

## **SECOND AMENDED & RESTATED ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT**

This Second Amended & Restated Performance Agreement (“Agreement”) is entered into to be effective as of the Effective Date (as defined in Article III below), by and between the Bastrop Economic Development Corporation, located in Bastrop County, Texas (hereinafter called “BEDC”), a Texas non-profit industrial development corporation under the Development Corporation Act and governed by TEX. LOC. GOV. CODE chapters 501, 502 and 505 and the Texas Non-Profit Corporation Act, and Moca Ventures Nebraska, LLC, a Texas entity (hereinafter called “Developer”), otherwise known as the “Parties” to this Agreement to amend and restate the original First Amended & Restated Economic Development and Performance Agreement entered into between the Parties dated as of February 7, 2022 (“First Amended Performance Agreement”).

### **RECITALS**

**WHEREAS**, the Development Corporation Act of 1979, as amended (Section 501.001 *et seq.*, Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”) authorizes a development corporation to fund certain projects as defined by the Act and requires development corporations to enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

**WHEREAS**, Section 501.158 of the Act requires a performance agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained, capital investment, and workforce training and development are all factors to consider for any direct incentives provided or expenditures made by the BEDC under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

**WHEREAS**, Developer desires to purchase approximately 27.954 acres of land from BEDC for Nine Hundred Thousand Dollars (\$900,000.00) pursuant to the Commercial Contract-Unimproved Property between the Parties attached as Exhibit A and develop and construct a corporate headquarters, office complex, and campus that would be designed for, and to be leased by, Moca Financial Inc, a Delaware corporation, on a long-term basis for software engineering and development, call center operations; and

**WHEREAS**, following the execution of the original Commercial Contract-Unimproved Property attached to the First Amended Performance Agreement, the Parties determined that the Property to be purchased from the BEDC was not readily accessible by vehicles from a public road;

**WHEREAS**, the Parties have developed a plan to provide improved public road access to the Property by having Jackson Street extended to the south to a new public drive to be constructed to the east to provide for the entrance to the Project by Developer from the south, and to include all required utilities (the proposed “Infrastructure Improvements”);

WHEREAS, the Board of the BEDC on November 5, 2021, approved and authorized funding for the Infrastructure Improvements up to \$1,000,000.00;

WHEREAS, the City Council of the City of Bastrop adopted Resolution No. R-2021-108 on December 14, 2021, wherein it authorized partial funding for the Infrastructure Improvements;

WHEREAS, the improvements made to Property by Developer, as proposed, will contribute to the infrastructure needs and economic development of the City of Bastrop by promoting and developing expanded business enterprises, increased development, increased real property value and tax revenue for the City of Bastrop, and will have both a direct and indirect positive overall improvement/stimulus in the local and state economy; and

**WHEREAS**, the BEDC desires to offer incentives to Developer to enable Developer to develop and attract additional operations and business enterprises, to bring corporate headquarters and to expand its operations within the City pursuant to this Agreement in substantial conformity with the Act; and

**WHEREAS**, the Parties are executing and entering into this Agreement to set forth certain terms and obligations of the Parties with respect to such matters; and

**WHEREAS**, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof; and

**WHEREAS**, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all requirements pursuant to the Texas Open Meetings Act and all public notices and hearings, if any, have been conducted in accordance with Texas law; and

**WHEREAS**, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties.

**NOW, THEREFORE**, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

**ARTICLE I  
RECITALS**

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

**ARTICLE II  
AUTHORITY AND TERM**

1. Authority. The BEDC’s execution of this Agreement is authorized by the Act and constitutes a valid and binding obligation of the BEDC. The BEDC acknowledges that Developer is acting in reliance upon the BEDC’s performance of its obligations under this Agreement in making the decision to commit substantial resources to the establishment of the Project, hereinafter established.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the terminated herein or extended by mutual agreement of the Parties in the manner provided for herein.

