
PURCHASE AND SALE AGREEMENT

between

ABBAY ROAD PROPERTIES, LLC

Seller

and

THE CITY OF NORTH ROYALTON

Purchaser

Parcel Numbers: Parcel Numbers: 483-04-002 and 483-04-003

**Street Address: Vacant land - York Beta Drive,
North Royalton, Ohio 44133**

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made as of this date June 2, 2023, by and between Abbey Road Properties LLC with its principal place of business located at address (the "Seller"), and the City of North Royalton, Ohio, a municipal corporation with its principal place of business located at 14600 State Road, North Royalton, Ohio 44133 (the "Purchaser").

WITNESSETH:

In consideration of and upon the terms and conditions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

1.1 Definitions. Except as may otherwise be expressly provided herein, and in addition to the other terms which are defined hereinabove or in subsequent paragraphs of this Agreement, the following terms, whenever set forth in initial capitals in this Agreement, shall have the respective meanings set forth hereinbelow:

"Balance of the Purchase Price" means the Purchase Price (a) less the Deposit (to the extent then held by Title Insurer), and (b) plus or minus the net sum of the prorations, allocations, charges, credits, withholdings and other adjustments as provided for in this Agreement.

"Business Day" means, collectively, any day other than a Saturday, Sunday or legal holiday in the State of Ohio.

"Closing" means the transfer of title to the Property to Purchaser and the related transactions required by the terms of this Agreement to occur contemporaneously therewith.

"Closing Date" means on or about September 15, 2023 as such date for Closing may be further extended pursuant to the provisions of Sections 4.3, 9.3 and 13.3 hereof, or some other date for Closing that is mutually agreed to in writing by the parties.

"Closing Documents" means the Seller Closing Documents and the Purchaser Closing Documents, without distinction between them.

"Control" (and the correlative terms "Controlled by", "Controlling" and "under common Control with") of a Person means the possession, direct or indirect, of the power to direct or cause the direction of the business and affairs of such Person, whether by contract, through ownership of any equity interest (stock, partnership, membership or otherwise) in any Person or otherwise.

"Cutoff Date" means 11:59 p.m. on the day preceding the Closing Date.

"Damage Notice" shall have the meaning set forth in Section 9.1 hereof.

"Damages" means any and all actual losses, costs, claims, liabilities, damages, obligations, judgments, settlements, awards, offsets, fees and expenses (including, without limitation, reasonable attorneys' fees and expenses), fines, penalties, and charges.

"Deed" means the Warranty Deed that is attached hereto as Exhibit C.

"Deposit" shall mean the sum of \$5,000.00, together with interest earned thereon, if any, and any additional amounts deposited with Title Insurer pursuant to and in accordance with the provisions of this Agreement.

"Disapproval Notice" means a written notice given by Purchaser identifying any title matter related to the Property which Purchaser disapproves pursuant to Section 4.3 hereof.

"Due Diligence Period" means the period of time from the date of final agreement execution through and including September 1, 2023 or as extended by agreement of the Parties.

"Environmental Laws" means all present and future federal, state and local laws, ordinances, regulations, standards, rules, policies and other governmental requirements, administrative rulings, court judgments and decrees, and all amendments thereto, relating to pollution or protection of human health, natural resources or the environment (including ambient air, surface water, ground water, land surface or subsurface strata) including such laws governing or regulating the use, generation, storage, removal, remediation, recovery, treatment, handling, transport, disposal, control, release, discharge of, or exposure to, Hazardous Materials. Environmental Laws include the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.*, the Toxic Substances Control Act, 15 U.S.C. Section 2601, *et seq.*, the Clean Water Act, 33 U.S.C. Section 1251, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, *et seq.*, the Clean Air Act, 42 U.S.C. Sections 7401-7661, *et seq.*, the Safe Drinking Water Act, 42 U.S.C. Section 300f, *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. Chapter 15, *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251-1376, *et seq.*, the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136, *et seq.*, and the River and Harbors Appropriation Act, 33 U.S.C. Section 403, *et seq.*, and their state and local analogs.

"Filing Documents" means the Deed.

"FIRPTA Affidavit" means the FIRPTA Affidavit that is attached hereto and made a part hereof as Exhibit G.

"Governmental Authority" means the government of the United States, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Hazardous Materials" means, but is not limited to, any substance, chemical, material or waste now or in the future defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "toxic pollutant," "contaminant" or "pollutant" (a) within the meaning of any Environmental Laws, or (b) the presence of which causes a nuisance or trespass of any kind;

petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; radon; carcinogenic materials; explosives; flammable materials; infectious materials; corrosive materials; mutagenic materials; radioactive materials; polychlorinated biphenyls (PCBs) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Real Property is prohibited by any federal, state or local authority; any substance that is designated, classified or regulated pursuant to any Environmental Laws; and any medical products or devices, including those materials defined as "medical waste" or "biological waste" under relevant statutes or regulations pertaining to any Environmental Laws.

"Insurance Coverage" means the liability and property damage insurance coverage that is applicable to the Property hereto and/or any alternate insurance coverage that may be adopted by Seller pursuant to the provisions of Section 5.5 hereof.

"Land" means, collectively, those certain plots, pieces or parcels of land legally described in Exhibit A hereto.

"Laws" means all applicable laws, ordinances, rules, regulations, codes, orders and requirements of any federal, state or local court or Governmental Authority.

"Liens" means any monetary liens and/or security interests that can be removed solely by the payment of a liquidated amount and that encumber any part of the Property, including but not limited to mortgages, deeds of trust, mechanics, materialmen's, judicial, tax or governmental liens of any nature whatsoever relating to the Property.

"Permitted Exceptions" means, collectively, all matters that are referred to in Exhibit B hereto or in the documents and instruments referred to therein, together with any additional encumbrances or other matters approved or deemed approved by Purchaser pursuant to the provisions of Section 4.3 hereof.

"Person" means a natural person, a general or limited partnership, a corporation, a limited liability company, a trust, an unincorporated association, a government or any department or agency thereof, or any other juridical entity.

"Prohibited Activities or Conditions" means any of the following:

(a) the presence, use, generation, release, treatment, processing, storage (including storage in above-ground and underground storage tanks, except as previously disclosed by Seller to Purchaser in writing that any such tank complies with all requirements of Environmental Laws), handling or disposal of any Hazardous Materials on or under the Land or any other property owned by Seller that is adjacent to the Land without authorizations and/or permits required under Environmental Laws; and/or

(b) any occurrence or condition on the Land, which occurrence or condition is or may be in violation of or noncompliance with Environmental Laws, or in violation of or noncompliance with the terms of any environmental permit; and/or

(c) any activities on the Land that directly being contaminated with Hazardous Materials or which may cause such other property to be in violation of or noncompliance with Environmental Laws.

"Property" means the Real Property.

