

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

This Agreement, including any and all addenda attached hereto (**Agreement**), is hereby entered into on this 11th day of July, 2017, by and between **GUILFORD COUNTY**, a body politic and corporate of the State of North Carolina, hereinafter referred to as the "**Buyer**," and, **MARTIN MARIETTA MATERIALS, INC.**, a North Carolina corporation, hereinafter referred to as the "**Seller**" and also collectively referred to as the "**Parties**."

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. **Terms and Definitions:** The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

- (a) **Property:** (Address) **926 R2 Guilford College Rd, Greensboro, NC 27406**. Deed Reference: Deed Book 4164, Deed Book 1160, Guilford County, consisting of 6.03 acres. (For informational purposes only: Tax Parcel ID number is 0151165, PIN Id: 7823799859)
- (b) **Purchase Price** of \$158,300.00 (One Hundred Fifty-Eight Thousand and Three Hundred Dollars), payable as \$1,580.00 (One Thousand Five Hundred and Eighty Dollars) in Earnest Money, which will be promptly deposited in escrow with the Closing Attorney, to be applied as part payment of the Purchase Price at Closing, and the balance of \$156,720.00 (One Hundred Fifty-Six Thousand and Twenty Dollars) to be paid at Closing by means of a Certified Check or Wire Transfer subject to the restrictions and conditions set out herein, including, but not limited to the restriction in Section 21.
- (c) **Closing** shall mean the date and time of the Recording of the Deed. Closing shall occur within 30 days of the end of the Examination Period.
- (d) **Contract Date** means the date in which this Agreement is signed by the Buyer and the Seller.
- (e) **Examination Period** shall mean the period beginning on the first day after the Contract Date and extending through 11:59 pm to 180 days from the Contract Date. Before the expiration of the Examination Period, the Earnest Money, if any, will remain refundable, but at the end of the Examination Period it is fully at risk. Buyer reserves the right to purchase one (1) extension of ninety (90) days for a price of an additional \$1,580.00 (One Thousand, Five Hundred and Eighty Dollars) of Earnest Money to be applied to the Purchase Price at Closing, but immediately at risk for loss to the Seller if the Closing fails to occur.
- (f) **Seller's Notice Address** shall be Attn: Martin Marietta Materials, Inc., PO Box 30013, Raleigh, NC 27622.
- (g) **Buyer's Notice Address** shall be Attn: Guilford County, 301 W Market St, Post Office Box 3427, Greensboro, NC 27402.
- (h) **Earnest Money** shall mean the sum of \$1,580.00 (One Thousand, Five Hundred and Eighty Dollars) to be deposited by Buyer with the Closing Attorney upon execution of this Agreement, to be applied to the Purchase Price at Closing or otherwise disposed of as provided in this Agreement.
- (i) **Closing Attorney** shall mean Buyer's attorney, Erwin Fuller, or such other attorney selected by Buyer to close the transaction contemplated by this Agreement.

Buyer Initials:

DS
MKL

Seller Initials:

DS
JST

Section 2. **Sale of Property and Payment of Purchase Price:** The Seller agrees to sell and the Buyer agrees to buy the Property for the Purchase Price.

Section 3. **Proration of Expenses and Payment of Costs:** Seller and Buyer agree that all property taxes (on a calendar year basis) and utilities or any other assumed liabilities shall be prorated as of the date of Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Agreement, excise tax (revenue stamps), and other conveyance fees or taxes required by law. Buyer shall pay recording costs, costs of any title search, title insurance, survey, any deferred or rollback taxes, and the cost of any inspections or investigations undertaken by Buyer.

