

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into as of the ___ day of May, 2013 (the "Effective Date") by and between the TOWN OF GREENBURGH, a New York municipal corporation with an address at 177 Hillside Avenue, Greenburgh, NY 10607 ("Seller"); and GAME ON 365, LLC, a New York limited liability company with an address at 520 White Plains Road, Suite 500, Tarrytown, NY 10591. ("Purchaser").

W I T N E S S E T H:

WHEREAS, Seller owns certain real property located in the Town of Greenburgh, State of New York, located at 715 Dobbs Ferry Road as is more particularly described in Schedule A annexed hereto and made a part hereof (the "Real Property"); and

WHEREAS, Purchaser desires to purchase the Real Property from Seller and Seller desires to sell the Real Property to Purchaser, all upon and subject to the terms and conditions hereof;

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties hereto agree as follows:

1. Subject Property. Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, upon and subject to the terms and conditions herein set forth, the Real Property, with the buildings and improvements thereon erected (collectively, the "Building") (the Real Property and the Building are sometimes hereinafter referred to as the "Premises"), together with: (i) all of Seller's interest, if any, in and to any and all rights of ingress and egress to and from the Premises; (ii) all of Seller's interest, if any, in and to any and all easements or rights-of-way now or hereafter affecting or appurtenant to the Premises and any rights Seller has to use the same; (iii) all equipment, fittings, fixtures and other items of personal property owned by Seller (if any) and affixed or attached to, installed on or used exclusively in connection with the Premises (the "Fixtures and Equipment"); (iv) all right, title and interest of Seller, if any, in and to all strips and gores and alleys adjoining the Real Property; and (v) all right, title and interest of Seller, if any, in and to any land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises, to the center line thereof, including any right of Seller to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. The Premises, together with items (i) to (v) above are hereinafter, collectively, referred to as the "Subject Property".

2. Purchase Price; Deposit in Escrow and Payment of Purchase Price.
(a) The purchase price (the "Purchase Price") to be paid by Purchaser to Seller for the Subject Property shall be One Million Seven Hundred Thousand Dollars and 00/100

(\$1,700,000.00). The parties acknowledge and agree that the Purchase Price includes the following sums: (i) Forty-Three Thousand Five Hundred Dollars (\$43,500.00) to be used by the Seller to pay for the Phase II Environmental Site Inspection previously performed for the Seller; and (ii) Seventy Thousand Dollars (\$70,000.00) to be used by the Seller to pay for additional environmental testing requested by, and previously performed for, the Seller. For avoidance of doubt, following the Closing (as hereinafter defined), Purchaser shall be responsible for all subsequent environmental testing and/or remediation.

(b) Upon execution hereof, Purchaser shall pay to Purchaser's counsel, Timothy Lewis, Esq., Town Attorney, Town of Greenburgh (hereinafter called "Escrow Agent"), the sum of One Hundred Seventy Thousand Dollars and 00/100 (\$170,000.00), as a down payment on account of the Purchase Price (the "Deposit").

(c) Escrow Agent shall hold the Deposit pursuant to and in accordance with this Agreement. Any interest on the Deposit shall become the property of Seller and shall be credited towards the Purchase Price; provided, however, that in the event the Deposit is returned to Purchaser pursuant to the terms of this Agreement any interest earned thereon shall also be paid over to Purchaser. The Deposit shall be held in escrow by Escrow Agent, in an interest bearing account at JP Morgan Chase Bank, until the earliest to occur of: (i) the Closing; (ii) the receipt by Escrow Agent of notice from either Seller or Purchaser ("Notifying Party") that the other party ("Notified Party") is in default hereunder ("Default Notice"), or that this Agreement is being terminated in accordance with the terms hereof ("Termination Notice"), and demanding that the Deposit be turned over to the Notifying Party; or (iii) the receipt by Escrow Agent of written notice signed by both Seller and Purchaser authorizing and directing delivery of the Deposit to one of them. Upon the Closing, Escrow Agent shall deliver the Deposit to Seller. If Escrow Agent receives a Default Notice or a Termination Notice, Escrow Agent shall notify the Notified Party ("Escrow Agent's Notice") that Escrow Agent has received a Default Notice or a Termination Notice from the Notifying Party, and Escrow Agent's Notice shall include a copy of the Default Notice or Termination Notice. Unless Escrow Agent shall receive a notice ("Objection Notice") from the Notified Party within ten (10) business days of Escrow Agent's Notice to the Notified Party, stating that the Notified Party objects to Escrow Agent's paying the Deposit to the Notifying Party, Escrow Agent promptly shall deliver the Deposit to the Notifying Party. If Escrow Agent shall receive an Objection Notice, Escrow Agent shall continue to hold the Deposit subject to the succeeding provisions hereof. If Escrow Agent shall receive an Objection Notice, then Escrow Agent shall have the right, at its option, to pay the sum held in escrow into court and to commence an action or proceeding including, but not limited to, an action in interpleader, in order to obtain a judicial determination as to the party legally entitled to receive the Deposit. Purchaser and Seller jointly and severally agree to reimburse Escrow Agent for its reasonable costs and expenses, including reasonable attorneys' fees incurred as a result of any dispute or litigation concerning the right to the Deposit. The parties acknowledge that, although Escrow Agent is holding the Deposit for Seller's account, for all other purposes Escrow Agent is acting solely as a stakeholder at their request and for their convenience, and that Escrow Agent shall not be liable to either party for any act or omission on its part unless taken or suffered in bad faith or willful