"Purchase Price" means \$30,000 per acre (6.648 acres) for a total amount of One Hundred Ninety- Nine Thousand Four Hundred Forty Dollars (\$199,440.00).

"Purchaser Closing Documents" shall have the meaning set forth in Section 8.3 hereof.

"Purchaser's Authority Certificate" means the Purchaser's Certified Ordinance, attached hereto as Exhibit D.

"Real Property" means, collectively, the fee simple estate of Seller in and to the Land, together with all buildings and improvements thereon, and appurtenances thereunto belonging, located at York Beta Drive North Royalton, Ohio ppn. 483-04-002 and 483-04-003.

"Seller Closing Documents" shall have the meaning set forth in Section 8.2 hereof.

"Taxes" shall have the meaning set forth in Section 7.1(b) hereof.

"Title Commitment" means, collectively, the ALTA Commitment for Title Insurance-2006 issued by Title Insurer relative to the Real Property, to be delivered on or before July 15, 2023, as amended, modified and supplemented to the Closing Date, committing to the issuance of the Title Policy.

"Title Insurer" means Chicago Title Insurance Company/First American Title Insurance Company, Old Republic National Title Insurance Company, Stewart Title Guaranty Company, or another reputable national title insurer selected by Seller that is reasonably acceptable to Purchaser, and any such insurer's subsidiaries and/or affiliates.

"Title Policy" means an ALTA Owner's Policy of Title Insurance-2006 issued by Title Insurer insuring Purchaser as owner of the Real Property in the amount of the Purchase Price, subject only to the Permitted Exceptions, together with such endorsements thereto as are (a) approved for use in the State of Ohio, (b) requested by Purchaser, and (c) agreed to by Title Insurer.

ARTICLE 2. **AGREEMENT TO SELL**

Agreement. On and subject to the terms and conditions contained in this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the Real Property, PPN 483-04-002 and 483-04-003, Exhibit A, **contingent on North Royalton City Council authorization of the purchase of the property by ordinance prior to the closing date. Failure to obtain council authorization shall terminate this Agreement.**

2.1 Purchase Price. The Purchase Price for the Property shall be payable as follows:

- (a) Within five (5) days from the final agreement execution date, Purchaser has heretofore deposited the Deposit with Title Insurer, by wire transfer of immediately available federal funds, which, together with all interest or other earnings accrued on such sum, shall serve as earnest money for this transaction.
- (b) Purchaser shall, on the Closing Date, deposit the Balance of the Purchase Price in immediately available federal funds for immediate credit into the escrow account established by Title Insurer for this transaction.

2.2 Deposit.

- (a) The Deposit shall be held by Title Insurer in escrow and shall be invested by Title Insurer in short-term obligations of the U. S. Treasury. The interest earned on the Deposit shall accrue to the benefit of the party to this Agreement entitled to receive the Deposit pursuant to the terms of this Agreement.

ARTICLE 3. **PURCHASER'S DUE DILIGENCE**

3.1 Purchaser's Due Diligence. Purchaser shall be allowed to conduct the due diligence prior to closing of the Real Property to complete an examination of the Land and/or to perform or to cause to be performed such tests, studies, reviews and examinations as may be deemed necessary or advisable by Purchaser, including, without limitation, title searches, surveys, engineering and environmental site assessments, including but not limited to as specified further below:

- (a) Purchaser's review of copies of any site plans and building drawings and specifications currently in Seller's possession.
- (b) Seller shall order Phase 1 environmental site assessment, and Phase 2 testing, at Purchaser cost. Seller shall provide such reports for Purchaser's review of all environmental reports prepared for Seller and/or in Seller's possession.
- (d) Seller agrees to authorize Purchaser, to perform, at Purchaser's sole cost and expense, studies, physical inspections, investigations and tests on the Property (the "Tests"), including Invasive Tests, but are not limited to, any tests or testing beyond a Phase I environmental site assessment, such as collecting or testing asbestos, water, radon, soil or air samples as may be required under a Phase II. Purchaser shall be required to conduct such Tests in a manner as to not disturb or interfere with the current use of the Property and upon completion of such Tests, Purchaser agrees at its sole cost to restore the Property to the condition it was in immediately prior to such Tests, including, but not limited to the immediate removal of anything placed on the Property in connection with such Tests.

All inspections, studies, tests, and other evaluations of the Property and all reviews and assessments of the Building Information are specifically subject and subordinate to the provisions of this Agreement.

3.2 Termination Right. Purchaser may elect to terminate this Agreement at any time during the Due Diligence Period if Purchaser, in its sole discretion, is not satisfied with the results of its due diligence review for any reason whatsoever. Any such election to terminate shall be exercisable by Purchaser's delivery to Seller of a written notice of termination on or prior to the expiration of the Due Diligence Period. If Purchaser shall exercise said election to terminate in the manner and within the time aforesaid, the Deposit shall be returned to Purchaser and this Agreement shall thereupon be null and void and of no further force or effect.

3.3 Responsibility of Purchaser. Purchaser agrees to repair any damage to the Property caused by the entry of Purchaser or any of Purchaser's agents, employees, contractors and other representatives upon the Property, and Purchaser shall be responsible for any and all Damages caused by or resulting from any inspections, surveys, tests, acts or omissions of Purchaser, its agents, employees, contractors, and other representatives while at the Property. .

ARTICLE 4. **TITLE AND SURVEY**

4.1 Title and Survey. Seller has or shall furnish to Purchaser the Title Commitment and copies of the documents and instruments referred to in the Title Commitment. Purchaser may, in its sole and absolute discretion, and at Purchaser's sole cost and expense, obtain a current ALTA/ACSM building location survey of the Real Property showing all buildings and improvements thereon, all areas encumbered by appurtenant easements, and all areas affected by exceptions to coverage shown in the Title Commitment, from a licensed surveyor selected by Purchaser, which survey shall be certified to Seller, Purchaser, Purchaser's lender, and Title Insurer (the "Survey") prior to the end of the Due Diligence Period and Purchaser shall deliver copies thereof to Seller and Title Insurer prior to the end of the Due Diligence Period. Seller shall provide Purchaser's surveyor with access to the Property for the purpose of completing said Survey.

4.2 Liens. Seller shall remove at or before Closing all Liens that are not Permitted Exceptions and such obligation shall not be subject to the notice or other requirements of Section 4.3. Notwithstanding the foregoing, Seller shall have the right to satisfy Liens from sale proceeds at Closing.