Section 4. **Evidence of Title:** Seller agrees to convey fee simple marketable and insurable title to the Property by special or limited warranty deed without exception for mechanics' liens, free and clear of all liens, encumbrances and defects of title created by Seller other than zoning ordinances affecting the Property and matters of record existing at the Contract Date that are not objected to by Buyer prior to the end of the Examination Period ("Permitted Exceptions"); provided that Seller shall be required to satisfy, at or prior to Closing, any encumbrances created by Seller that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens. Seller shall not enter into or record any instrument that affects the Property after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 5. **Conditions:**

(i) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. If such title examination shall show that Seller's title is not fee simple marketable and insurable, subject only to Permitted Exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than the end of the Examination Period, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, then Buyer at Buyer's sole election, may either (a) terminate this Agreement and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired), and no party shall have any further rights, duties, or liabilities hereunder; or (b) elect to close the transaction contemplated hereby, in which case there shall be no adjustment of the purchase price of the Property. If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

(ii) **Same Condition:** If the Property is not in substantially the same condition at Closing as of the date of the offer then the Buyer may (1) terminate this Agreement and receive a return of the Earnest Money, and no party shall have any further rights, duties, or liabilities hereunder, or (2) proceed to Closing, in which case there shall be no adjustment of the purchase price of the Property.

(iii) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, testing, conducting timber cruises, and surveying the Property. Buyer may conduct non-destructive and non-evasive soil and other tests on the Property but shall not conduct any Phase II environmental site assessment, soil borings, or similar tests at the Property without the prior written consent of Seller, which Seller may withhold in its sole discretion. If Seller permits a Phase II ESA, Buyer agrees that it will abide by the terms and conditions provided by Seller in its sole discretion for such Phase II ESA. Buyer shall conduct all such on-site inspections, examinations, testing, timber cruises and surveying of the Property in a good and workmanlike manner, shall repair any damage to the

Buyer Initials:  DS

Seller Initials:  DS

Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's or any tenant's use and enjoyment of the Property. Upon Seller's request, Buyer shall provide to Seller evidence of general liability insurance. Buyer assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under this Section and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. This indemnification obligation of Buyer shall survive the Closing or earlier termination of this Agreement. Buyer shall, at Buyer's expense, promptly repair any damage to the Property caused by Buyer's entry and on-site inspections. Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. IF BUYER CHOOSES NOT TO PURCHASE THE PROPERTY, FOR ANY REASON OR NO REASON, AND PROVIDES WRITTEN NOTICE TO SELLER THEREOF PRIOR TO THE EXPIRATION OF THE EXAMINATION PERIOD, THEN THIS AGREEMENT SHALL TERMINATE, AND BUYER SHALL RECEIVE A RETURN OF THE EARNEST MONEY.

Section 6. Environmental: Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts. If Seller does know of any potential contamination, Seller will submit to Buyer in writing immediately upon discovery. Except as provided in this Section, Buyer acknowledges that Seller makes no warranty or representation of any kind with respect to the environmental condition of the Property, Buyer agreeing that it is relying solely on its own due diligence in preceding to Closing after expiration of the Examination Period and that Seller shall sell and Buyer shall accept the Property "AS IS", "WHERE IS, WITH ALL FAULTS."

Section 7. Risk of Loss/Damage/Repair: Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.

Section 8. Earnest Money Disbursement: If any of the conditions hereto are not satisfied, or the Buyer terminates this Agreement prior to the expiration of the 180-day Examination Period, or upon a breach of this Agreement by Seller, then the Earnest Money, if any, shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach. If Seller defaults hereunder, the Earnest Money shall be returned to Buyer without prejudice to the right of Buyer to seek specific performance of this Agreement, but in full settlement of all other claims of Buyer against Seller. If this offer is accepted and Buyer breaches this Agreement, then the Earnest Money, if any, shall be forfeited, but such forfeiture shall not affect any other remedies available to Seller for such breach. At the conclusion of the 180-day Examination Period, all Earnest money, if any, is non-refundable and will be at risk. NOTE: In the event of a dispute between Seller and Buyer over the return or forfeiture of Earnest Money held in escrow by the Closing Attorney, the Attorney is required by state law to retain said Earnest Money in its trust or escrow account until it has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction, or alternatively, the party holding the Earnest Money may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A-12.

