terminated, or proceed to have this Contract specifically enforced. If this transaction is not closed due to Purchaser's default or nonperformance, then Seller may, in addition to the above described remedies retain the Earnest Money as agreed liquidated damages and just compensation and not as a penalty or forfeiture and declare this Contract terminated.

10. **REAL ESTATE COMMISSION:** Purchase and Seller agree that neither has engaged the services of a broker and that no commission shall be due.

11. **ACCEPTANCE OF OFFER:** This offer when accepted shall constitute the entire agreement between the parties for the sale and purchase of the Premises. This Contract may be modified only in writing. The parties agree there are no oral agreements or representations between Purchaser and Seller affecting this contract and this Contract supersedes and cancels any and all previous negotiations, agreements, arrangements, representations and understandings, in any, between the parties. The submission of this Contract for examination and negotiation does not constitute an offer to sell, a reservation of, or any option for the Premises. This Contract will become effective and binding only upon execution and delivery by Purchaser and an authorized employee of Seller.

12. **ASSIGNMENT:** This Agreement shall not, without the express written consent of Seller, be assigned.

13. **TIME IS OF THE ESSENCE:** Time is of the essence of this Contract.

14. **COVENANTS AND WARRANTIES:** All the covenants, warranties and agreements contained in this Contract shall survive closing and shall extend to and be binding on the heirs, executors, administrators, successors and assigns of the respective parties.

PURCHASER HAS, OR WILL DURING THE DUE DILIGENCE PERIOD SET FORTH IN THIS CONTRACT, INSPECT THE PREMISES AND, PROVIDED PURCHASER DOES NOT TERMINATE THIS CONTRACT PURSUANT TO THE TERMS SET FORTH IN ARTICLE 6, PURCHASER AGREES TO TAKE TITLE TO THE PREMISES AS IS WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND, BY SELLER OR ANY AGENT OF SELLER EITHER EXPRESS OR IMPLIED, AS TO ITS CONDITION OR FITNESS FOR USE WHICH IS NOT EXPRESSLY STATED IN THIS CONTRACT.

15. **EXHIBITS:**

Exhibit A      Legal Description

16. **TITLE EXAMINATION AND OBJECTIONS.**

16.1. **Title Examination.** Within thirty (30) days after the Execution Date, Purchaser shall obtain an owner's title insurance commitment with respect to the Property and shall give written notice to Seller of any Title Objections disclosed by such title insurance commitment which are unacceptable to Purchaser. If Purchaser fails to give any such notice with respect to any Title Objections which are disclosed in such title insurance commitment prior to the aforesaid date, then Purchaser shall be deemed to have waived such Title Objections. Notwithstanding the foregoing, Purchaser may have Seller's title to the Property re-examined at any time and from time to time up to and through the Closing Date and may give Seller written notice of any additional Title Objections disclosed thereby which were not listed in the original title insurance commitment provided by Seller.

16.2. **Resolution of Title Objections.** Within ten (10) days after receipt from Purchaser of a written notice of any Title Objection, Seller shall notify Purchaser in writing as to whether or not Seller will cure such objection, and if Seller elects to cure any such Title Objection Seller shall satisfy or correct, at Seller's expense, such title objection on or before the date of Closing. Except for already recorded use restrictions, Seller shall be obligated to cure any Purchaser's objection(s). Failure of Seller to give such notice within such ten (10) day period shall be deemed to be an election not to cure such objection. In the event Seller does not elect to satisfy or cure any such objection of which it is notified, then within five (5) days after receipt of written notice of Seller's election, or within five (5) days after the expiration of Seller's ten (10) day notification period if Seller fails to give any such notice, Purchaser shall by written notice to Seller elect one of the following:

16.2.1. To waive such Title Objection and to close the subject transaction in accordance with the terms of this Agreement; provided, however, that with respect to any monetary lien or encumbrance of the type described in Paragraph 17.3 below, Purchaser shall be entitled to cure and remove such Title Objection and all of Purchaser's costs and expenses

incurred in connection with such cure shall be deducted from and credited against the Purchase Price; or

16.2.2. To cancel this Agreement and to receive a complete refund of all Earnest Money.

The failure of Purchaser to give notice of its election as to the foregoing alternatives within the applicable five (5) day period shall be deemed an election to proceed with the Closing in accordance with subparagraph 6.2.1 above.

**16.3. Seller's Obligations Regarding Title Objections.** Except as expressly agreed by Seller pursuant to Paragraph 6.2 above or as provided in this Paragraph 17.3, Seller shall not be required and is not obligated hereby to bring any action or proceedings, convey or acquire any interest in real property, or incur any expense to render title to the Property free and clear of any Title Objections. Notwithstanding anything to the contrary herein contained, Seller covenants and agrees that at or prior to Closing Seller shall (i) pay in full and cause to be canceled and discharged or otherwise bond and discharge as liens against the Property all mechanics' and contractors' liens which encumber the Property as of the date thereof, (ii) pay in full all past due ad valorem taxes and assessments of any kind constituting a lien against the Property, and (iii) cause to be released any loan security documents which encumber the Property or any other monetary lien or encumbrance caused or created by Seller against the Property.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first written above.

**PURCHASER:**

**Emerald Light Investments, Ltd.  
an Ohio limited liability company**

By: 

Printed Name: Annie Upper

Title: Managing Member

**SELLER:**

**The City of Gahanna, Ohio**

By: \_\_\_\_\_

Printed Name: Sadicka White

Title: Development Director duly authorized

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**[TO BE INSERTED]**

**PID: 025-006161**  
**City Of Gahanna**  
**Landrum Ct**  
**Gahanna, OH 43213**