disregard of this Agreement or involving gross negligence on the part of Escrow Agent. Seller and Purchaser jointly and severally agree to defend, indemnify and hold Escrow Agent harmless from and against all costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance of Escrow Agent's duties hereunder, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith or in willful disregard of this Agreement or involving gross negligence on the part of Escrow Agent. Escrow Agent may refrain from acting in respect of any matter referred to herein in full reliance upon the advice of counsel which may be selected by Escrow Agent (including any other Town Attorney for the Town of Greenburgh) and shall be fully protected in so acting or refraining from acting upon the advice of such counsel. Escrow Agent or any Town Attorney for the Town of Greenburgh shall be permitted to act as counsel for Seller in any dispute as to the disbursement of the Deposit or any dispute between the parties whether or not Escrow Agent is in possession of the Deposit and continues to act as Escrow Agent. In the performance of its duties hereunder, Escrow Agent shall be entitled to rely upon any document, instrument or signature believed by it to be genuine and signed by either of the parties hereto or their successors.

(d) The Purchase Price, less the Deposit, which sum shall be increased or decreased as a result of the apportionment(s) to be made pursuant to Section 8 hereof, shall be paid, at Seller's election, by certified or official check or checks or wire transfer of immediately available federal funds by or on behalf of Purchaser to Seller at the Closing. Anything contained herein to the contrary notwithstanding, up to One Thousand Dollars (\$1,000.00) of the Purchase Price may, at Purchaser's option, be paid by Purchaser's check.

3. Title Matters. (a) At Closing, Seller shall convey to Purchaser marketable and insurable (at standard rates) fee simple title to the Subject Property, subject only to the "Permitted Encumbrances" set forth and identified in Schedule B annexed hereto and made a part hereof.

(b) Purchaser shall, promptly following the mutual execution and delivery of this Agreement, order a title report and commitment for an owner's title insurance policy (the "Title Report") and a survey of the Subject Property (the "Survey") and, within five (5) days after receipt, deliver copies of the Title Report and Survey to Seller's counsel, together with a written statement setting forth any objections to title in the Title Report or state of facts shown on the Survey which are objectionable to Purchaser, and: (i) which are not Permitted Encumbrances; and (ii) as to which Purchaser's title insurance company (the "Title Company") refuses to insure ("Affirmative Title Insurance"), at standard rates, against collection out of the Real Property (herein called "Title Objections"). Within five (5) days after receipt of any updates or revisions to the Title Report or Survey, as the case may be, Purchaser shall furnish copies thereof to Seller's counsel, together with a written statement setting forth any further Title Objections. If Seller is unable by the date set forth herein for Closing to arrange for the Title Company to agree to omit from the Title Report any Title Objections, or for Affirmative Title Insurance with regard thereto, then Seller may adjourn the Closing for a reasonable period of time not in excess of sixty (60) days in

order to attempt to do so. Seller agrees to bring such actions and to institute such proceedings as may be reasonably necessary in order to arrange for the Title Company to agree to omit any Title Objections, or for Affirmative Title Insurance, or otherwise to cause title to the Subject Property to be in accordance with the terms of this Agreement on the date set forth herein for Closing. If the Title Company shall not have agreed to omit any Title Objections by the date set forth herein for Closing and shall not have agreed to provide affirmative insurance as aforesaid, then Purchaser, by written notice to Seller, shall have the right to: (i) terminate this Agreement effective as of the giving of such notice and, thereafter, neither party shall have any further obligations to the other hereunder, except as expressly provided to the contrary herein; or (ii) further extend the Closing in order to provide Seller additional time to arrange for the Title Company to agree to omit from the Title Report any Title Objections, or to provide affirmative insurance as aforesaid.

(c) If the Title Report discloses judgments, bankruptcies or other returns against persons or entities having names the same as, or similar to, that of Seller, Seller shall deliver to Purchaser an affidavit showing that such judgments, bankruptcies or other returns are not against Seller.

(d) Unpaid taxes, assessments, water charges and sewer rents, together with the interest and penalties thereon to a date not less than two (2) days following the date scheduled for Closing, and any other liens and encumbrances which Seller is obligated to pay and discharge, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, may be paid out of the proceeds of the monies payable at the Closing if Seller delivers to Purchaser on the date scheduled for Closing official bills for such taxes, assessments, water charges, sewer rents, interest and penalties and instruments in recordable form sufficient to discharge any other liens and encumbrances of record.

4. Contingent Consideration; Zoning Contingency. (a) In the event that Purchaser is successful in obtaining the Approvals (as hereinafter defined), Purchaser agrees to pay Seller, in addition to the Purchase Price, the sum of One Million Three Hundred Thousand Dollars and 00/100 (\$1,300,000) (the "Contingent Consideration").