Section 9. Closing: At or before Closing, Seller shall deliver to Buyer a special or limited warranty deed and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, an owner's affidavit, lien waiver forms (and such other lien related documentation as shall permit the Property to be conveyed free and clear of any claim for mechanics' liens) and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall pay to Seller the Purchase Price. At Closing, the Earnest Money shall be applied as part of the

Buyer Initials: 

Seller Initials: 

Purchase Price. The Closing shall be conducted by Buyer's attorney or handled in such other manner as the parties hereto may mutually agree in writing. Possession shall be delivered at Closing, unless otherwise agreed herein. The Purchase Price and other funds to be disbursed pursuant to this Agreement shall not be disbursed until Closing has taken place.

Section 10. **Notices:** Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing and shall be deemed to have been properly given and received on the date delivered in person or deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(f) as to Seller and in Section 1(g) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith.

Section 11. **Entire Agreement:** This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto. The invalidity of one or more provisions of this Agreement shall not affect the validity of any other provisions hereof and this Agreement shall be construed and enforced as if such invalid provisions were not included.

Section 12. **Enforceability:** This Agreement shall become a contract when signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that the notice described in Section 10 is not required for effective communication for the purposes of this Section 12. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Agreement are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

Section 13. **Adverse Information and Compliance with Laws:**

(a) **Seller Knowledge:** Seller has no actual knowledge of (i) condemnation(s) affecting or contemplated with respect to the Property; (ii) actions, suits or proceedings pending or threatened against the Property; (iii) changes contemplated in any applicable laws, ordinances or restrictions affecting the Property; or (iv) governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no pending or confirmed owners' association special assessments, except as follows (Insert "None" or the identification of any matters relating to (i) through (iv) above, if any):

NONE

(b) **Compliance:** To Seller's actual knowledge, (i) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (ii) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property, and Seller is not aware of any facts which might result in any such action, suit or other proceeding.

Buyer Initials:  *ML*

Seller Initials:  *JS*

Section 14. **Survival of Representations and Warranties:** The Seller shall convey the Property subject to any and all restrictions shown of record with respect to the Property, easements, and zoning and planning ordinances, and it will be accepted by Purchaser on an “as is” and “with all faults” basis, without any representation, or warranty by, or recourse against, the Seller of any kind, expressed or implied, including without limitation, any representation or warranty as to the habitability, fitness or merchantability of the Property, except for Seller’s warranty of title during the period of ownership by Seller. This will be incorporated into the deed.

Section 15. **Applicable Law:** This Agreement shall be construed under the laws of the state in which the Property is located. This form has only been approved for use in North Carolina.

Section 16. **Assignment:** This Agreement is freely assignable.

Section 17. **Tax-Deferred Exchange:** If Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

Section 18. **Memorandum of Contract:** Upon request by either party, the parties hereto shall execute a memorandum of contract in recordable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of Closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

Section 19. **Authority:** Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

Section 20. **Attorney’s Fees:** If legal proceedings are instituted to enforce any provision of this Agreement, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney’s fees and court costs incurred in connection with the proceeding.

Section 21. **Board of Commissioner’s Approval:** Please be aware that this Agreement is authorized by the Guilford County Board of Commissioners only after their public acceptance of the Agreement and sufficient funds to purchase the subject property are authorized. Guilford County will have no financial obligation other than the payment of Earnest Money as set out in Section 1 above. All information contained within this Agreement are duly noted as “Private Matters,” and are expected to be treated as such by all Parties in this Agreement, until such a time the Board of Commissioners publically accepts this Agreement.

Section 22. **Iran Divestment Act of 2015.** Whereas, N.C.G.S. §147-86.59 requires that a State agency or political subdivision of the State must require persons attempting to contract therewith, including

Buyer Initials:  DS

Seller Initials:  DS

contract renewals or assumptions, to certify that the persons or the assignees are not identified on the list created by State Treasurer pursuant to N.C.G.S. §147-86.58. Effective as of the date of this Agreement, and in accordance with N.C.G.S. Chapter 147, Article 6E entitled "Iran Divestment Act," each Party hereby certifies that it is not identified on the Final Divestment List created by the State Treasurer, which list of persons the Treasurer has determined engage in investment activities in Iran, including any subcontractors of either Party.

