

REAL ESTATE CONTRACT OF SALE

1. PARTIES AND PROPERTY: Luminant Mining Company LLC (Seller) agrees to sell and convey to _____, (Buyer) and Buyer agrees to buy from Seller the surface estate in that property described below and further described on the attached Exhibit A herein, (the Property). Seller reserves ownership of, and the Property shall not include, all oil, gas, and other minerals (including coal and lignite, if any) on and under the Property owned by Seller.

Tract : Being all that certain tract or parcel of land situated in County, Texas, a part of the Survey, A-469, being acres more or less, as described in the Warranty Deed from to (which company entity), dated and recorded in Volume page of the Deed Records of Titus County, Texas; being more fully described on Exhibit "A" attached hereto and made a part hereof.

2. SALES PRICE:

- A. Sales Price \$
B. Earnest Money \$
C. Balance at closing \$

3. FINANCING: THIS SALE IS NOT SUBJECT TO FINANCING. If the Buyer fails to complete this transaction due to a failure to obtain financing, the earnest money deposit will be forfeited to Seller.

4. EARNEST MONEY: Buyer shall deposit the Earnest Money specified in 2.B, above, by providing to Seller a good bank check made payable to Greene Title and Abstract Company (Title Company) upon execution of this contract by both parties. If Buyer fails to deposit the Earnest Money as required by this contract, Buyer will be in default. Seller will, in turn, deliver a fully executed counterpart of this contract, along with the Earnest Money to the Title Company, as escrow agent. Except as otherwise provided for in Paragraphs 5.B, 13, 14, and 17, the Earnest Money shall not be refundable in the event that closing on the sale of the Property does not occur as provided for in Paragraph 8 (including, without limitation, due to Buyer's inability or failure to obtain any third party financing).

5. TITLE POLICY AND SURVEY:

A. TITLE POLICY: Within 60 days following the effective date of this contract, Seller will provide to Buyer, at Seller's expense, a commitment for title insurance (the Commitment) and, at Buyer's expense, available copies of restrictive covenants and documents evidencing exceptions in the Commitment other than the standard printed exceptions. Buyer acknowledges and agrees that the Commitment may encompass multiple tracts or parcels of land, provided that such tracts or parcels include the Property. Seller authorizes the Title Company, or such other title company as Seller may hereafter designate, to mail or hand deliver the Commitment and related documents to Buyer, at Buyer's address shown below. If the Commitment is not delivered to Buyer within the specified time, the time of delivery will be automatically extended up to 30 days.

At Seller's expense, Buyer will receive an owner policy of title insurance (the Title Policy) issued by the Title Company in the amount of the Sales Price in 2.A, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances), and the following exceptions:

- (1) Restrictive covenants common to the platted subdivision, if any, in which the Property is located, as well as any restrictions to be included in the Special Warranty Deed at closing.
- (2) The standard printed exception for standby fees, taxes and assessments.
- (3) Liens created as part of any financing.
- (4) Utility easements created by the dedication deed or plat of the subdivision, if any, in which the Property is located.
- (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
- (6) The standard printed exception as to discrepancies, conflicts, or shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements.
- (7) The standard printed exception as to marital rights.
- (8) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.

B. SURVEY: Upon signing this contract, Seller will provide to Buyer, a copy of the existing legal description of the Property. If Buyer requests the modification of the survey exception in the Title Policy, Buyer shall pay for a new survey and the additional title insurance premium therefor. Buyer will have 7 days after the receipt of the latter of the Commitment or survey to object in writing to matters disclosed in the Commitment or survey. Buyer's failure to object under this Paragraph 5 within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment will not be deemed to have been waived. Seller shall cure the timely objections of Buyer or any third party lender as Seller may be able to cure without the expenditure of money and may elect to cure all other objections, within 20 days after Seller receives the objections, and the Closing Date will be extended as necessary. If objections are not cured by the extended Closing Date, this contract will terminate, at Buyer's election, and the Earnest Money will be refunded to Buyer, as Buyer's sole remedy, unless Buyer elects to waive any uncured objections.

6. PROPERTY CONDITION:

A. INSPECTIONS AND ACCESS: Buyer acknowledges that it has been given the opportunity to inspect the Property, and have the Property inspected by an inspector selected by Buyer, licensed by TREC or otherwise permitted by law to make such inspections.

B. ACCEPTANCE OF PROPERTY CONDITION: Buyer accepts the Property in its present condition.

7. **BROKERS' FEES:** Any obligations of the parties for payment of brokers' fees, if any, are contained in separate written agreements.