(b) Purchaser's obligation to pay Seller the Contingent Consideration is specifically contingent upon Purchaser obtaining all required approvals (the "Approvals") from any local, regional, state or federal agency or authority having jurisdiction over the use, operation and construction by Purchaser of the Project (as hereinafter defined), including all related Project activities, as more particularly set forth below. Approvals include, without limitation, final and un-appealable approvals and authorizations required for: (i) the construction and operation of the Project; (ii) all related Project permits, including, but not limited to, building permits; (iii) the Purchaser to use the Subject Property for the Project; (iv) SEQR environmental review and approval; (v) any re-zoning required by the Town Board; (vi) wetlands and steep slope permits required by the Planning Board (if any); (vii) Town or Planning Board Site Plan review and approval; and (viii) all variances required by the Zoning Board of Appeals (if

any). By entering into this Agreement, neither the Town, nor any agency or representative thereof, is committing itself to any specific course of action concerning, or to provide expedited consideration of, or to provide a favorable determination with respect to, any application submitted by Purchaser for a zoning amendment, any application for site plan approval, or any other application that may be submitted by Purchaser in connection with the Property and/or the Project. The Town reserves unto itself and retains all discretion under applicable law to approve or deny any application consistent with the Town's authority as conferred by law and consistent with the Town's development goals and the Town's zoning ordinance. Nothing in this Agreement is intended to be nor shall be construed as an approval or agreement by the Town to issue any Approvals.

For avoidance of doubt, the receipt by Purchaser of a temporary Certificate of Occupancy for the Project shall be deemed to be receipt of the Approvals.

For purposes of this Agreement, the term "Project" shall mean the construction and operation of a multi-purpose sports facility at the Subject Property, including a structure (or structures) sufficient to include at least ninety-three thousand five hundred (93,500) square feet of recreational space. Purchaser acknowledges and agrees that, in seeking the Approvals, it shall be obligated to apply for at least the minimum square footage set forth herein.

Seller acknowledges and agrees that, as the review process proceeds, Purchaser will develop specific plans for the Project, in its sole discretion, to be submitted as part of its application to the Town for the Approvals.

(c) In the event that Purchaser obtains the Approvals, the Contingent Consideration shall be due and payable as follows:

- (i) One Hundred Thousand Dollars (\$100,000) on the earlier of the first anniversary of the receipt of: (A) the Approvals; or (B) a temporary Certificate of Occupancy (the "Initial Payment Date"); and
- (ii) One Million Two Hundred Thousand Dollars (\$1,200,000) payable in twelve (12) equal installments commencing on the first anniversary of the Initial Payment Date, and continuing annually thereafter until paid in full, together with interest at the rate of 2.66% per annum, compounded annually.

(d) The payment obligations contemplated in Section 4(c)(ii) hereof shall be evidenced by a Promissory Note in form reasonably acceptable to Seller and Purchaser.

(e) Purchaser acknowledges and agrees that in the event of a sale of the Subject Property: (i) prior to obtaining the Approvals for the Project, the obligations

of this Section 4 shall be included in such sale agreement as a continuing obligation of such third-party purchaser; and (ii) following receipt of the Approvals for the Project, but prior to the payment in full of the Contingent Consideration, Purchaser shall be obligated to pay the outstanding balance of the Contingent Consideration to Seller at the time of the closing of such third-party sale.

(f) This Section 4 shall survive the Closing.

5. Tax Assessment Rate. Seller represents, warrants and covenants to Purchaser that following the Closing: (i) the value of the Subject Property, for assessment purposes, shall be One Million Seven Hundred Thousand Dollars (\$1,700,000); and (ii) Seller shall not include, and shall not seek to include, the Contingent Consideration (or any portion thereof) in the assessed value of the Subject Property unless, and until, Purchaser has obtained the Approvals. Nothing contained herein shall be deemed or construed to prevent Seller from increasing the assessed value of the Subject Property in the future, provided that any such increase is consistent with Seller's assessment powers under all applicable law in accordance with all applicable rules, regulations and ordinances, which assessment are reserved to Seller under applicable law.

This Section 5 shall survive the Closing.

6. Purchaser's Acknowledgement. Purchaser acknowledges that Purchaser has inspected the Subject Property (including the environmental condition of the Subject Property), is fully familiar with the physical condition and state of repair thereof, and, except as set forth herein to the contrary, shall accept the Subject Property "as is" with "all faults," if any, including, without limitation, the environmental condition of the Subject Property and in its present condition, subject to reasonable use, wear, tear and natural deterioration between the date hereof and Closing, without any reduction in the Purchase Price for any change in such condition by reason thereof subsequent to the date of this Agreement. This Section 6 shall survive the Closing.

7. Seller's Representations; Purchaser's Representations. (a) Seller represents and warrants, to and for the benefit of Purchaser only, as follows: (i) Seller has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated hereby; (ii) this Agreement and all documents required hereby to be executed by Seller are and will be valid, legally binding obligations of and enforceable against Seller in accordance with their terms; (iii) Seller is not a "foreign person" as defined in the Code (defined below); (iv) there are no leases in respect of the Subject Property; (v) the Subject Property shall be delivered at the Closing vacant and free of all tenancies or occupancies; and (vi) there are no service contracts in respect of the Subject Property. The representations and warranties contained in this Section 7(a) shall survive the Closing.

