

**REAL ESTATE SALE AGREEMENT**

**by and between**

**City of Ann Arbor, Michigan,**

**as the Seller**

**and**

**Clark Street Holdings, LLC, its assignee or nominee,**

**as the Purchaser**

**October \_\_, 2013**

## REAL ESTATE SALE AGREEMENT

THIS REAL ESTATE SALE AGREEMENT (this “**Agreement**”) is made and entered into as of October \_\_, 2013 (“**Effective Date**”) by and between the City of Ann Arbor, Michigan (the “**Seller**”) and Clark Street Holdings, LLC, its successors and assigns (the “**Purchaser**”).

### PRELIMINARY STATEMENTS

A. The Seller is the owner of the real estate and related assets hereinafter described; and

B. The Seller desires to sell, and the Purchaser desires to buy, the real estate and related assets hereinafter described, at the price and on the terms and conditions hereafter set forth.

In consideration of the recitals, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, it is agreed by and between the parties as follows:

1. **Premises.**

The real estate which is the subject of this Agreement is legally described on **Exhibit A** attached hereto and is located at 350 S. Fifth Avenue, Ann Arbor, Michigan, together with all rights, benefits, privileges, easements and other appurtenances to such land and, all of Seller’s rights in and to strips and gores and any land lying in the bed of any public right of way adjacent to such land and any unpaid award for damage by reason of any condemnation proceedings or change of grade of any highway, street, road or avenue (collectively, the “**Premises**”).

2. **Service Contracts and Leases.**

(a) The “**Service Contracts**” referred to herein shall consist of the service contracts (the “**Service Contracts**”) affecting the Premises.

(b) The “**Leases**” referred to herein shall consist of the leases, licenses, occupancy or use, and rental agreements between Seller, as landlord, licensor, or grantor, and tenants or other occupants or users of the Premises (the “**Leases**”) affecting the Premises.

3. **Sale/Conveyance and Assignment.**

The Seller agrees to sell, convey and assign to the Purchaser, and the Purchaser agrees to buy from the Seller, at the price and upon the other terms and conditions hereafter the Premises (the “**Property**”).

4. **Transfer of Title.**

Title to the Premises shall be conveyed to the Purchaser by a special warranty deed (the “**Deed**”) executed by the Seller, in the form attached hereto as **Exhibit C**.

5. **Purchase Price; Earnest Money.**

The purchase price for the Property shall be Five Million One Hundred Fifty Thousand and No/100 Dollars (\$5,150,000.00) (the “**Purchase Price**”) payable by the Purchaser to the Seller as follows:

(a) Within five (5) business days after the Effective Date of this Agreement, the Purchaser shall deposit into a strict joint order escrow trust (the “**Escrow**”) established with First American Title Insurance Company (the “**Title Insurer**”) as earnest money hereunder, the sum of One Hundred and No/100 Dollars (\$100,000.00) (the “**Earnest Money**”). If requested by Purchaser, the Earnest Money shall be invested through Closing in United States treasury obligations or such other interest bearing accounts or securities but only as are directed and approved by the Purchaser in writing and any interest earned on the Earnest Money shall be administered, paid or credited (as the case may be) in the same manner as the Earnest Money and, when credited to the escrow account shall constitute additional Earnest Money. At the closing of the transactions contemplated by this Agreement (the “**Closing**”), which shall occur on the Closing Date, the Purchaser shall receive a credit against the Purchase Price for the Earnest Money.

(b) The Purchase Price, less a credit for the Earnest Money, and plus or minus prorations and adjustments as set forth in **Section 17** hereof, shall be paid by the Purchaser to the Seller by wire transfer of immediately available federal funds on the Closing Date (hereinafter defined).

6. **Representations and Covenants.**

(a) **The Seller’s Representations and Warranties.** As a material inducement to the Purchaser to execute this Agreement and consummate this transaction, the Seller represents and warrants to the Purchaser as of the date hereof and continuing through and including the Closing Date as follows:

(1) **Organization and Authority.** The Seller has been duly organized and is validly existing as a municipality under the laws of the State of Michigan. The Seller has the full right and authority to enter into this Agreement, consummate or cause to be consummated the sale and make or cause to be made transfers and assignments contemplated herein and has obtained all consents (if any) required therefor. The persons signing this Agreement on behalf of the Seller are authorized to do so. This Agreement and all of the documents to be delivered by the Seller at the Closing have been (or will be) authorized and properly executed and will constitute the valid and binding obligations of the Seller, enforceable against the Seller in accordance with their terms.

(2) **Conflicts.** To Seller’s Knowledge, there is no agreement to which the Seller is a party or binding on the Seller or the Property, which is in conflict with this Agreement or which would limit or restrict the timely performance by the Seller of its obligations pursuant to this Agreement.

(3) **Documents and Records.** The Seller has provided (or upon the execution hereof will concurrently provide) to the Purchaser true, correct and complete

copies of the items scheduled in **Schedule 6(a)(3)** attached hereto (all of the foregoing collectively the “**Property Information**”).