4.3 Approval/Disapproval of Additional Title Exceptions. Purchaser shall have the right to approve or disapprove (i) the Permitted Exceptions during the Due Diligence Period, and (ii) any and all exceptions to title that are not Permitted Exceptions and are shown or referenced on the Survey and/or are added to the Title Commitment as additional exceptions to coverage after the Offer Date but before the Closing Date (collectively, "additional title exceptions"), in the exercise of Purchaser's sole discretion, on or before ten (10) days following receipt of notice of such additional title exceptions accompanied by copies of any document or instrument evidencing or referring to such additional title exceptions. If Purchaser disapproves any Permitted Exceptions during the Due Diligence Period, or any additional title exceptions, Purchaser shall deliver to Seller

a Disapproval Notice. If Purchaser fails to give Seller such Disapproval Notice as to any of the Permitted Exceptions during the Due Diligence Period, and as to any additional title exceptions during said ten (10) day period, Purchaser shall be deemed to have approved such Permitted Exceptions or such additional title exceptions (as the case may be).

With respect to any title exceptions referred to in any such Disapproval Notice (such title exceptions being collectively referred to as "Disapproved Title Matters"), Seller shall notify Purchaser in writing within ten (10) days after receipt of the Disapproval Notice whether Seller will cause all or any Disapproved Title Matters to be removed or cured at or prior to Closing, and Seller shall be deemed to have elected not to remove or cure all Disapproved Title Matters by Closing if Seller does not notify Purchaser to the contrary in writing within such ten (10) day period. If Seller elects or is deemed to have elected not to remove or cure all Disapproved Title Matters, Purchaser may elect, in its sole discretion, by giving written notice to Seller within five (5) days after receipt of Seller's designation of those Disapproved Title Matters, if any, that Seller will not cause to be removed or cured at or prior to Closing (or its deemed election relative thereto, as the case may be), either: (a) (subject to satisfaction of the other conditions to Closing) to close the purchase of the Property and take title to the Property subject to the Disapproved Title Matter(s) that Seller elects or is deemed to have elected not to remove or cure, without any reduction in the Purchase Price (in which event such Disapproved Title Matters shall be deemed to be Permitted Exceptions hereunder) or (b) to terminate this Agreement, in which event the provisions of Section 4.4 shall apply. If Purchaser does not give such written notice within said five-day period, it shall be deemed to have elected the option in clause (a) above. Seller shall have up to thirty (30) days following its said election to remove or cure any Disapproved Title Matters that it has elected to remove or cure, subject to extensions of such period as Seller may request and Purchaser, in its sole discretion, may elect to grant to Seller. The Closing Date shall be extended as necessary to permit the parties to exercise their respective rights and obligations under this Section 4.3, but not beyond 30 days.

If any Disapproved Title Matters that Seller has elected to remove or cure have not been removed or cured at or prior to Closing (as same may be extended pursuant to the provisions of Section 4.3 hereof), or provision for their removal or cure by Closing has not been made to Purchaser's satisfaction, Purchaser may elect, in its sole discretion: (a) (subject to satisfaction of the other conditions to Closing) to close the purchase of the Property and take title to the Property subject to any Disapproved Title Matters that have not been cured or removed at or before Closing, without any reduction in the Purchase Price (in which event such Disapproved Title Matters shall be deemed to be Permitted Exceptions hereunder), or (b) to terminate this Agreement, in which event the provisions of Section 4.4 shall apply.

4.4 Termination. In the event that Purchaser elects to terminate this Agreement pursuant to and in accordance with the provisions of Section 4.3 hereof, Seller shall pay all fees, costs, and expenses of Title Insurer theretofore incurred in connection with the transaction contemplated hereby, which obligation shall survive the termination of this Agreement, Title Insurer shall promptly return the entire Deposit (and all interest earned thereon) to Purchaser, and this Agreement (except those provisions hereof which expressly survive a termination of this Agreement) shall then terminate, and the parties hereto shall be released and relieved of and from all obligations to one another under this Agreement or otherwise with respect to the transactions

contemplated hereby (except those obligations which expressly survive a termination of this Agreement).

ARTICLE 5.
REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF SELLER AND
PURCHASER

5.1

- (a) **Applicable Laws/Ordinances.** All contracts with Purchaser, including this Agreement, are subject to the North Royalton Charter and Ordinances and all applicable laws, ordinances, resolutions, regulations, rules and policies of the Purchaser.
- (b) **No Apparent Authority.** Seller recognizes and agrees that no public official or employee of Purchaser may be deemed to have apparent authority to bind Purchaser to any contractual obligations not properly authorized pursuant to Purchaser's Ordinance authorizing the purchase of the Property.
- (c) **No Indemnity.** Seller acknowledges that as an Ohio political subdivision, Purchaser does not indemnify any person or entity, and agrees that no provision of this Agreement or any other contract or agreement between Purchaser and Seller may be interpreted to obligate Purchaser to indemnify or defend Seller or any other party.
- (d) **Payments.** Both parties warrants and represents that it has not employed or retained any company, firm or person, other than a bonafide employee working for Purchaser, for any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.
- (e) **Findings for Recovery.** Seller represents and warrants that it is not subject to an "unresolved" finding for recovery under Ohio Revised Code Section 9.24.

5.2 Seller's Environmental Representations and Warranties. Seller makes the following representations and warranties to Purchaser:

- 1. Seller is not in possession of any inspections that have not been provided to Purchaser, nor have any inspections been conducted by or on behalf of Seller that have not been provided to Purchaser;
- 2. Sellers have truthfully and fully provided to Purchaser any and all information relating to conditions in, on, under or from the Land that is known to the Seller and that is contained in files and records of the Seller, including but not limited to any reports relating to Hazardous Materials in, on, under or from the Land and/or to the condition of the Property;

3. Seller has not at any time engaged in, caused or permitted any Prohibited Activities or Conditions;
4. To the best of Seller's knowledge, no Prohibited Activities or Conditions exist or have existed on the Land or on any adjacent property owned by Seller;
5. The Land does not now contain any underground storage tanks, and, to the best of Seller's knowledge, the Land has not contained any underground storage tanks in the past.
6. Seller has complied with all Environmental Laws, including all requirements for notification regarding releases of Hazardous Materials. Without limiting the generality of the foregoing, Seller has maintained all environmental permits required for the operation of the Land in accordance with Environmental Laws now in effect, Seller has disclosed all such environmental permits to Purchaser, and all such environmental permits are in full force and effect;
7. No event has occurred with respect to the Land that constitutes, or with the passing of time or the giving of notice would constitute, noncompliance with the terms of any environmental permit;
8. There are no actions, suits, claims or proceedings pending or, to the best of Seller's knowledge, threatened that involve the Land and allege, arise out of or relate to any Prohibited Activity or Condition; and
9. Seller has no knowledge or reason to know of any violation or condition that would create liability to any owner or operator, with respect to, and has not received any complaint, order, notice of violation or other communication from any Governmental Authority with regard to air emissions, water discharges, or Hazardous Materials, or any other environmental, health or safety matters affecting the Land or any other property owned by Seller that is adjacent to the Land.

The representations and warranties in this Agreement shall be continuing representations and warranties that shall be deemed to be made by Seller and shall survive Closing.

5.3 Environmental Obligations. Seller agrees to pay for any and all costs, losses, liabilities, claims, damages, expenses, penalties or fines of any kind whatsoever paid, incurred or suffered by, or asserted against the Purchaser in connection with, arising out of or resulting in any, whatsoever, from the following:

1. The breach of any representation, warranty, or agreement contained in this Agreement; and/or
2. Any actual violation of any Environmental Laws made by Seller or its agents and assigns before the Closing Date.

5.4 Insurance Coverage. Seller agrees to maintain or cause to be maintained the Insurance Coverage in effect (or such alternate insurance as may be adopted by Seller for insurance of its portfolio of real property) through the Closing. Purchaser shall secure its own insurance with respect to the Property effective as of Closing, and Seller shall have the right to terminate the Insurance Coverage effective as of the Closing. Any unearned premiums and the unabsorbed portions of any deposits with respect to the Insurance Coverage shall belong solely to Seller.

5.5 Possession. Seller shall deliver possession of the Property to Purchaser upon the completion of the Closing, subject to the Permitted Exceptions, the Filing Documents, Seller shall remove prior to Closing, all debris, dirt, extraneous material, equipment, or other items collected, stored, or located on the Land.

ARTICLE 6.

CONDITIONS TO CLOSING

6.1 Conditions to Seller's Obligations. The obligations of Seller under this Agreement are subject to satisfaction on or prior to the Closing Date of the conditions set forth in this Section 6.1. Each such condition is solely for the benefit of Seller and may be waived in whole or in part by Seller in its sole discretion by written notice to Purchaser:

- (a) Purchaser has performed and complied with all of its obligations under this Agreement that are to be performed or complied with by Purchaser prior to or on the Closing Date.
- (b) Neither Purchaser nor Seller, as the case may be, has terminated this Agreement pursuant to any right of termination set forth herein.
- (c) Purchaser has delivered the Purchaser Closing Documents and paid the Balance of the Purchase Price to Title Insurer, and Seller has received the Purchaser Closing Documents and full Purchase Price, less prorations, costs and expenses properly chargeable to Seller hereunder.
- (d) The Title Insurer shall be irrevocably bound to issue the Title Policy pursuant to and in strict accordance with the provisions of this Agreement.
- (e) The representations and warranties of Purchaser that are set forth in Section 5.1 hereof shall be true and correct at and as of the Closing Date as though such representations and warranties were made at and as of the Closing Date.

6.2 Conditions to Purchaser's Obligations. The obligations of Purchaser under this Agreement are subject to satisfaction on or prior to the Closing Date of the conditions set forth in this Section 6.2. Each such condition is solely for the benefit of Purchaser and may be waived in whole or in part by Purchaser in its sole discretion by written notice to Seller:

- (a) Seller has performed and complied with all of its obligations under this Agreement that are to be performed or complied with by Seller prior to or on the Closing Date.

(b) Neither Purchaser nor Seller, as the case may be, has terminated this Agreement pursuant to any right of termination set forth herein.

(c) North Royalton City Council has duly authorized the purchase of the property by ordinance prior to the closing date. Failure to obtain council authorization shall terminate this Agreement, and any obligation of Purchaser.

(d) Seller has delivered the Seller Closing Documents to Title Insurer, and Purchaser has received the Seller Closing Documents.

(e) On or prior to the Closing Date: (i) Seller shall not have applied for or consented to the appointment of a receiver, trustee or liquidator for itself or any of its assets unless the same shall have been discharged prior to the Closing Date, (ii) Seller shall not have admitted in writing an inability to pay its debts as they mature, (iii) Seller shall not have made a general assignment for the benefit of creditors, (iv) Seller shall not have been adjudicated bankrupt or insolvent, or had a petition for reorganization granted with respect to Seller, or (v) Seller shall not have filed a voluntary petition seeking reorganization or an arrangement with creditors or taken advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or filed an answer admitting the material allegations of a petition filed against it in any proceedings under law, or had any petition filed against it in any proceeding under any of the foregoing laws unless the same shall have been dismissed, canceled or terminated prior to the Closing Date.

(b) The Title Insurer shall be irrevocably bound to issue the Title Policy pursuant to and in strict accordance with the provisions of this Agreement.

6.3 Failure of Conditions - Deposit. If any of the conditions to Seller's obligations under Sections 6.1 (but only if the Title Insurer will not issue the Title Policy because of the acts or omissions of Seller, or if Seller, through no fault of Purchaser, is otherwise unable to convey the Property subject only to the Permitted Exceptions), or any conditions to Purchaser's obligations under Sections 6.2 (but only if the Title Insurer will not issue the Title Policy because of the acts or omissions of Seller, or if Seller through no fault of Purchaser, is otherwise unable to convey the Property subject only to the Permitted Exceptions) are not satisfied or waived by the applicable party entitled to the benefit of such conditions as specified herein on or prior to the Closing Date, then the Deposit shall be promptly returned to Purchaser and this Agreement shall thereupon be null and void and of no further force or effect, and the parties hereto shall be released and relieved of and from all liability and obligations to one another under this Agreement, except those provisions which expressly survive a termination of this Agreement.

ARTICLE 7.

APPORTIONMENTS AND PAYMENTS

7.1 The following items pertaining to the Property shall be prorated or credited by the Parties as of the Cutoff Date, and appropriate adjustments made to the Purchase Price on the Closing Date or at the times and in the manner set forth below:

- (a) Taxes. All taxes and assessments, both general and special (collectively, "Taxes"), for the 2023 ad valorem real estate tax fiscal year to the Cutoff Date and all prior years, if any, shall be the sole responsibility of Seller, and all such taxes and assessments for the period thereafter shall be the sole responsibility of Purchaser. Taxes shall be prorated based on the latest available tax duplicate.
- (b) Utilities. Seller shall have all meters for steam, electricity, natural gas, and water and sewer service (collectively, "Utility Service"), furnished to the Property read, final billings issued to Seller by the serving utilities, and all accounts transferred to Purchaser as of the Cutoff Date. Seller shall pay for all Utility Service furnished to the Property prior to the Cutoff Date. Purchaser shall pay for all Utility Service furnished to the Property on and after the Cutoff Date.
- (c) Other Items of Revenue and Expense. All other customarily prorated items of revenue and expense (including ground rent, if any) that are not specifically referred to in this Section 7 shall be prorated between the parties hereto as of the Cutoff Date. Except with respect to expense items prorated as of and on the Cutoff Date, Seller shall be responsible for payment of any and all bills or charges incurred by Seller on or prior to the Cutoff Date for work, services, supplies or materials furnished to the Property, and Purchaser shall be responsible for payment of any and all bills or charges incurred after the Cutoff Date for work, services, supplies or materials.

7.2 Closing Proration Statement. At least five business days prior to the Closing Date, Seller shall prepare and deliver to Purchaser a proration statement in reasonable detail showing each item prorated, allocated or adjusted in accordance with this Section 7, in such form as fairly reflects such prorations, allocations and adjustments to the reasonable satisfaction of Purchaser and Seller (the "Closing Proration Statement"). If an item is not known as of the Cutoff Date, such item shall be prorated and adjusted based on a reasonable estimate thereof, unless otherwise provided herein. All such prorations and adjustments shall be final unless otherwise specifically agreed in writing by Seller and Purchaser herein or otherwise.

7.3 Calculation. All prorations shall be based upon the actual number of days in the applicable period (i.e., calendar year or calendar month), and the actual number of days elapsed in each such period.

7.4 Intent. The purpose and intent of the provisions on apportionment and proration set forth in this Section 7 is that Seller shall bear all expenses of ownership and operation of the Property, and shall receive all revenue therefrom, accruing through the Cutoff Date, and Purchaser shall bear all such expenses, and receive all such revenue, accruing thereafter, on and subject to the provisions hereof.

ARTICLE 8.
CLOSING

8.1 Closing. Provided all conditions set forth in Sections 6.1 and 6.2 hereof have been either satisfied or waived, the Closing shall take place on the Closing Date at the office of the Title Insurer in Cleveland, Ohio, or such other date or place as the parties shall agree; provided, however, that either party shall have the right to close by depositing its Closing Documents and funds due from it in escrow with the Title Insurer, and in such case it shall not be required to attend the Closing.

8.2 Seller Closing Documents. On or before the Closing Date, or, if a deadline is specified below, by such deadline, Seller shall deliver, directly to Purchaser or to Title Insurer, as is specified in Section 8.4 hereof, the number of executed original counterparts specified below of each of the following documents with respect to the Property (collectively, the "Seller Closing Documents"):

- (a) One (1) counterpart of the Deed.
- (b) One (1) counterpart of the FIRPTA Affidavit.
- (c) Such other documents, instruments or agreements as Seller may reasonably be required to execute and/or deliver on or prior to Closing pursuant to any provision of this Agreement, the Laws, or as may reasonably be required by the Title Insurer.

In addition, at or prior to Closing, Seller shall also deliver to, or at the direction of, Purchaser all keys, security codes, files, books, records, surveys, plans, specifications, and other written information or documents relating to the Property in Seller's possession and control.

8.3 Purchaser Closing Documents. On or before the Closing Date, or, if a deadline is specified below, by such deadline, Purchaser shall deliver, directly to Seller or to Title Insurer, as is specified in Section 8.4 hereof, the number of executed original counterparts specified below of each of the following documents with respect to the Property (collectively, the "Purchaser Closing Documents"):

- (a) Three (3) counterparts of Purchaser's Authority Certificate.(City Council ordinance)
- (b) One (1) counterpart of the Statement of Reason for Exemption.
- (c) Such other documents, instruments or agreements as Purchaser may reasonably be required to execute and/or deliver on or prior to Closing pursuant to any provision of this Agreement, by Laws, or as may be reasonably required by Title Insurer.

8.4 Occurrence of Closing. Seller shall deposit with Title Insurer the Deed, and Seller and Purchaser shall deposit jointly with Title Insurer counterpart executed copies of the other Closing Documents. The Filing Documents shall be filed and recorded by Title Insurer in the

official land records of Cuyahoga County, Ohio serially with no intervening documents or instrument between them, and prior in time and in right to any mortgage liens or other encumbrances created by, for the benefit of, or at the direction of, Purchaser or its Affiliates. The foregoing order of recording shall be strictly adhered to. The Closing shall be deemed to have occurred upon the completion of the following:

- (a) Delivery of the Filing Documents to Title Insurer;
- (b) Delivery of the other Seller Closing Documents to Purchaser and of the other Purchaser Closing Documents to Seller; or the written acknowledgment of Title Insurer that it holds all such documents and the unconditional and irrevocable written commitment of Title Insurer to effect such delivery on the Closing Date;
- (c) Seller's receipt of the full Purchase Price, less prorations, costs and expenses properly chargeable to Seller hereunder; and
- (d) Issuance of the Title Policy to Purchaser in strict accordance with the provisions of this Agreement or the irrevocable commitment of Title Insurer to so issue the Title Policy.

8.5 Closing Costs. Costs of the transactions contemplated hereby shall be paid in accordance with the following provisions:

- (a) Title Insurer shall charge to Seller and pay out of the Purchase Price: (i) the costs of examination of title and issuance of the Title Commitment (ii) the cost of the conveyance fees and/or transfer taxes required by law to be paid at the time of filing the Deed, (iii) the costs of satisfying any taxes, assessments, liens or encumbrances required to be discharged in accordance with the terms hereof, together with the costs of recording the cancellation thereof and any costs incidental thereto, (iv) any amounts due Purchaser by reason of prorations, (v) one-half (1/2) of the escrow fee. The parties shall arrange for final meter readings of all metered utility services within five (5) days prior to the Closing Date as contemplated by Section 7.1(c) hereof. Title Insurer shall withhold \$5,000.00 from the proceeds due Seller for the final water and sewer bill. Upon receipt of proof of payment of the final sewer and water bill, any overage shall be promptly refunded to Seller by Title Insurer. Seller agrees to promptly remit payment to Title Insurer of any shortage due if \$5,000.00 is insufficient to pay the final sewer and water bill.
- (b) The Title Insurer shall charge to Purchaser and pay out of the purchase price: (i) the cost of the Survey (ii) the cost of the Title Policy, (ii) the costs incident to filing the Filing Documents and any mortgage(s) placed upon the Property, (iii) any other costs incident to obtaining any Purchaser financing, (iv) the amount of any prorations due Seller hereunder, (v) the cost of all physical and environmental inspections ordered by Purchaser (if

not paid outside of closing), (vi) one-half (1/2) of the escrow fee, and (vii) the cost of all title insurance endorsements required hereby, by Purchaser, and by Purchaser's lender.

- (c) Each party shall be responsible for all other costs, expenses and fees that it incurs in negotiating and performing its obligations under this Agreement.

ARTICLE 9.

DAMAGE OR DESTRUCTION - CONDEMNATION

9.1 Notice. In the event of any damage to or destruction or condemnation of any portion of the Property prior to Closing (other than *de minimis* damage thereto, destruction thereof, or condemnation thereof), Seller shall send written notice thereof to Purchaser within five (5) days after the date of the occurrence thereof (the "Damage Notice"). Not later than fifteen (15) days after Seller's delivery to Purchaser of the Damage Notice, Purchaser shall determine, and shall notify Seller in writing, whether a Material Part of the Property has been damaged, or whether such taking or threatened taking has affected or will affect a Material Part of the Property. For purposes of this Article 9, Purchaser may determine that a "Material Part" of the Property has been damaged or taken if (a) in the case of damage to or destruction of any portion of the Property, the estimated cost of repairing the damage (whether or not insured) will, in Purchaser's reasonable judgment equal or exceed One Hundred Thousand Dollars (\$100,000.00), or (b) in the case of a taking or threatened taking pursuant to the power of eminent domain, the value of the Property is or will, in Purchaser's reasonable judgment, be reduced by One Hundred Thousand Dollars (\$100,000.00) or more.

- (a) If Purchaser determines that a Material Part of the Property has been damaged, or that a Material Part of the Property has been or will be affected by the taking or threatened taking, Purchaser may elect, by written notice delivered to Seller within fifteen (15) days after giving Seller notice of such determination, to terminate this Agreement, in which event the Deposit shall be returned to Purchaser;
- (b) In the case of damage to a Material Part of the Property, if Purchaser does not elect to terminate this Agreement in the manner and within the time aforesaid, Purchaser shall be obligated to proceed to Closing without diminution of the Purchase Price, Seller shall (i) deliver to Purchaser at Closing all insurance proceeds received on account of such damage, and (ii) assign to Purchaser at Closing its right to recover under any insurance policies covering such damage, and (iii) pay to Purchaser the amount of any deductibles or self-insured amounts; provided, however, that the foregoing delivery of proceeds, assignment of rights, and payment of deductible and self-insured amounts shall not include those relating to business interruption or rent loss for the period prior to Closing; and
- (c) In the case of a threatened or actual taking of a Material Part of the Property, if Purchaser does not elect to terminate this Agreement in the manner and within the time aforesaid, Purchaser shall be obligated to proceed to Closing

without diminution of the Purchase Price, Seller shall (i) pay and deliver to Purchaser at Closing all condemnation awards and other proceeds received in connection with the taking, and (ii) assign to Purchaser at Closing Seller's entire right, title and interest in and to all awards and other proceeds connected with the taking; provided, however, that the foregoing delivery and payment of proceeds and awards shall not include those relating to revenue from the Property for the period prior to Closing.

9.2 Non-Material Damage. In the event of any damage to or destruction or condemnation of any portion of the Property prior to Closing that does not or will not affect a Material Part of the Property, the Closing Date shall not be extended, Purchaser shall be obligated to proceed to Closing without diminution of the Purchase Price, and Seller shall (i) deliver to Purchaser at Closing all insurance or condemnation proceeds received on account of such damage or taking (other than those relating to business interruption, rent loss and revenue for the period prior to the Closing) and (ii) assign to Purchaser at Closing Seller's right to recover such insurance or condemnation proceeds, and (iii) pay to Purchaser the amount of any deductibles or self-insured amounts.

9.3 Loss Adjustments. The Closing Date shall be extended as necessary to permit Purchaser and Seller to exercise their rights within the time periods set forth in this Article 9, but not beyond September 1, 2023. In connection with any claim with respect to insurance or condemnation proceeds pursuant to this Article 9, Seller shall not settle or approve settlement of any claim without Purchaser's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed, and Purchaser and Seller shall fully cooperate with each other in prosecuting diligently the recovery of any such claim(s).

9.4 Seller's Right to Terminate Notwithstanding anything to the contrary, in the event of any damage to or destruction of any portion of the Property prior to Closing and Purchaser determines that a Material Part of the Property has been damaged, if Seller determines that the insurance proceeds payable in connection with such damage or destruction together with the amount of any deductibles or self-insured amounts exceeds the Purchase Price, Seller may elect, by written notice delivered to Purchaser within fifteen (15) days after giving Purchaser notice of such determination, to terminate this Agreement, in which event the Deposit shall be returned to Purchaser.

ARTICLE 10. **DEFAULT**

10.1 Seller's Default. In addition to the rights and remedies set forth in Section 10.6 hereof, if Seller shall fail to observe or perform any of its obligations hereunder, and if such failure is not cured within ten (10) days after written notice to Seller specifying such failure, Purchaser shall have the right to elect either to (a) waive such failure or default and proceed to Closing without any reduction or abatement of the Purchase Price, except as to Liens of an ascertainable amount required to be removed pursuant to Article 4 hereof, and without any claim against Seller with respect to such failure, or (b) terminate this Agreement.

10.2 Purchaser's Default. In addition to the rights and remedies set forth in Section 10.6 hereof, if Purchaser shall fail to observe or perform any of its obligations hereunder including, without limitation, Purchaser's failure to close due to insufficient funds, and if such failure is not cured within ten (10) days after written notice to Purchaser specifying such failure, Seller shall have the right to elect to either (a) waive such failure or default and proceed to Closing notwithstanding such default by Purchaser, or (b) terminate this Agreement, in which event the Deposit shall be promptly paid to Seller as full and complete liquidated damages (and not as a penalty or forfeiture) in lieu of any and all other legal and equitable rights and remedies that Seller may have hereunder or at law or in equity, and neither party shall thereupon have any claims against or liability to the other hereunder or otherwise.

10.3 Closing is a Waiver.

- (a) In the event that Closing actually occurs, then the occurrence of such Closing shall be deemed a complete waiver by Purchaser of all of its rights to make any claim for Seller's failure to perform any of its obligations under this Agreement that are required to be performed prior to or on the Closing Date.
- (b) In the event that Closing actually occurs, then the occurrence of such Closing shall be deemed a complete waiver by Seller of all of its rights to make any claim for Purchaser's failure to perform any of its obligations under this Agreement that are required to be performed prior to or on the Closing Date.

10.4 Intentionally deleted.

10.6 Additional Remedies. Notwithstanding anything to the contrary, Seller and Purchaser shall always have and retain all rights and remedies at law, in equity, including, without limitation, the right of specific performance, and otherwise (other than rescission) to enforce the other party's obligations under this Agreement; and all of such rights and remedies shall be in addition to, and not in lieu of, the rights and remedies set forth in Sections 10.1 and 10.2.

ARTICLE 11.
BROKERAGE COMMISSIONS

11.1 Seller represents to Purchaser that Seller has not had any discussions regarding the subject transaction with any broker or agent.

ARTICLE 12.
ESCROW INSTRUCTIONS

12.1 Escrow Instructions. By executing this Agreement, Seller, Purchaser and Title Insurer agree as follows:

- (a) If any disagreement or dispute shall arise between the parties hereto and/or any other persons resulting in adverse claims and demands being made for the Deposit, whether or not litigation has been instituted, then and in any

such event, Title Insurer shall refuse to comply with any claims or demands on it and continue to hold the Deposit until Title Insurer receives either (i) a written notice signed by both Seller and Purchaser directing the disbursement of the Deposit, or (ii) a final order of a court of competent jurisdiction, entered in a proceeding in which Seller, Purchaser and Title Insurer are named as parties, directing the disbursement of the Deposit, and in either of which events, Title Insurer shall then disburse the Deposit in accordance with said direction. Title Insurer shall not be or become liable in any way or to any person for its refusal to comply with any such claims or demands until and unless it has received a direction of the nature described in either clause (i) or clause (ii) above, and upon Title Insurer's compliance with a direction of the nature described in either clause (i) or clause (ii) above, Title Insurer shall be released of and from all liability hereunder except for any previous actions or omissions taken or suffered by Title Insurer in bad faith, in willful disregard of its obligations under this Agreement, or involving gross negligence on the part of Title Insurer.

- (b) Anything to the contrary notwithstanding, Title Insurer, on notice to Seller and Purchaser (i) may take such affirmative steps as it may, at its option, elect in order to terminate its duties as escrow agent hereunder including, but not limited to, the deposit of the Deposit with a court of competent jurisdiction and the commencement of an action for interpleader, the costs thereof to be borne by Seller or Purchaser, as the court may direct, or (ii) in the event litigation between Seller and Purchaser over entitlement to the Deposit has commenced, may deposit the Deposit with the clerk of the court in which said litigation is pending. Upon the taking by Title Insurer of either of the actions described in clause (i) or clause (ii) above, Title Insurer shall be released of and from all liability hereunder except for any previous actions or omissions taken or suffered by Title Insurer in bad faith, in willful disregard of its obligations under this Agreement, or involving gross negligence on the part of Title Insurer.
- (c) Seller and Purchaser acknowledge that Title Insurer is acting solely as a stakeholder at their request and for their convenience, that Title Insurer shall not be deemed to be the agent of either of the parties, and that Title Insurer shall not be liable to Seller or Purchaser for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of its obligations under this Agreement, or involving gross negligence. Seller and Purchaser jointly and severally agree to be responsible for all costs, claims and expenses, including reasonable attorneys' fees, incurred by Title Insurer in connection with the performance of Title Insurer's duties hereunder, except with respect to actions or omissions taken or suffered by Title Insurer in bad faith, in willful disregard of its obligations of this Agreement, or involving gross negligence on the part of Title Insurer.

- (d) A signed copy of this Agreement shall serve as escrow instructions to Title Insurer, together with any additional instructions hereafter furnished by Seller and Purchaser, to the extent not inconsistent herewith.
- (e) The validity and enforceability of this Agreement or and of any amendment hereto as between Purchaser and Seller shall not be affected by whether or not Title Insurer shall have executed this Agreement or any such amendment.

ARTICLE 13. **MISCELLANEOUS**

13.1 Exhibits. All Exhibits that are referred to herein and are attached hereto are made a part hereof.

13.2 No Third Party Beneficiary. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary under any statutes, laws, codes, ordinances, rules, regulations, orders, decrees or otherwise.

13.3 Extension of Performance. Whenever under the terms of this Agreement the time for performance of a covenant or condition falls upon a day that is not a Business Day, such time for performance shall be extended to the next Business Day. Otherwise, unless a provision of this Agreement specifically refers to Business Days, all references in this Agreement to days shall mean calendar days.

13.4 Time of Performance. Time of performance is of the essence of each and every term, provision, and condition contained in this Agreement.

13.5 Successors and Assigns. All terms, covenants, conditions and provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, devisees, executors, administrators, legal representatives, and permitted successors in interest and assigns.

13.6 Waiver.

- (a) One or more waivers of any term, covenant or condition of this Agreement by any party shall not be construed as a waiver of any subsequent breach of the same or any other term, covenant or condition; nor shall any delay or omission by any party in seeking a remedy for any breach of this Agreement, or in exercising any right accruing to such party by reason of any such breach, be deemed a waiver by such party of its rights or remedies with respect to such breach.
- (b) A party's consent to or approval of any act or omission by any other party which requires such consent or approval shall not be deemed to waive or render unnecessary the requirement for such consent or approval with respect to any subsequent similar act or omission.

- (c) The failure of any party to insist upon the strict performance of any provision of this Agreement, or the failure of any party to exercise any right, option or remedy hereby reserved or granted, shall not be construed as a waiver for the future of any such provision, right, option or remedy, or as a waiver of any subsequent breach thereof, or as an alteration or modification of this Agreement.
- (d) No provision of this Agreement shall be deemed to have been waived unless such waiver shall be in writing, signed by the party against whom such waiver is sought to be enforced.
- (e) The receipt by any party of any amount of money or other property with knowledge of a breach of any provision of this Agreement shall not be deemed a waiver of such breach. No payment to or receipt by any party of a lesser amount than may be due it hereunder shall be deemed to be other than on account of the earliest amount then unpaid, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment by a party to another party be deemed an accord and satisfaction, and any party may strike or disregard any such endorsement or statement and accept such check or payment without prejudice to such party's right to recover the balance of any amounts due, and such party may thereafter pursue any other right or remedy provided under this Agreement or at law or in equity.

13.7 Agreement Not to be Recorded. Seller and Purchaser agree that neither party will file this Agreement for record in the official real estate records of the county in which the Real Property is located.

13.8 Governing Law/Jurisdiction. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Ohio. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Agreement, and each party consents to the exclusive jurisdiction of such courts. Purchaser hereby agrees not to challenge this Governing Law and Jurisdiction provision, and further agrees not to attempt to remove any legal action outside of Cuyahoga County for any reason.

13.9 Entire Agreement. This Agreement, including any exhibits hereto, contains the entire understanding among the parties and their agents with respect to the subject matter hereof, and supersedes any prior understandings or agreements between them with respect to said subject matter; provided, however, that nothing contained in this Section 13.10 shall alter or affect, or otherwise merge into this Agreement or extinguish, all of which are and shall be and remain unmodified and in full force and effect. There are no duties, obligations, terms, covenants, conditions, representations, warranties, promises, arrangements or understandings, oral or written, between or among the parties and their agents relating to the subject matter of this Agreement which are not fully expressed herein, all prior terms, covenants, conditions, representations,

warranties, promises, arrangements and understandings being merged herein and extinguished; provided, however, that nothing contained in this Section 13.10 shall alter or affect, or otherwise merge into this Agreement.

13.10 Notices. Every notice, demand, consent, request, approval, report, offer, acceptance, certificate, or other communication which may be, or is required to be, given or delivered under or with respect to this Agreement shall be in writing and sent postage prepaid by United States registered or certified mail, return receipt requested, and directed to the other party at its address set forth below, or at such other address within the continental United States as any party may hereafter designate by similar notice to the other:

To Seller:

To Purchaser:

City of North Royalton, Ohio
Attn: Thomas Kelly, Law Director
14600 State Road
North Royalton, Ohio 44133

Notices shall be deemed to have been given on the date shown on the return receipt; provided that if delivery is refused, such notice shall be deemed given and served on the date delivery is first attempted. Any party may give any other party written notice hereunder by any means other than United States registered or certified mail which is reasonably calculated to reach the other party, including but not limited to personal delivery, facsimile, and/or reputable national overnight courier, provided that any such notice shall be deemed to have been given and shall be effective only when actually received by the addressee, proof of which shall be furnished by the party sending such notice.

13.11 Paragraph Headings; Gender and Number. The headings inserted at the beginning of each paragraph are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any of the terms or provisions hereof. The use of any one gender shall include all others. The plural number shall include the singular, and the singular number the plural, wherever the context so admits.

13.12 Herein/Including. The terms "herein," "hereof," "hereunder" or words of similar import shall be deemed to refer to this Agreement in its entirety unless otherwise specifically stated. Whenever the word "including", "includes" or any variation thereof is used herein, such term shall be construed as a term of illustration and not a term of limitation. For example, the term "including" shall be deemed to mean "including, without limitation", and the term "includes" shall be deemed to mean "includes, without limitation".

13.13 Amendment. This Agreement may be amended, modified and supplemented only by written instrument executed by Seller and Purchaser.

13.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which, when so executed, shall be deemed an original, and all of which shall together constitute

one and that same document, and shall be binding on the signatories; and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart. Delivery of an executed counterpart of a signature page of this Agreement (and each amendment, modification and waiver in respect of it) by facsimile or other electronic transmission, including email, shall be as effective as delivery of a manually executed original counterpart of each such instrument.

13.15 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party, and any purported assignment without such consent shall be of no force or effect.

13.16 Interest. All amounts payable by Purchaser to Seller under this Agreement that are not paid when due shall bear interest at the rate of twelve percent (12%) per annum, or such lower rate of interest as may be the highest rate of interest that may lawfully be charged hereunder at the time in question.

13.17 Partial Invalidity. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held void or invalid or unenforceable, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held void or invalid or unenforceable shall not be affected thereby, and each and every other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

13.18 Preparation of Agreement. This Agreement shall not be construed more strongly against either party regardless of who is responsible for its preparation, each having contributed substantially and materially to the preparation hereof.

13.19 Authority. Each signatory hereto certifies that he or she is duly authorized and empowered to sign and deliver this Agreement on behalf of all entities named below on whose behalf he or she has so acted.

13.20 Survival. Notwithstanding anything to the contrary, the following provisions of this Agreement, in addition to the other provisions of this Agreement that by their terms survive any termination of this Agreement and/or the closing and delivery and filing for record of the Filing Documents, shall survive and shall be enforceable after any termination of this Agreement and after the closing and delivery and filing for record of the Filing Documents, and shall not be merged therein or extinguished thereby: Articles 1, 10, 11, 12 and 13 and Sections 2.2, 3.3, 4.4, 5.1, 5.3, 6.3, 7.3 and 8.5.

13.21 Effectiveness. This Agreement is forwarded to Seller for its approval and execution, and after Seller has executed and delivered this Agreement to Purchaser, this Agreement shall become binding on Purchaser and effective only upon the date that the last of each of the following has occurred (the "Effective Date"): (a) this Agreement, as signed by Seller, has been duly approved by North Royalton City Council, (b) this Agreement is certified by Purchaser's Fiscal Officer, (c) this Agreement is executed by Purchaser and an original counterpart thereof is delivered to Seller and Title Insurer, and (d) Purchaser has delivered the Deposit to Title Insurer; provided, however, that notwithstanding anything to the contrary, once having been executed by

Seller, this Agreement shall constitute an offer open for acceptance by Purchaser, and may not be modified in any respect or withdrawn (except by mutual written agreement of Seller and Purchaser), until 5:00 p.m. Cleveland time on July 15, 2023. If this Agreement has not become effective by said date, Seller's execution of this Agreement shall be deemed null and void and without force or effect, unless otherwise agreed in writing by Seller.

13.22 Receipt. Attached hereto and made a part hereof is that certain Receipt by Title Insurer.

13.23 Exhibits and Schedules. The following exhibits and schedules are attached hereto and incorporated herein:

Exhibits

- A. Legal description
- B. Permitted Exceptions
- C. Deed
- D. Purchaser's Authority Certificate
- E. Statement of Reason for Exemption
- F. FIRPTA Affidavit

Schedules

- 1 – Excluded Property

[Page 29, the signature page, follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

SELLER:

By: 

Date: June 2, 2023

Approved as to form

By: _____

Law Director

City of North Royalton, Ohio

PURCHASER:

CITY OF NORTH ROYALTON, OHIO

By: _____
Larry Antoskiewicz, Mayor

Date: _____, 2023

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named Abbey Road Properties, LLC by, Brian J. Baumann for and on behalf of, and as authorized----- pursuant to -----, personally known to me, who did acknowledge that he did sign the foregoing instrument in such capacity on behalf of ----- and is duly authorized to do so, and that the same is the free act and deed of -----, and his free act and deed individually and in the aforescribed capacity.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at ----- Cleveland
-----, Ohio, this 2nd day of June, 2023.



ROBERTA L. MIXTER
NOTARY PUBLIC • STATE OF OHIO
Comm. No. 2016-RE-577376
My Commission Expires 3/17/2026

Roberta L. Mixter
Notary Public/ My Commission Expires:

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named City of North Royalton, Ohio, a municipal corporation, by Larry Antoskiewicz, Mayor, personally known to me, who being first duly sworn, did upon oath acknowledge that he did sign the foregoing instrument for and on behalf said municipal corporation and is duly authorized to do so, and that the same is the free act and deed of said non-profit company, and his free act and deed individually and in the aforescribed capacity.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at North Royalton, Ohio, this ____ day of _____, 2023.

Notary Public/ My Commission Expires:

RECEIPT

Receipt of an executed counterpart of the foregoing Agreement and the Deposit are hereby acknowledged, and the undersigned agrees to act as Title Insurer in accordance with the provisions thereof.

[] TITLE INSURANCE
COMPANY

Date: _____, 2023
Escrow No.: _____

By: _____
Name: _____
Title: _____

EXHIBIT A
to the
PURCHASE AND SALE AGREEMENT

Legal Description

Legal Description

EXHIBIT B

Permitted Exceptions

1. All streets, alleys, and public rights-of-way.
2. All Laws.
3. All Taxes not due and payable as of the Closing Date.
4. Matters which would be disclosed by an accurate survey and inspection of the Real Property.
5. All covenants, conditions, restrictions, reservations, limitations, easements, agreements, leases, liens, encumbrances, and other matters of record that affect the Property, including those referred to in the Title Commitment.

END OF EXHIBIT

EXHIBIT C

WARRENTY DEED

[Signature page follows.]