(b) Purchaser represents and warrants, to and for the benefit of Seller only, as of the date hereof, as follows: (i) Purchaser has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated

hereby; (ii) this Agreement and all documents required hereby to be executed by Purchaser are and will be valid, legally binding obligations of and enforceable against Purchaser in accordance with their terms; and (iii) Purchaser is not a person or entity with whom United States persons or entities are restricted or prohibited from doing business under regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury (including those named on OFAC’s specially designated and blocked persons list) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities. The representations and warranties contained in this Section 7(b) shall survive the Closing.

8. Closing; Deliveries; Apportionments. (a) Seller and Purchaser agree to close this transaction (the “Closing”) at the offices of Purchaser’s counsel at 9:00 a.m. on or about July 1, 2013 (the “Closing Date”).

(b) At the Closing, as a condition precedent to Purchaser’s obligation to close title hereunder and otherwise consummate the transactions contemplated hereby, Seller shall deliver to Purchaser:

(i) A statutory form of quit claim deed (the “Deed”), substantially in the form annexed hereto and made a part hereof as Exhibit 1, executed and acknowledged in proper form for recording so as to convey the title required by this Agreement. Acceptance of the Deed to the Subject Property by Purchaser shall be conclusive evidence of the performance of all of the obligations of Seller hereunder, except as set forth herein to the contrary;

(ii) Such affidavits as the Title Company shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against persons or entities whose names are the same as or similar to Seller;

(iii) Properly completed and signed counterparts of: (1) the New York State Department of Taxation and Finance Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax (Form TP-584); and (2) the State of New York State Board of Real Property Services Real Property Transfer Report (Form RP-5217). Seller shall pay any tax due under Section 1402(a) of the New York Tax Law. Purchaser agrees to sign and to direct the Title Company to deliver such forms to the appropriate recording office with the Deed promptly after the Closing;

(iv) Possession of the Subject Property in the condition required by Section 7 of this Agreement;

(v) A certification as to Seller's non-foreign status prepared in accordance with the provisions of Section 1445 of the Internal Revenue Code ("Code"), which excuses Purchaser from withholding in connection with the disposition of United States real property;

(vi) An agreement designating Purchaser as the reporting person for purposes of Section 6045 of the Code, which agreement shall also be signed by Purchaser's attorney; and

(vii) Such other items as are contemplated by this Agreement.

(c) At the Closing, as a condition precedent to Seller's obligation to close title hereunder, Purchaser shall deliver to Seller:

(i) The balance of the Purchase Price, as adjusted for apportionments as provided herein;

(ii) An agreement designating Purchaser as the reporting person for purposes of Section 6045 of the Code, which agreement shall also be signed by Seller's attorney; and

(iii) Such other items as are contemplated by this Agreement.

(d) The following apportionments or reimbursements (as the case may be) shall be made between the parties at the Closing as of the close of business on the day prior to the Closing:

(i) Real estate taxes, water charges, sewer rents, business improvement district fees, special assessments/taxes, and vault charges, if any, on the basis of the fiscal period for which assessed, except that if there is a water meter on the Subject Property, apportionment at the Closing shall be based on the last available reading, subject to adjustment after the Closing when the next reading is available, which adjustment shall be made within a reasonable period of time after said reading becomes available;

(ii) All other items for which adjustment is routinely made between sellers and buyers of properties in the New York Metropolitan area similar to the Subject Property.

(e) If the Closing shall occur before a new tax rate is fixed, the apportionment of taxes at the Closing shall be upon the basis of the old tax rate for the preceding period applied to the latest assessed valuation. Promptly after a new tax is fixed, the apportionment of taxes shall be recomputed. Any discrepancy resulting from such re-computation and any errors or omissions in computing apportionments at Closing shall be promptly corrected, which obligations shall survive the Closing.

(f) If, on the Closing Date, the Subject Property or any part thereof shall be or shall have been affected by assessments which are or which may become payable in annual installments of which the first installment is then a charge or lien or has been paid, then, for the purposes of this Agreement, all of the unpaid installments (except the installment, if any, that covers the period in which the Closing occurs which shall be apportioned between Seller and Purchaser as of the Closing Date based on the number of days in the month in which the Closing occurs) of any such assessments, including those which are to become due and payable after the Closing Date, shall be deemed Permitted Encumbrances and shall be paid and discharged by Purchaser after the Closing Date.

(g) Any errors or omissions in computing apportionments at the Closing shall be corrected promptly after their discovery, but in no event later than one hundred eighty (180) days after the Closing Date. This Section 8(g) shall survive the Closing.

9. Brokers. Purchaser and Seller hereby represent to each other that they have not employed any agents, brokers, finders, or other such parties in connection with this transaction. Seller and Purchaser hereby each agree to indemnify, defend (with counsel reasonably acceptable to the party entitled to indemnification) and hold harmless each other from and against any cost, expense, claim, liability or damage resulting from a breach of the representation and warranty contained in the first sentence of this Section. The provisions of this Section shall survive the Closing and any termination or expiration of this Agreement.