Section 23. Quiet Enjoyment. Buyer acknowledges that Seller operates a quarry on an adjacent parcel(s) to the Property and that Seller, and its successors-in-interest, will continue to operate such quarry and may expand their operations at the quarry following the conveyance of the Property. Buyer also acknowledges that Seller leases or may in the future lease a portion of the adjacent parcel(s) to others for use in related industries that use products of the quarry, such as the production of ready-mix concrete and asphalt. Buyer acknowledges that the quarry operations and any such related industries may subject Buyer and the Property to noise, dust, truck traffic, blasting, vibrations and other inconveniences. As an inducement to Seller's execution and delivery of this Agreement and conveyance of the Property to Buyer, Buyer covenants, on behalf of itself and its successors-in-interest, that it shall not initiate any proceeding or take any action, or participate in any proceeding or action, to limit, prohibit, or restrict Seller's, and its successors'-in-interest, operation of the quarry or their lessees' operation of related industries located at the quarry on any ground whatsoever, including, but not limited to, nuisance or trespass. By means of illustration, and not limitation, Buyer shall not initiate or participate in any proceeding or action to limit or restrict the hours of operation of the quarry, to prohibit expansion of the quarry or to oppose or otherwise object to the issuance or continuance of any permits or approvals from governmental authorities necessary for the development, operation, and expansion of Seller's quarry. Buyer, on behalf of itself and its successors-in-interest, does hereby waive, release, forever discharge and covenant not to sue Seller, its successors-in-interest, their lessees' and their respective shareholders, officers, directors, and employees from any and all claims, demands, injuries, actions, and causes of action at law or in equity, past, present, or future, for any damages, personal injuries, property damage, diminution in property value, emotional distress, loss of peace of mind and happiness, discomfort, inconvenience, annoyance, disruption, nuisance, trespass, or any such claims or injuries arising from or related to Seller's, or its successors'-in-interest, operation of the quarry or their lessees' operation of any related industry at the quarry, except for damages, personal injury, or property damage occurring at or on the Property caused by any flyrock produced from blasting at the quarry. For purposes of this Section 23, the term proceedings means any action, suite, or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal. Buyer acknowledges and agrees that the foregoing covenants shall run with the Property and that the foregoing covenants shall be reflected in the special or limited warranty deed to be delivered by Seller to Buyer pursuant to Section 9 of this Agreement.

(The remainder of the page is intentionally left blank.
The Offer to Purchase continues on the following Page.)

Buyer Initials:

A blue rectangular box with a thin border. Inside the box, the letters "MKL" are written in a stylized, handwritten font. Above the box, the letters "DS" are printed in a small, sans-serif font.

Seller Initials:

A blue rectangular box with a thin border. Inside the box, the letters "JST" are written in a stylized, handwritten font. Above the box, the letters "DS" are printed in a small, sans-serif font.

WITNESS the following signatures and seals all pursuant to authority duly granted, effective as of the day and year first above written.

GUILFORD COUNTY

DocuSigned by:
Marty K Lawing 7/5/2017 | 5:38 PM EDT
 6149C7EFF7AB48A...
 Marty K. Lawing, Guilford County Manager

ATTEST:

DocuSigned by:
Robin B Keller 7/7/2017 | 10:50 AM EDT
 281BE04777AA4DA...
 Robin Keller, Guilford County Clerk to Board

(COUNTY SEAL)

MARTIN MARIETTA MATERIALS, INC.

DocuSigned by:
John J. Tiberi 7/11/2017
 78871909079A18C...
 Vice President

ATTEST:

Eric S. Brown
 -Corporate Secretary
 Assistant

Printed Name: John J. Tiberi

Printed Name: Eric S. Brown

(CORPORATE SEAL)

No Corporate Seal Exists ☐



This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

DocuSigned by:
N. Reid Baker III 6/30/2017 | 6:29 PM EDT
 D2C8E59B94D64E4...
 Guilford County Finance Director

Buyer Initials: DS
MKL

Seller Initials: DS
JSB