3. Purpose. The purpose of this Agreement is to formalize the agreements between the Developer and the BEDC for the granting of funds to cover certain costs associated with the Project and specifically state the covenants, representations of the Parties, and the incentives associated with Developer’s commitment to abide by the provisions of the Act and to abide by the terms of this Agreement, which has been approved by the BEDC and the Developer as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction. A failure to perform any obligation by the Developer may constitute a breach of the entire Agreement and terminate any further commitments (if any) by the BEDC unless an alternative penalty or remedy is provided for herein.

4. Administration of Agreement. Upon the Effective Date, the BEDC delegates the administration and oversight of this Agreement to the Executive Director of the BEDC, or its designee. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the BEDC.

### **ARTICLE III DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.

“Bankruptcy” shall mean the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of receiver for any part of such Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Capital Investment” shall mean the investment of a minimum of four million five hundred thousand dollars (\$4,500,000.00) during Phase 1 and ten million seven hundred thousand dollars (\$10,700,000) in capital improvements in the Structures in total.

“Certificate of Occupancy” shall mean the signed certificate issued by the City of Bastrop Planning & Development Department granting the Developer the right to occupy a Structure and confirming that the entire work covered by the permits and plans are in place.

“Closing Costs” shall mean those final costs paid by the BEDC as established on the final closing disclosure statement in the sale of the Property to Developer.

“Commencement of Construction” shall mean the issuance of the building permit.

“Effective Date” shall be the date of the last signing by a party to this Agreement.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war, riot, civil commotion, terrorism, insurrection, epidemics, pandemics, government, or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions or floods, strikes, slowdowns or work stoppages.

“Incentive Payment” means four hundred fifty thousand dollars (\$450,000.00) at the completion of the Phase 1 Structures and a cumulative total of nine hundred thousand dollars (\$900,000.00) less the Developer Infrastructure Costs, Closing Costs on the Property and \$3,500.00 which represents the BEDC’s reasonable attorney’s fees associated with the closing and the negotiation of this Agreement to be paid as an incentive for developing and constructing the Structures and completing the Capital Investment.

“Developer Infrastructure Costs” means 50% of the costs for the design and construction of a maximum of 400 linear feet of infrastructure for a public drive, which will begin at the southern terminus of Jackson Street (as to be extended 350’ pursuant to Article IV, Section 1, *infra*) and extend to the east, terminating at the entrance of the Project by Developer, and to include all required utilities; provided however, that the Developer’s share of such costs shall not exceed five hundred thousand dollars (\$500,000.00).

“Property/Location” these terms, interchangeably, mean the 27.954 Acres, more or less, located at the Bastrop Business and Industrial Park, Phase 1, Block A, Lot 1, all in Bastrop, Texas.

“Purchase Price” means nine hundred thousand dollars (\$900,000.00).

“Phase 1 Structures” shall mean the office buildings/campus consisting of a minimum of twelve thousand (12,000) square feet which may be split between multiple buildings and related improvements.

“Structures” shall mean the office complex/campus consisting of a minimum of forty thousand (40,000) square feet which may be split between multiple buildings and related improvements.

#### **ARTICLE IV BEDC OBLIGATIONS**

##### **1. BEDC Performance Obligations.**

BEDC shall pay the Developer the Phase 1 Incentive Payment within thirty (30) days following the BEDC’s receipt, from the Developer, of a copy of a Certificate of Occupancy(s) issued for

the Phase 1 Structures and Developer's written, notarized verification, and evidence of, the Capital Investment prior to January 1<sup>st</sup>, 2028. BEDC shall pay the Developer the Phase 2 Incentive Payment within thirty (30) days following the BEDC's receipt, from the Developer, of a copy of a Certificate of Occupancy(s) issued for the Phase 2 Structures and Developer's written, notarized verification, and evidence of, the Capital Investment prior to January 1<sup>st</sup>, 2030. Payment is subject to BEDC's right to access and inspect the books and records of Developer for the purpose of ensuring compliance as to the Capital Investment.