10. Notice. (a) Any notices, communications and deliveries to be made hereunder shall be in writing and shall be delivered in person, by postage pre-paid certified mail, return receipt requested, or by pre-paid nationally recognized overnight courier delivering against a signed receipt as follows:

If to Seller: Town of Greenburgh
 177 Hillside Avenue
 Greenburgh, NY 10607
 Attn: Town Attorney's Office

If to Purchaser: Game On 365, LLC
 520 White Plains Road, Suite 500
 Tarrytown, NY 10591
 Attn: Vito Galasso, Managing Member

with a copy to: Cuddy & Feder LLP
 445 Hamilton Avenue, 14th Floor
 White Plains, NY 10601
 Attn: Robert J. Levine, Esq.

(b) A party may designate a new notice address by notice given in the manner provided in this Section, and shall be deemed complete upon receipt thereof.

(c) A communication sent in compliance with this Section shall be deemed given and received: (i) in the case of personal delivery, when delivery is made or first refused; (ii) in the case of certified mail, three (3) business days after mailing; and (iii) in the case of overnight courier, on the next business day after delivery to such overnight courier. Communications may be signed, given and received by an attorney for a party to this Agreement, which attorney is also hereby authorized by such attorney's respective client to agree to extensions of time periods set forth in this Agreement.

11. Miscellaneous.

(a) *Merger/Amendment.* This Agreement embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are hereby merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

(b) *Governing Law/Venue.* This Agreement has been negotiated, executed and delivered in the State of New York, is intended to be performed wholly in the State of New York, and the substantive laws of the State of New York shall govern the interpretation and enforcement of this Agreement. Any court action brought to interpret or enforce any provisions of this Agreement, or otherwise relating to or arising from this Agreement, must be commenced and maintained in the appropriate state or federal courts in Westchester County, New York, and each party irrevocably consents to the exclusive jurisdiction and venue of such courts for such purposes.

(c) *Captions.* The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

(d) *Agreement Binding.* This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

(e) *Gender/Plural.* As used in this Agreement, the masculine shall include the feminine and neuter, the singular shall include the plural and the plural shall include the singular, as the context may require.

(f) *Counterparts.* This Agreement may be executed in one (1) or more counterparts, any of which may be executed and transmitted by facsimile or other electronic method, and each of which shall be deemed an original, but all of which when taken together shall constitute one and the same agreement.

(g) *Rule of Construction.* The parties hereto acknowledge that each party and its counsel have reviewed and revised this Agreement, that it is satisfactory to them, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

(h) *Date of Performance.* If the final day of any period of time set out in any provision of this Agreement falls upon a day that is other than a business day, then the time of such period shall be extended to the next business day.

(i) *Severability.* The provisions of this Agreement are severable. If a court of competent jurisdiction rules that any provision of this Agreement is invalid or unenforceable, such provision shall be replaced by such court by another provision which is valid and enforceable and most closely approximates and gives effect to the intent of the invalid or unenforceable provision. Furthermore, such ruling shall not affect the validity or enforceability of any other provision of this Agreement.

(j) *Relationship of Parties.* No provision of this Agreement shall be deemed or construed to create a relationship between the parties of principal and agent, of partnership, of joint venture, or of any association whatsoever, other than the relationship of a Seller and a Purchaser.

(k) *Delivery for Examination.* The submission of this Agreement to Purchaser shall not constitute an offer by Seller to execute and exchange an agreement of sale. This Agreement shall not be binding prior to both parties' acceptance, execution and delivery thereof.

(l) *Non-Recourse.* The obligations of Seller under this Agreement shall be limited to Seller's interest in the Subject Property and neither Purchaser, nor any party claiming through or by Purchaser, shall have any claim against any other assets of Seller or any shareholder, director, member or manager of Seller or any of their respective principals, employees, agents, advisors and/or consultants.

(m) *Business Day.* For purposes of this Agreement, references herein to "business day" or "business days" shall mean any day that is not a Saturday, Sunday or federal or New York State holiday.

(n) *No Recording.* Purchaser hereby agrees that Purchaser shall not record this Agreement nor any memorandum hereof. If Purchaser shall violate the provisions of the preceding sentence, this Agreement, at Seller's option, shall become null and void, and all of the rights of Purchaser hereunder shall thereupon cease and terminate and Seller shall have the right to retain the Deposit, as and for liquidated damages pursuant to the provisions of this Agreement.

(o) *Further Assurances.* Seller and Purchaser hereby covenant and agree to execute and deliver all such documents and to take all such further actions as any

of them may reasonably deem necessary from time to time to carry out the intent and purpose of this Agreement and to consummate the transactions contemplated hereby. The obligations set forth in this Section 11(o) shall survive the Closing.

(p) *No Waiver.* No failure on the part of Seller or Purchaser to exercise and no delay in exercising any right or remedy hereunder shall act as a waiver thereof, nor shall any single or partial exercise by Seller or Purchaser of any right or remedy hereunder preclude any other or further exercise thereof. In the event that Seller or Purchaser waives any default of the other hereunder, such waiver shall not be construed as a waiver of any other default. No prior course of dealing between the parties or the respective attorneys or custom within the real estate industry shall in any way, manner or form modify or supplement the terms and conditions of this Agreement.

(q) *Closing Costs.* Purchaser and Seller shall pay their own respective expenses, including legal fees, whether or not the transaction contemplated herein closes. Seller and Purchaser shall each be responsible for those local customary closing costs, including, but not limited to, transfer taxes and mortgage taxes in connection with the Closing, commonly attributable to Seller or Purchaser, as applicable

[Balance of page intentionally left blank. Signatures follow.]