8. CLOSING: The closing of the sale will be on or before thirty days or within 7 days after objections to matters disclosed in the Commitment or by the survey have been cured, whichever date is later, or such earlier or later date as may be mutually agreed upon in writing by the parties (the Closing Date). If either party fails to close this sale by the Closing Date, the non-defaulting party will be entitled to exercise the remedies contained in Paragraph 14. At closing Seller shall furnish tax statements or certificates showing no delinquent taxes and a sufficient special warranty deed conveying good and merchantable title, as of the Closing Date, and showing no additional exceptions to those permitted in Paragraph 5. In addition, Seller will deliver at closing the notices, statements, and certificates as specified in Exhibit B.

9. POSSESSION: Seller shall deliver possession of the Property to Buyer at closing and funding, unless alternative arrangements are made in writing by mutual agreement of the parties, subject to existing tenants' rights disclosed in the Commitment.

10. NOTICES TO BUYER:

(1) Pursuant to the provisions of the Texas Real Estate License Act, Art. 6573a VATS, Seller advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.

(2) If the Property is located in close proximity to surface mining operations, then the following notice applies:

Seller advises Buyer and Buyer acknowledges that the Property is located in close proximity to land on which Seller (or entities affiliated with Seller) are presently, or may hereafter be, actively engaged in coal and lignite exploration, and surface coal and lignite mining and reclamation operations (collectively, the Coal Mining), in accordance with the Texas Surface Coal Mining and Reclamation Act (Texas Natural Resources Code, Chapter 134) (the Mining Act) and the Coal Mining Regulations, implemented by the Railroad Commission of Texas pursuant to the Mining Act (Texas Administrative Code, Title 16, Chapter 12) (the Mining Regulations).

(3) If the Property is located on land previously surface mined and reclaimed (whether in whole or in part), then the following notice applies:

Seller advises Buyer and Buyer acknowledges that Seller (or entities affiliated with Seller) may have previously conducted coal mining on all or a portion of the Property, and that all or a portion of the Property may have been reclaimed, following Coal Mining on the Property.

(4) If for the current ad valorem tax year the taxable value of the Property that is the subject of this contract is determined by a special appraisal method that allows for appraisal of the land at less than its market value, the person to whom the land is transferred may not be allowed to qualify the land for that special appraisal in a subsequent year and the land may then be appraised at its full market value. In addition, the transfer of the land or a subsequent change in the use of the land may result in the imposition of an additional tax plus interest as a penalty for the transfer or the change in use of the land. The taxable value of the land and the applicable method of appraisal for the current

tax year is public information and may be obtained from the tax appraisal district established for the county in which the land is located.

- (5) If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49 of the Texas Water Code requires Seller to deliver and Buyer to sign the statutory notice, in the form of Exhibit B-1 hereto, relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.
- (6) Buyer is hereby provided with notice of water or sewer service pursuant to Section 13.257 of the Texas Water Code by means of Exhibit B-2 hereto.
- (7) If the Property abuts the tidally influenced waters of the state, Section 33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. The Property does not abut tidally influenced waters of the state.
- (8) If the Property has residential improvements:
 - (a) Chapter 5 of the Texas Property Code requires Seller to deliver and Buyer to sign the statutory notice, in the form of Exhibit B-3 hereto, relating to Seller's disclosure of property condition; and
 - (b) Buyer is hereby provided with Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, as required by federal law, by means of Exhibit B-4 hereto.
- (9) Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property.
- (10) If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.
- (11) Unless expressly prohibited in writing by the parties, Seller may continue to show the Property for sale and to receive, negotiate and accept back-up offers (including, without limitation, offers from unsuccessful bidders at auction).

11. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

- (1) Seller's Expenses: Seller will provide a Special Warranty Deed, Owner's Title Policy, any delinquent taxes, releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability;

(2) Buyer's Expenses: Survey, if any, Mortgagee's Title Policy, Loan application, origination and commitment fees; lender required expenses incident to new loans, including appraisal fees, preparation of loan documents, recording fees, tax service and research fees, warehouse or underwriting fees, copies of restrictions and easements, amortization schedule, premiums for mortgagee title policies and endorsements required by lender, credit reports, photos; required premiums for flood and hazard insurance; required reserve deposit for insurance premiums and ad valorem taxes; interest on all monthly installment notes from date of disbursements to one month prior to dates of first monthly payments; tax statements or certificates, all of the escrow fee; and other expenses stipulated to be paid by Buyer under other provisions of this contract.

B. In no event will Buyer pay charges and fees expressly prohibited by governmental loan program regulations.

12. PRORATIONS AND ROLLBACK TAXES:

A. **PRORATIONS:** Taxes for the current year, interest, assessments, and rents will be prorated through the Closing Date in reverse. Buyer's portion for current year will be collected at closing and reimbursed to seller who will pay all taxes for the current year. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Seller will be obligated to pay taxes for the current year.