BEDC shall grant Developer a temporary easement in and over BEDC property adjacent to the Property, so that Developer may access the Property for the installation and construction of Improvements as contemplated by this Agreement, and in a form consistent with the attached Exhibit B.

BEDC shall construct the necessary public improvements to provide permanent access to the Property; said improvements to consist of an extension of Jackson Street to the south of approximately 350 feet, adjoined by an improved public road extending approximately 400 feet east from Jackson Street, from which the Property would gain access from its southern boundary, and as provided on the attached Exhibit C. The BEDC shall not be liable for any delays or failures in constructing said improvements if such failure or delay is due to Force Majeure; the BEDC shall then be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects hereto. The BEDC estimates that such improvements will be substantially completed within twenty-four (24) months. Time is of the Essence.

2. Confidentiality. The BEDC agrees to the extent allowed by law to keep all tax information and documentation received, pursuant to this Agreement hereof, confidential. In the event a request is made for such information, BEDC will not disclose the information unless required to do so by the Attorney General of Texas.
3. Current Revenue. The funds distributed hereunder shall be paid solely from lawfully available funds of the BEDC. Under no circumstances shall the obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

## **ARTICLE V PERFORMANCE OBLIGATIONS OF DEVELOPER**

The obligation of the BEDC to pay the Incentive Payment shall be conditioned upon Developer's continued compliance with and satisfaction of each of the performance obligations set forth below in this Agreement.

1. Construction of Improvements. Developer shall construct the Structures.
2. Capital Investment. Developer shall make the Capital Investment into the Structures.

3. Infrastructure Costs. Developer shall pay the Developer Infrastructure Costs as described in Article III as a reduction in the Incentive Payment to be made by the BEDC to Developer.
4. Completion Date. A Certificate of Occupancy(s) for the Phase 1 Structures shall be obtained, and the Capital Investment shall be completed prior to January 1<sup>st</sup>, 2028. A Certificate of Occupancy(s) for the Phase 2 Structures shall be obtained, and the Capital Investment shall be completed prior to January 1<sup>st</sup>, 2030.
5. Additional Payroll or Jobs to be Created or Retained. This Agreement does not require the creation or retention of additional payroll or jobs.
6. Payment of Legal Fees. Developer commits to reimburse the BEDC for the necessary legal fees, in the amount of two hundred seventy-five dollars (\$275.00) an hour, in the preparation of any amendment to this Agreement requested by Developer. Timely payment shall be made within sixty (60) days of submittal of invoice to Developer by the BEDC or its assigns. Each Party shall bear its own legal fees in connection with the negotiation of this Agreement.

## **ARTICLE VI COVENANTS AND DUTIES**

1. Developer's Covenants and Duties. Developer makes the following covenants and warranties to the BEDC and agrees to timely and fully perform the obligations and duties contained in Article V of this Agreement. Any false or substantially misleading statements contained herein or failure to timely and fully perform those obligations and duties within this Agreement shall be an act of Default by the Developer.
  - (a) Developer is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas and the United States of America during any term of this Agreement.
  - (b) The execution of this Agreement has been duly authorized by Developer's authorized agent, and the individual signing this Agreement is empowered to execute such Agreement and bind the entity. Said authorization, signing, and binding effect is not in contravention of any law, rule, regulation, or of the provisions of Developer's formation documents, or of any agreement or instrument to which Developer is a party to or by which it may be bound.
  - (c) Developer is not a party to any Bankruptcy proceedings currently pending or contemplated, and Developer has not been informed of any potential involuntary Bankruptcy proceedings.
  - (d) To its current, actual knowledge, and subject to the Certificate of Occupancy (or other approvals and permits to be obtained under subpart (f) immediately below), Developer has acquired and maintained all necessary rights, licenses, permits, and authority to carry on its business in the City of Bastrop and will continue to use its best efforts to maintain all necessary rights, licenses, permits, and authority.

- (e) Developer shall timely and fully comply with all the terms and conditions of Article V of this Agreement.
  - (f) Developer agrees to obtain, or cause to be obtained, all necessary permits and approvals from the City of Bastrop and/or all other governmental agencies having jurisdiction over the construction of any improvements to the Locations.
  - (g) Developer shall be responsible for paying, or causing to be paid, to the City of Bastrop and all other governmental agencies the cost of all applicable permit fees and licenses required for construction of the Project. Developer agrees to develop the Project in accordance with the ordinances, rules, and regulations of the City of Bastrop in effect on the date the Project was designated, unless specified otherwise in this Agreement. Developer, in its sole discretion, may choose to comply with any or all City of Bastrop rules promulgated after the Effective Date of this Agreement.
  - (h) Developer agrees to commence and complete the Project in strict accordance with the Agreement.
  - (i) Developer shall cooperate with the BEDC in providing all necessary information to assist them in complying with this Agreement.
  - (j) During the term of this Agreement, Developer agrees to not knowingly employ any undocumented workers as part of the Project, and, if convicted of a violation under 8 U.S.C. Section 1324a(1), Developer shall be in Default (subject to the obligations in Article V and the remedies in Article VIII). Developer is not liable for an unknown violation of this Section by a subsidiary, affiliate, or franchisee of Developer or by a person with whom Developer contracts; provided, however, that identical federal law requirements provided for herein shall be included as part of any agreement or contract which Developer enters into with any subsidiary, assignee, affiliate, or franchisee for which funds provided herein will be used.
  - (k) Developer shall not be in arrears and shall be current in the payment of all City taxes and fees.
  - (l) BEDC has the right to periodically (and with reasonable advance notice) verify the terms and conditions of this Agreement.
2. BEDC's Covenants and Duties. BEDC agrees to timely and fully perform the obligations and duties contained in Article IV of this Agreement. Any false or substantially misleading statements contained herein or failure to timely and fully perform those obligations and duties within this Agreement shall be an act of Default by the BEDC.
3. Compliance and Default. Failure by Developer to timely comply with any performance requirement, duty, or covenant set forth in Article VIII shall be considered an Event of Default and shall relieve the BEDC of any Default and give the BEDC the right to terminate this

Agreement and collect the Recapture Amount, as determined by the Board of Directors of the BEDC.

## **ARTICLE VII TERMINATION**

1. Termination. This Agreement shall terminate upon the earliest occurrence of any one or more of the following:
  - (a) The written agreement of the Parties;
  - (b) Completion of the obligations of the Parties; or
  - (c) Default by Developer, at the option of the BEDC.

## **ARTICLE VIII DEFAULT/RECAPTURE**

1. Developer Events of Default.
  - (a) Failure of Developer to perform any term, covenant or agreement contained in Article V;
  - (b) The BEDC determines that any representation or warranty contained herein or in any financial statement, certificate, report or opinion submitted to BEDC in connection with or pursuant to the requirements of this Agreement was incorrect or misleading in any material respect when made;
  - (c) Any judgment is assessed against Developer or any attachment or other levy against the property of Developer with respect to a claim remains unpaid, unstayed on appeal, undischarged, not bonded or not dismissed for a period of thirty (30) days; or
  - (d) Developer makes an assignment for the benefit of creditors; admits in writing its inability to pay its debts generally as they become due; files a petition in bankruptcy; is adjudicated insolvent or bankrupt; petitions or applies to any tribunal for any receiver or any trustee of Developer or any substantial part of its property, commences any action relating to Developer under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect; or if there is commenced against Developer any such action and such action remains undismissed or unanswered for a period of sixty (60) days from such filing, or Developer by any act indicates its consent to or approval of any trustee of Developer or any substantial part of its property; or suffers any such receivership or trustee to and such appointment remains unvacated for a period of sixty (60) days.
2. BEDC Events of Default.
  - (a) BEDC materially fails to fulfill an obligation set forth within Article IV.
3. Remedies for Default; Recapture.