Execution Counterpart

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

PURCHASER:

SELLER:

GAME ON 365, LLC

TOWN OF GREENBURGH

By: Vito Galasso
Title: Managing Member

By: Paul J. Feiner
Title: Supervisor

CONFIRMED AND AGREED
AS TO SECTION 2 ONLY:

Timothy Lewis, Esq.
Town Attorney

[Signature Page to Purchase and Sale Agreement]

SCHEDULE A

METES AND BOUNDS DESCRIPTION OF THE REAL PROPERTY

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Greenburgh, County of Westchester and State of New York; said parcel being more particularly described as follows:

BEGINNING at a point on the southerly boundary line of Dobbs Ferry Road (aka Landers Road) where the same is intersected by the westerly side of lands belonging to Consolidated Edison Company of New York, Inc. said southerly boundary of Dobbs Ferry Road being established as widened and aligned in connection with a New York State Department of Transportation acquisition as shown on a certain map filed in the Westchester County Clerk's Office, Division of Land records, as Map No. 25133.

THENCE southerly along the westerly side of lands of Consolidated Edison Company of New York, Inc. as follows;

South 02 degrees 41 minutes 00 seconds West 273.07 feet;
South 21 degrees 45 minutes 50 seconds West 624.08 feet; and
South 13 degrees 42 minutes 00 seconds West 120.20 feet to the southeasterly corner of the premises herein described;

THENCE westerly along lands now or formerly of Vizioli, North 84 degrees 07 minutes 50 seconds West 170.29 feet to the southwesterly corner of the premises herein described;

THENCE northerly continuing along lands now or formerly of Vizioli, North 11 degrees 57 minutes 50 seconds West 126.34 feet and North 07 degrees 37 minutes 39 seconds East 854.48 feet to a point on the southerly boundary line of Dobbs Ferry Road as shown and delineated on Filed Map No. 25133 aforementioned;

THENCE easterly along said southerly boundary line of Dobbs Ferry Road, South 86 degrees 58 minutes 10 seconds East 355.32 feet to the point or place of BEGINNING.

SCHEDULE B

PERMITTED ENCUMBRANCES

The Subject Property is sold, and will be conveyed and transferred, subject to the following:

1. Zoning regulations and ordinances.
2. Consents of record (if any) by Seller or any former owner of the Real Property for the erection of any structure or structures on, under or above and street or streets on which the Real Property may abut.
3. Real property taxes and water and sewer charges which may be a lien on the Subject Property but not yet due and payable, provided apportionment is made as provided in this Agreement.
4. Unpaid installments of assessments not due and payable on or before the Closing.
5. Rights of utility companies to lay, maintain, install and repair pipes, lines, poles, conduits, cable boxes and related equipment on, over and under the Real Property.
6. Minor encroachments of improvements on properties adjoining the Subject Property herein described and minor variations between tax lot lines and lines of record title.
7. Minor encroachment of stoops, areas, roof cornices, window trims, vent pipes, cellar doors, steps, columns and column bases, flue pipes, signs, piers, lintels, window sills, fire escapes, ledges, fences, coping, retaining walls and yard walls, if any, upon any street or highway or adjoining premises.
8. Any covenants, restrictions, rights of way, utility easements and agreements, if any, contained in the former deeds or other instruments of record, insofar as the same may now be in force or effect, provided same are not violated by the existing structure or its current use and, further, provided the same do not restrict the use of the Subject Property as currently used.
9. Possible unpaid franchise tax liens against any corporation in the chain of title, provided that the Title Company shall be willing to insure against collection thereof out of the Subject Property.

EXHIBIT 1
QUIT CLAIM DEED

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF GREENBURGH ADOPTING A NEGATIVE DECLARATION FOR THE SEQRA DETERMINATION OF SIGNIFICANCE WITH RESPECT TO THE SALE OF 715 DOBBS FERRY ROAD (FORMERLY FRANK'S NURSERY AND CRAFTS, INC.) TO GAME ON 365, LLC.

WHEREAS, The Town of Greenburgh currently owns a 6.9 acre parcel of land located at 715 Dobbs Ferry Road and designated on the tax map of the Town of Greenburgh as Parcel ID 8-28-9 (the "Property"); and

WHEREAS, the Property is situated on the south side of Dobbs Ferry Road, approximately 1/3 of a mile west of the entrance to the Sprain Brook Parkway, and is located in the R-30 single family residential district; and

WHEREAS, the Property is located within an established recreation corridor in Unincorporated Greenburgh; directly north of the Property is the Elmwood County Club, a private golf course and Rumbrook Park; to the west of the Property is a golf driving range; and

WHEREAS, to the east of the Property is the Con Edison Right of Way and to the south of the Property are commercial greenhouses and a nursery; and

WHEREAS, the Town Board issued a request for proposals for the development or redevelopment of the Property; and

WHEREAS, the Town Board has expressed a willingness to entertain uses on the Property that are different from the permitted uses under current zoning and to fully evaluate any required rezoning and viable development options and originally considered leasing the Property for a period of 15 years; and