B. **ROLLBACK TAXES:** If this sale or Buyer's use of the Property after closing results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to closing, the Assessments will be the obligation of Buyer. If Seller's change in use of the Property prior to closing or denial of a special use valuation on the Property claimed by Seller results in Assessments for periods prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.

13. CASUALTY LOSS: If any part of the improvements, if any, upon the Property is damaged or destroyed by fire, vandalism or other casualty loss after the effective date of the contract, Seller may elect to restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so, Buyer may either (a) terminate this contract and the Earnest Money will be refunded to Buyer or (b) accept the Property in its damaged condition and accept an assignment of insurance proceeds, if any.

14. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may either (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the Earnest Money as liquidated damages, thereby releasing both parties from this contract. If Seller fails within the time allowed to deliver the Commitment or the metes and bounds description of the Property, Buyer may either (a) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (b) terminate this contract as the sole remedy and receive the Earnest Money, thereby releasing both parties from this contract.

15. ATTORNEY'S FEES: The prevailing party in any legal proceeding brought under or with respect to the transaction described in this contract is entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.

16. ESCROW: The Earnest Money is deposited with Title Company with the understanding that Title Company is not (a) a party to this contract and does not have any liability for the performance or nonperformance of any party to this contract, (b) liable for interest on the earnest money and (c) liable for any loss of earnest money caused by the failure of any

financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent. At closing, the earnest money must be applied first to any cash down payment, then to Buyer's closing costs and any excess refunded to Buyer. If both parties make written demand for the earnest money, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties. If one party makes written demand for the earnest money, escrow agent shall give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 30 days after notice to the other party, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursal of the earnest money. Escrow agent's notice to the other party will be effective when deposited in the U. S. Mail, postage prepaid, certified mail, return receipt requested, addressed to the other party at such party's address shown below. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

- 17. REPRESENTATIONS:** Seller represents that as of the Closing Date there will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds. If any representation in this contract is untrue on the Closing Date, this contract may be terminated by Buyer and the Earnest Money will be refunded to Buyer. All representations contained in this contract will survive closing.
- 18. FEDERAL TAX REQUIREMENT:** If Seller is a "foreign person", as defined by applicable law, or if Seller fails to deliver an affidavit that Seller is not a "foreign person", then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. IRS regulations require filing written reports if cash in excess of specified amounts is received in the transaction.
- 19. DISCLAIMER OF WARRANTIES, INDEMNIFICATION, AND RELEASE:** The Property is being sold on an "AS IS, WHERE IS" basis, and no warranty or representation (except as expressly provided for in this contract with respect to title), either express or implied, concerning or pertaining to the Property (including, without limitation, as pertains to the reserved and excepted mineral estate and rights) is made by the Seller or the Auction Company. BUYER ACKNOWLEDGES THAT SELLER AND THE AUCTION COMPANY MAKE NO WARRANTY OR REPRESENTATION PERTAINING TO THE PROPERTY, OR ANY PART THEREOF, WHETHER EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW, INCLUDING ANY WARRANTY OF TITLE (EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS CONTRACT), MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN NO EVENT SHALL SELLER OR THE AUCTION COMPANY BE HELD LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES ARISING FROM THE PURCHASE OR USE OF THE PROPERTY.

Buyer agrees to INDEMNIFY, DEFEND, AND HOLD HARMLESS Seller, its parent company and each of its affiliates, and their respective agents, employees, or representatives (Seller Group) from and against all claims, damages, and expenses (collectively Claims) incurred or required to be paid by Seller Group, that arise out of: (a) the breach of any obligation of Buyer contained in this contract; or (b) Buyer's, or Buyer's successors' or assigns', ownership or use of any of the Property from and after the Closing Date (but excluding Claims arising out of a failure on the part of Seller, or on the part of an entity affiliated with Seller, to comply, or have complied, with the Mining Act or Mining Regulations).

Buyer, acting for himself/herself/itself and, to the fullest extent that he, she, or it may lawfully do so, for his, her, or its successors and assigns, HEREBY RELEASES Seller Group from any and all Claims, which Buyer has held or holds or may hereafter hold against Seller Group, arising in any manner out of Coal Mining whether: (i) now or hereafter conducted by Seller (or entities affiliated with Seller) in the environs of, but not on, the Property; or (ii) previously conducted by Seller (or entities affiliated with Seller) on all or a portion of the Property (but excluding Claims arising out of a failure on the part of Seller, or on the part of an entity affiliated with Seller, to comply, or have complied, with the Mining Act or Mining Regulations).

20. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Exhibits A, B-1, B-2, and, if the Property has residential improvements, B-3, and B-4 are a part of this contract.

21. CONSULT YOUR ATTORNEY: Real estate licensees cannot give legal advice. This contract is intended to be legally binding. READ IT CAREFULLY. If you do not understand the effect of this contract, consult your attorney BEFORE signing.

22. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by facsimile machine as follows:

To Buyer at:

Telephone: _____
Facsimile: _____

To Seller at:

Luminant Mining Company LLC
P. O. Box 1255
Mt. Pleasant, Texas 75456-1255
Telephone: (903) 577-5145
Facsimile: (903) 577-5147

EXECUTED the ____ day of _____, 200___. (THE EFFECTIVE DATE).

LUMINANT MINING COMPANY LLC

Buyer: _____

BY: _____
Kevin Kent, Attorney-in-Fact

Buyer: _____

LEFT BLANK FOR EXHIBIT 'A'

Exhibit B
Notices, Statements, and Certificates

The following additional notices, statements and certificates are attached for delivery to Buyer, and Buyer acknowledges receipt of the notices, statements and certificates by executing this contract:

Exhibit B-1 -- Notice concerning the bonded indebtedness of, or rates to be charged by, a utility or other special district, described in sections 49.452 and 54.016(h)(4)(A) of the Texas Water Code.

Exhibit B-2 -- Notice for unimproved property in a certificated service area of a utility service provider, described in Section 13.257 of the Texas Water Code.

If the Property has residential improvements:

Exhibit B-3 - Seller's Disclosure of Property Condition, pursuant to Chapter 5 of the Texas Property Code.

Exhibit B-4 - Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, as required by federal law.

Exhibit B-1

"The real property, described below, that you are about to purchase is located in the Titus County Fresh Water Supply District. The district has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the district on real property located in the district is \$ -0- on each \$100 of assessed valuation. If the district has not yet levied taxes, the most recent projected rate of tax, as of this date, is \$ -0- on each \$100 of assessed valuation. The total amount of bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and which have been or may, at this date, be issued is \$ -0-, and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the district and payable in whole or in part from property taxes is \$ -0-.

The district has the authority to adopt and impose a standby fee on property in the district that has water, sanitary sewer, or drainage facilities and services available but not connected and which does not have a house, building, or other improvement located thereon and does not substantially utilize the utility capacity available to the property. The district may exercise the authority without holding an election on the matter. As of this date, the most recent amount of the standby fee is \$ N/A. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the district stating the amount, if any, of unpaid standby fees on a tract of property in the district.

The purpose of this district is to provide water, sewer, drainage, or flood control facilities and services within the district through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these facilities are owned or to be owned by the district. The legal description of the property you are acquiring is as follows: See the attached Exhibit A.

Seller:

LUMINANT MINING COMPANY LLC

(Date)

By: _____
Kevin Kent, Attorney in fact

STATE OF TEXAS §

COUNTY OF TITUS §

This instrument was acknowledged before me on this ____ day of _____, 200__, by Kevin Kent, Attorney-in-Fact for Luminant Mining Company LLC, and in the capacity therein stated.

Notary Public in and for the State of Texas

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

_____ (Date) _____
Purchaser:

STATE OF TEXAS §
COUNTY OF TITUS §

This instrument was acknowledged before me on this ____ day of _____, 200____,
by

Notary Public in and for the State of Texas

Exhibit B-2

Water Service Notice

The real property, described in the attached Exhibit A, that you are about to purchase is located in the water service area of Tri Special Utility District, which is the utility service provider authorized by law to provide water service to your property. No other retail public utility is authorized to provide water service to your property. There may be special costs or charges that you will be required to pay before you can receive water service. There may be a period required to construct lines or other facilities necessary to provide water service to your property. You are advised to contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water service to your property.

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property.

Purchaser:

Sewer Service Notice

The real property, described in the attached Exhibit A, that you are about to purchase is located in the sewer service area of Region 5 of the Texas Commission on Environmental Quality-Titus County Environmental Inspection Service, which is the utility service provider authorized by law to provide permits for sewer service to your property. No other retail public utility is authorized to provide sewer service to your property. There may be special costs or charges that you will be required to pay before you can receive sewer service. There may be a period required to construct lines or other facilities necessary to provide sewer service to your property. You are advised to contact the Permitting Authority to determine the cost of the permit and to contact independent on-site sewage facility licensed installers (service providers) to determine the cost that you will be required to pay and the period, if any, that is required to provide sewer service to your property.

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property.

Purchaser: