

DON CLARK
REGISTER OF DEEDS
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BOOK 373 PAGE 877
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WAG

RIGHT OF FIRST REFUSAL TO PURCHASE REAL ESTATE AGREEMENT

This Right of First Refusal to Purchase Real Estate Agreement, hereinafter referred to as "Agreement", is made on this, the 8th day of OCTOBER, 2008, by and between Kruger Commodities, Inc., a Nebraska corporation, hereinafter referred to as "Kruger" and the Greater Wahoo Development Foundation, a Nebraska nonprofit corporation, hereinafter referred to as "Foundation".

WHEREAS, Foundation desires to obtain a right of first refusal to purchase certain real estate owned by Kruger; and

WHEREAS, Kruger agrees to grant Foundation a right of first refusal to purchase real estate pursuant to the terms of this Agreement;

NOW THEREFORE, Kruger and Foundation agree as follows:

I.

GRANT OF RIGHT OF FIRST REFUSAL: In exchange for one dollar (\$1.00) and other valuable consideration, Kruger does hereby grant unto Foundation the exclusive and irrevocable right, during the term of this Agreement, the right of first refusal to purchase, upon the terms and conditions hereinafter set forth, real estate of Kruger situated in Saunders County, Nebraska, including without limitation, the following described real estate, together with all improvements located thereon:

A tract of land located in the South Half of fractional Section 31 and in the Southwest Quarter of Section 32, all in Township 15, Range 8, Saunders County, Nebraska more particularly described as follows: Commencing at the West Quarter corner of said Section 31, thence south on the west line of said Section 31 a distance of 4.85 feet to the true point of beginning, said point being the intersection of the south right of way line of the Union Pacific Railroad and the west line of said Section 31, thence continuing south on said west line Section 31 a distance of 731.75 feet, thence east a distance of 930.0 feet to a point on the east line of said Section 31, 749.3 feet south of the West Quarter corner Section 32, thence continuing on the aforesaid line a distance of 2647.8 feet to a point on the east line of the Southwest Quarter of said Section 32, said point being the 749.3 feet south of the center of said Section 32, thence north on said east line Southwest Quarter Section 32 a distance of 732.5 feet to the south right of way line of the Union Pacific Railroad, thence west on said south right of way line a distance of 2648.3 feet to a point on the east line of said Section 31, said point being 17.1 feet south of the West Quarter corner of said Section 32, thence continuing West on said South right of way line a distance of 916.4 feet to the place of beginning,

hereinafter called "Property".

II.

which are acceptable to Foundation and Kruger. In such event, this Agreement shall become an addendum to the purchase agreement signed by both parties. In the event Kruger and Foundation cannot agree to terms acceptable to both parties within the ten (10) day timeframe, and unless agreed to otherwise in writing by Foundation and Kruger, this Agreement shall be terminated without further obligation by either party.

III.

TERMS OF PURCHASE: In the event Kruger elects to sell Property pursuant to Article II hereof, or elects to sell Property to Foundation without a bona fide purchase agreement from a third party, and Foundation desires to exercise its first refusal rights or its election to purchase granted under the terms of this Agreement, the terms of purchase shall be as follows:

- a) \$12,000 per acre cash payable at closing; or,
- b) \$1.00 more than any bona fide offer to purchase received by Kruger from any third party;

whichever is higher.

In either event of (a) or (b) above, an Earnest Deposit of five percent (5%) of the purchase price shall be given by the Foundation and held in escrow as of time of signing the purchase agreement.

IV.

TITLE: Within fifteen (15) days after a purchase agreement has been signed by Kruger and Foundation, Kruger shall deliver to the Foundation a Certificate of Title covering the Property described in paragraph I above which shall reflect that marketable fee simple title to the Property is vested in Kruger and that same is insurable by a title insurance company licensed to do business in the State of Nebraska. Said Certificate shall be subject only to taxes for the current year, covenants, easements, and restrictions or rights of way of record, prior mineral reservations, and oil or water rights. Should said Certificate reflect any other exceptions to the title unacceptable to Foundation, Foundation shall notify Kruger in writing of any defects within fifteen (15) days from receipt of the Certificate (the title review period) and Kruger shall have a reasonable time (but not more than twenty-five (25) days, unless agreed to in writing by Kruger and Foundation) in which to make the title good and marketable or insurable, and shall use due diligence in an effort to do so. If after using due diligence Kruger is unable to make the title acceptable to Foundation within such reasonable time, it shall be the option of the Foundation either to accept the title in its existing condition by written notification to Kruger and with no further obligation on the part of Kruger to correct any defect, or to cancel in writing this Agreement and the purchase agreement. If this Agreement is thus cancelled, all money paid by the Foundation to Kruger upon the execution of this Agreement and the purchase agreement shall be returned to the Foundation, and this Agreement and the purchase agreement shall terminate without further obligation of either party to the other. If title is acceptable to Foundation, unless otherwise agreed to in writing by Foundation and Kruger, the closing shall occur within forty-five (45) days after expiration of the "title review period". At closing Kruger shall convey title to Foundation by Warranty Deed subject only to exceptions acceptable to Foundation and the Foundation shall pay Kruger in full in cash, pursuant to the terms of this Agreement and the purchase agreement..

V.

TERM AND EXTENSION: The term of this Agreement shall be two (2) years from that date hereof. This Agreement may be extended for an additional two (2) years by Kruger and Foundation agreeing on terms and signing a new Agreement prior to the expiration of the initial term.

VI.

VIII.

RIGHT OF ENTRY: Upon written notification by Kruger of its desire to sell and Foundation's written exercise of its right of first refusal, Foundation shall be entitled to enter upon the Property for the purpose of conducting soil tests, engineering studies, and surveys. Such entry shall not be made unless Kruger receives forty-eight (48) hours' notification prior to entry and at Kruger's exclusive option, Kruger, or its representative, may accompany Foundation or its representative upon any entry upon the Property. Unless otherwise agreed to in writing by Kruger and Foundation, such right of entry for purposes of testing, studying or surveying shall be at Foundation's own risk and shall be allowed only during the first thirty (30) days after the Foundation's written notification to Kruger to exercise the right of first refusal and after the purchase agreement is signed by both parties. If Foundation wishes to terminate this Agreement and the purchase agreement because it determines during this thirty (30) day right of entry period that the Property is not suitable for Foundation's use, Foundation shall give written notice to Kruger of such termination within said thirty (30) day period. If termination of this Agreement and the purchase agreement is made after the thirty (30) day period, Kruger may retain, at its sole option, Foundation's entire Earnest Deposit.

IX.

REAL ESTATE TAXES: Real Estate taxes for the year of sale, as set by Saunders County, Nebraska, or based upon the previous year's real estate taxes, shall be paid by the party receiving the landlord's portion of the crop income from Property for the year of sale.

X.

DEFAULT: This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto and upon default in any of the terms of this Agreement, the defaulting party agrees to pay all costs of court and a reasonable attorney's fee.

XI.

GOVERNING LAW: This Agreement shall be governed by the laws of the State of Nebraska.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate, on this the 8th day of OCTOBER, 2008.

KRUGER COMMODITIES, INC
(KRUGER)

BY:

James H. Kruger
James H. Kruger, Its President

GREATER WAHOO DEVELOPMENT
FOUNDATION (FOUNDATION)

BY:

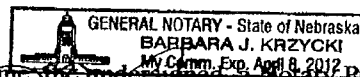
[Signature]
Its President

STATE OF NEBRASKA)
COUNTY OF Douglas) ss.

On this 8th day of October

2008

before me



[Signature]

Public in and
10-08-2008