WHEREAS, Game On 365, LLC ("Game On") submitted a development proposal to the Town which included a conceptual site plan, layout drawings showing a 15,000 square foot Clubhouse attached to a 94,000 square foot air structure with an outdoor soccer field at the rear of the site and associated parking; and

WHEREAS, based on the short form Environmental Assessment Form submitted by Game On and an independent evaluation and review conducted by the Town Board as Lead Agency for the proposed lease, on August 13, 2012, adopted a Resolution pursuant to the New York State Environmental Regulations ("SEQRA") issuing a Negative Declaration with respect to the Leasehold for the Property, noting that the Town was undertaking a preliminary action that included speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development; and

WHEREAS, the Town Board no longer wishes to enter into a Leasehold for the Property, but would like instead, to sell the 6.89 acre parcel of land located at 715 Dobbs Ferry Road to Game On (“Proposed Action”); and

WHEREAS, pursuant to Part 617 of the implementing regulations as set forth in SEQRA, the Town Board of the Town of Greenburgh has determined to act as Lead Agency for the Proposed Action; and

WHEREAS, pursuant to Section 617.6 (a)(1) of the SEQRA Regulations as early as possible in a agency’s formulation of an action it proposes to undertake, it must, among other things, make a preliminary classification of the action under SEQRA; and

WHEREAS, that the Proposed Action has been classified as “Unlisted” by the Lead Agency; and

WHEREAS, pursuant to Section 617.6(b)(4)(i) of the SEQRA Regulations, when an agency proposes to approve an “Unlisted” action, an agency conducting an uncoordinated review may proceed as if it were the only involved agency pursuant to Subdivision 617.6(a) of that section unless and until it determines that an action may have significant adverse impact on the environment; and

WHEREAS, Game On’s development proposal will require further extensive coordinated SEQRA review to evaluate potential impacts from the development proposal including a proposed rezoning of the Property, when plans for the development become definitive; and

WHEREAS, the Town of Greenburgh has conducted a Phase I and a Phase II Environmental Site Assessment of the Property. The results of the Phase II will help determine mitigation that may be required on the Property and could affect the feasibility and layout of Game On’s development proposal; and

WHEREAS, the Town Board as Lead Agency has conducted its own independent review and analysis of the information provided and the potential environmental effects from the proposed project; and

WHEREAS, under Section 617.5(c)(21) of SEQRA, conducting concurrent environmental, engineering, economic feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for an action, do not commit the agency to commence, engage in, or approve such action and do not require further action under SEQRA; and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Greenburgh as the Lead Agency has carefully considered the whole action and the criteria listed in 6NYCRR Part 617.7(c), including the short form Environmental Assessment Form, comments of the Town Board, town staff and the public and hereby finds that the proposed “Unlisted” action will not have a significant effect on the environment for the reasons enumerated below and upon the attached Negative Declaration form;

BE IT FURTHER RESOLVED, that the sale of the Property is a preliminary action that includes speculative and conceptual plans and that the action does not commit the Town of Greenburgh to approve any proposed development. Game On 365's development proposal will require further extensive coordinated SEQRA review to assess potential impacts from the development proposal including a proposed rezoning of the Property, when site plans become definitive;

That the sale of the Property being a preliminary action, speculative and conceptual in nature which does not commit the Town of Greenburgh to approve any proposed development for the Property and consequentially will not affect air quality; will not affect any threatened or endangered species on the Property; will not affect agricultural land resources; and will not affect aesthetic resources; will not affect any site or structure of historic, prehistoric or paleontological importance; and will not affect any open space or recreational area in the vicinity; and there will be no anticipated affect upon the transportation system; and no anticipated effect from noise and odor impact associated with the proposed project; and no anticipated affect upon public health and safety; and consequently no anticipated affect upon growth and character of the community or neighborhood.

617.21
Appendix F
State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-significance

Project Number: TB 12-09 715 Dobbs Ferry Road

Date: May 22, 2013

This notice is issued pursuant to Part 617 of the Implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town Board of the Town of Greenburgh, located at Greenburgh Town Hall, 177 Hillside Avenue, Greenburgh, NY, as lead agency, has determined that the “Proposed Action” described below will not have a significant effect on the environment and a Draft Environmental Impact Statement is not required.

Name of Action: TB 12-09A 715 Dobbs Ferry Road

SEQR Status: Type 1
Unlisted

Conditioned Negative Declaration: Yes
No

Description of Action: Sale of approximately 6.89 acres Town-owned property.

Location: 715 Dobbs Ferry Road, (PO White Plains), NY

Reasons Supporting This Determination:

This determination of significance is based upon the Environmental Assessment Form (EAF) that was prepared by the Applicant and upon the criteria contained in Section 617.7 of SEQRA.

The Town Board has conducted its own independent review and analysis of the information provided and the potential environmental effects from the proposed project. It has reviewed a revised Part 1 of the short Environmental Assessment Form (EAF), prepared by the Applicant and its consultants.

Based upon all of the information generated for the proposed project and its own careful and thorough independent review of the potential environmental effects, the Town Board directed Planning staff to complete a Part 2 of the short EAF, which it incorporates here by reference. The EAF has aided the Town Board’s determination. As described more fully in Part 2 of the EAF, the Town Board could not identify any small to moderate impacts since the signing of the lease is

preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property.