- (a) Developer's sole remedy under this Agreement is specific performance for BEDC's default of its obligations under Section IV of this Agreement, and only in the event Developer is not in Default of this Agreement.
- (b) In the event of Default by the Developer under subsections 1 (b), (c), or (d) under this Article prior to the Commencement of Construction, the BEDC shall have the right to terminate this Agreement and ownership of the Property shall revert to the BEDC. Upon reacquiring ownership of the Property, the BEDC shall return to Developer the Purchase Price paid for the Property less Closing Costs and \$3,500 in reasonable attorney's fees associated with the closing and the negotiation of this Agreement. Developer shall be obligated to perform any act required to assist in transferring ownership of the Property to the BEDC.
- (c) In the event Developer does not Commence Construction on Phase 1 Structures within eighteen months (18) of the Effective Date of this Second Amended and Restated Economic Development Performance Agreement, or longer if agreed to by the Parties, the BEDC shall have the right to terminate this Agreement, and ownership of the Property shall revert to the BEDC. Upon reacquiring ownership of the Property, the BEDC shall return to Developer the Purchase Price paid for the Property less Closing Costs and \$3,500 in reasonable attorney's fees associated with the closing and the negotiation of this Agreement. Developer shall be obligated to perform any act required to assist in transferring ownership of the Property to the BEDC.
- (d) In the event of Default after Commencement of Construction by the Developer under subsection 1 (a) of this Article (i.e., failure to perform under Article V), the BEDC may terminate this Agreement and shall have no obligation to pay the Incentive Payment.

4. Limitation on Use of Funds & Property in the Event of Default.

Under no circumstances will the funds received under this Agreement be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding regarding this Agreement against the City of Bastrop or the BEDC.

**ARTICLE IX  
MISCELLANEOUS**

- 1. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. The undersigned CEO or Board Chair of the BEDC shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the BEDC, on behalf of the Parties related thereto.
- 2. Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. Representations and Warranties. The BEDC represents and warrants to Developer that this Agreement is within its authority, and that it is duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. Developer represents and warrants to the BEDC that it has the requisite authority to enter into this Agreement.
4. Assignment. Developer shall have the right to assign all of its rights, duties, and obligations under this Agreement to a duly qualified third party with the prior written approval of the BEDC, which approval will not be unreasonably withheld or delayed. Any assignment provided for herein shall not serve to enlarge or diminish the obligations and requirements of this Agreement, nor shall they relieve Developer of any liability to the BEDC, unless agreed to in writing by the BEDC, which agreement will not be unreasonably withheld, including any required indemnity in the event that any Assignee hereof shall at any time be in Default of the terms of this Agreement. The BEDC may demand and receive adequate assurance of performance including the deposit or provision of financial security by any proposed Assignee prior to its approval of an assignment.
5. Independent Contractors.
  - (a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, Developer at no time will be acting as an agent of the BEDC and that all consultants or contractors engaged by Developer will be independent contractors of Developer; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that the BEDC will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by Developer under this Agreement, unless any such claims are due to the fault or Default of the BEDC.
  - (b) By entering into this Agreement, except as specifically set forth herein, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the BEDC with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.
  - (c) No employee of the BEDC, or any board member, or agent of the BEDC, shall be personally responsible for any liability arising under or growing out of this Agreement.
6. Notice. Any notice required or permitted to be delivered hereunder shall be deemed delivered by actual delivery, or on the third business day after depositing the same in the hands of a reputable overnight courier (such as United States Postal Service, FedEx or UPS) and addressed to the Party at the address set forth below:

If intended for BEDC: Bastrop Economic Development Corporation  
Attention: Executive Director  
301 Highway 71 W, Suite 214  
Bastrop TX 78602  
jean@bastropedc.org

With a copy to: Denton, Navarro, Rocha, Bernal, & Zech PC  
Attention: Charles E. Zech  
2500 W. William Cannon Drive, Suite 609  
Austin, TX 78745  
cezech@rampagelaw.com

If to the Developer: Moca Ventures Nebraska, LLC  
Attention: John Baasch  
114 N. Custer Avenue  
Grand Island, Nebraska 68803  
(308) 390-0351  
john@johnbaaschauger.com

Any Party may designate a different address at any time upon written notice to the other Parties.

7. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.
  - (a) Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement (subject to the dispute resolution mechanisms of Article VIII above) shall be in the Courts of Bastrop County. The Parties agree to submit to the personal and subject matter jurisdiction of said court.
  - (b) Amendment. This Agreement may be amended by mutual written agreement of the Parties, as approved by the Board of Directors of the BEDC and paid for by the Developer.
8. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its meaning or

application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

9. Entire Agreement. This Agreement, together with the Commercial Contract-Unimproved Property, as amended contemporaneously with this Agreement, and the Temporary Public Access Easement Agreement constitute the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement, as approved by the Board of Directors of the BEDC.
10. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.
11. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.
12. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.
13. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.
14. Indemnification.

**DEVELOPER AGREES TO DEFEND, INDEMNIFY AND HOLD THE BEDC AND THE CITY OF BASTROP (“CITY”), AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY AND ALL REASONABLE LIABILITIES, DAMAGES, CLAIMS, LAWSUITS, JUDGMENTS, ATTORNEY FEES, COSTS, EXPENSES AND ANY CAUSE OF ACTION THAT DIRECTLY RELATES TO ANY OF THE FOLLOWING: ANY CLAIMS OR DEMANDS BY THE STATE OF TEXAS THAT THE BEDC HAS BEEN ERRONEOUSLY OR OVER-PAID SALES AND USE TAX FOR ANY PERIOD DURING THE TERM OF THIS AGREEMENT, OR AS A RESULT OF ANY ACT OR OMISSION OR BREACH OR NON-PERFORMANCE BY DEVELOPER UNDER THIS AGREEMENT EXCEPT THAT THE INDEMNITY PROVIDED HEREIN SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE ACTION OR OMISSIONS OF THE BEDC OR CITY. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY, IT BEING THE INTENTION OF THE PARTIES THAT DEVELOPER SHALL BE RESPONSIBLE FOR THE REPAYMENT OF ANY FUNDS PAID AND PROPERTY GRANTED TO DEVELOPER HEREIN THAT INCLUDES CITY SALES TAX RECEIPTS THAT THE STATE OF**

**TEXAS HAS DETERMINED WAS ERRONEOUSLY PAID, DISTRIBUTED OR ALLOCATED TO THE BEDC.**

15. Additional Instruments. The Parties agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.
16. Force Majeure. Whenever a period of time is herein prescribed for action to be taken by the Developer, the Developer shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to causes of any kind whatsoever which are caused by Force Majeure.

[SIGNATURE PAGES FOLLOW]

**Executed** on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**MOCA VENTURES NEBRASKA, LLC**

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

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

Title: President

STATE OF \_\_\_\_\_ }

COUNTY OF \_\_\_\_\_ }

This document was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
by \_\_\_\_\_ for Moca Ventures Nebraska, LLC, a Texas limited  
liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
Notary's typed or printed name

\_\_\_\_\_  
My commission expires

**Executed** on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**BASTROP ECONOMIC  
DEVELOPMENT CORPORATION**

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

Name: Genora Young

Title: Interim Executive Director

STATE OF TEXAS                    }  
COUNTY OF BASTROP            }

This document was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, by \_\_\_\_\_ for the Bastrop Economic Development Corporation,  
a Texas non-profit industrial development corporation, on behalf of said agency.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Notary's typed or printed name

\_\_\_\_\_  
My commission expires

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Charlie Zech, BEDC Counsel  
DNRB&Z P.C.

Exhibit A

Purchase and Sale Agreement (Commercial Contract-Unimproved Property) with Amendments  
and Rider

[SEE ATTACHED]



EXHIBIT B

Temporary Public Access Easement Agreement

[SEE ATTACHED]

EXHIBIT C

Moca Building Site Plan/BEDC Roads

[SEE ATTACHED]