1) PROJECT IMPACTS AND THEIR MAGNITUDE

A) IMPACT ON LAND

The Town of Greenburgh Town Board issued a RFP seeking qualified developer proposals for a vacant town-owned property located at 715 Dobbs Ferry Road. The approximately 6.89 acres site, the former Frank's Nursery, consists of one building containing a total of 50,000 square feet of floor area and is located on Dobbs Ferry Road approximately 1/3 of a mile west of the entrance to the Sprain Brook Parkway.

The Town of Greenburgh was seeking a developer to redevelop the site through either:

- (1) the substantial rehabilitation of the existing buildings,
- (2) total demolition and construction, or
- (3) partial demolition of the structures and redeveloping the site, or
- (4) construction of a of a new police station and courthouse on the site in exchange for a negotiated ownership transfer of the property located at 188 Tarrytown Road, which currently is occupied by the Town's police station and courthouse, for new development.

The Town would entertain uses that are different from the permitted uses under current zoning and any viable development options, including public-private partnership, phased and/or shared use development for the entire 715 Dobbs Ferry Road parcel through a 15 year ground lease and the possible transfer of 188 Tarrytown Road property.

On October 28, 2011, the RFP process ended at 5:00 PM and the Town had received three responses to the RFP, two responses were to buy the property outright and the third response was for demolition and construction of an indoor sports dome on the property through a fifteen year ground lease. The Town Board has reviewed the three submissions and finds that submission by Game On 365 LLC (Game On 365) is the only application that meets the RFP requirements. Game On 365's development proposal includes a conceptual site plan layout drawing showing a 15,000 sq. ft. Clubhouse attached to a 94,000 sq. ft. air structure with an outdoor soccer field at the rear of the site and associated parking. The proposed building systems will be constructed in a "temporary" manner to satisfy the Town's fifteen year ground lease in which the air structure is quickly and easily removable and recyclable and the front clubhouse building will be constructed in such a way that can easily be added to and/or adapted by the Town, as its steel frame and curtain wall skin are also flexible in design; and

The Town of Greenburgh has conducted a Phase I and Phase II Environmental Site Assessment of the property. The results of the Phase II study will help determine mitigation that maybe required on the property and could affect the feasibility and layout of Game On 365's development proposal.

Under Section 617.5(c)(21) of SEQRA, conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action are Type II actions and do not require further action under SEQRA.

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development. Game On 365's development proposal will require further extensive coordinated SEQRA review to assess potential impacts from the development proposal including a proposed rezoning of the property, when site plans become definitive.

B) IMPACT ON AIR

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, will not affect air quality.

C) IMPACT ON PLANTS AND ANIMALS

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, will not affect any threatened or endangered species on the site.

D) IMPACT ON AGRICULTURAL LAND RESOURCES

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, will not affect agricultural land resources.

E) IMPACT ON AESTHETIC RESOURCES

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, will not affect aesthetic resources.

F) IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, will not affect any site or structure of historic, prehistoric or paleontological importance.

G) IMPACT ON OPEN SPACE AND RECREATION

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, will not affect any open space or recreational area in the vicinity.

H) IMPACT ON CRITICAL ENVIRONMENTAL AREAS

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, is “Unlisted” under SEQRA.

I) IMPACT ON TRANSPORTATION

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, there are no anticipated affect upon the transportation system.

J) IMPACT ON ENERGY

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, there is no anticipated affect upon the community’s sources of fuel or energy supply.

K) NOISE AND ODOR IMPACT

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, there is no anticipated affect from noise and odor impacts associated with the proposed project.

L) IMPACT ON PUBLIC HEALTH

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, there is no anticipated affect upon public health and safety.

M) IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

The sale of the property is preliminary action that includes speculative and conceptual plans and the action does not commit the Town of Greenburgh to approve any proposed development for the property and, hence, there is no anticipated affect upon growth and character of community or neighborhood.

Conclusion

The Town Board has conducted an independent review and analysis of the entire record and the potential environmental effects from the proposed project. It has reviewed a Part 1 of the short Environmental Assessment Form (EAF), prepared by Town staff.

The Town Board has completed a careful and thorough review of the identified areas on the Environmental Assessment Form. Based upon all of the information generated for the proposed project and its own careful and thorough independent review and public discussion of the potential environmental effects, the Town Board has determined that the potential small and

larger impacts outlined in Part 2 of the EAF, individually as well as cumulatively, will be minimal.

As a result of its review of the proposed project, the Town Board has determined that a negative declaration be issued on the potential impacts for the “Proposed Action” outlined in Part 2 of the EAF, and that the “Proposed Action” will not have a significant effect on the environment and that any effect will be mitigated to the greatest extent practicable, and, therefore, the preparation of an Environmental Impact Statement (“EIS”) is not required.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed.

N/A

For Further Information:

Contact Person: Thomas Madden, AICP
Commissioner, Community Development and Conservation

Address: 177 Hillside Avenue
Greenburgh, NY 10607

Telephone#: (914) 993-1505

Delivered by hand: Greenburgh Town Hall, 177 Hillside Avenue, Greenburgh, NY 10607