(4) **Litigation.** There is no action, suit or proceeding pending or, to the Seller’s Knowledge, threatened against the Seller related to the Property which (i) if adversely determined, would materially affect the Property, or (ii) which challenges or impairs the Seller’s ability to execute, deliver or perform this Agreement or consummate the transaction contemplated hereby.

(5) **Leases.** **Exhibit B** sets forth all of the Leases presently outstanding with respect to the Property.

(6) **Service Contracts.** **Exhibit B** sets forth all of the Service Contracts presently outstanding with respect to the Property.

(7) **Notice of Violations.** The Seller has received no written notice that either the Property or the use thereof violates any laws, rules and regulations of any federal, state, city or county government or any agency, body, or subdivision thereof having any jurisdiction over the Property that have not been resolved to the satisfaction of the issuer of the notice.

(8) **Withholding Obligation.** The Seller is not a “foreign person” within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

(9) **Condemnation.** There are no pending or, to the Seller’s Knowledge, threatened condemnation or similar proceedings affecting the Property or any part thereof.

(10) **Insurance Notices.** Seller has not received any uncured notices from any insurance company which has issued a policy with respect to any portion of the Property, or by any board of fire underwriters, or from any governmental authority, of zoning, building, fire or health code violations in respect to the Property.

(11) **Environmental.** Seller has no actual knowledge of any violation of Environmental Laws (as defined below) related to the Property or the presence or release of Hazardous Materials (as defined below) on or from the Property. Seller has not manufactured, introduced, released or discharged from, on, under or adjacent to the Property any Hazardous Materials or any toxic wastes, substances or materials (including, without limitation, asbestos), and Seller has not used the Property or any part thereof for the generation, treatment, storage, handling or disposal of any Hazardous Materials, in violation of any Environmental Laws. The term “**Environmental Laws**” includes without limitation the Resource Conservation and Recovery Act and the Comprehensive Environmental Response Compensation and Liability Act and other federal laws governing the environment as in effect on the date of this Agreement together with their implementing regulations and guidelines as of the date of this Agreement, and all state, county and other local laws, regulations and ordinances that are equivalent or similar to the federal laws recited above or that purport to regulate Hazardous Materials.

(12) ERISA. Seller is not (i) an “employee benefit plan” (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”)) that is subject to the provisions of Title I of ERISA, (ii) a “plan” that is subject to the prohibited transaction provisions of Section 4975 of the Internal Revenue Code of 1986 (the “**Code**”) or (iii) an entity whose assets are treated as “plan assets” under ERISA by reason of an employee benefit plan or plan’s investment in such entity.

(13) OFAC. Seller is in compliance with the requirements of Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) (the “**Order**”) and other similar requirements contained in the rules and regulations of the office of Foreign Assets Control, Department of the Treasury (“**OFAC**”) and in any enabling legislation or other Executive Orders or regulations in respect thereof (the Order and such other rules, regulations, legislation, or orders are collectively called the “**Orders**”). Further, Seller covenants and agrees to make its policies, procedures and practices regarding compliance with the Orders, if any, available to Purchaser for its review and inspection during normal business hours and upon reasonably prior notice.

(i) Neither Seller nor its agents transact or facilitate business with any individual, entity or any beneficial owner of any entity:

(A) identified on the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to the Order and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders (such lists are collectively referred to as the “**Lists**”);

(B) is owned or controlled by, nor acts for or on behalf of or for the benefit of, any person or entity on the Lists or any other person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Orders.

(ii) Seller hereby covenants and agrees that if Seller obtains knowledge that any of its agents becomes identified on the Lists or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Seller shall immediately notify Purchaser in writing, and in such event, Purchaser shall have the right to terminate this Agreement without penalty or liability to Seller immediately upon delivery of written notice thereof to Seller. In such event the Earnest Money shall promptly be returned to Purchaser, and neither party shall have any further liability or obligation to the other under this Agreement, except for the indemnity provisions set forth in Section 22(p) of this Agreement and any other provision of this Agreement that is intended to survive the termination of this Agreement.

For purposes of this Section 6(a), the term “Seller’s Knowledge” means the actual knowledge of \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of the Property, whom the Seller represents to the Purchaser are the persons who are the most knowledgeable about the Property.

(b) The Purchaser's Representations and Warranties. As a material inducement to the Seller to execute this Agreement and consummate this transaction, the Purchaser represents and warrants to the Seller that the Purchaser has been duly organized and is validly existing as a corporation, and if required to consummate the transaction, will be registered to transact business as a foreign corporation under the laws of the State of Illinois. The Purchaser has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement, consummate or cause to be consummated the purchase, and make or cause to be made the deliveries and undertakings contemplated herein or hereby. The persons signing this Agreement on behalf of the Purchaser are authorized to do so. This Agreement and all of the documents to be delivered by the Purchaser at the Closing have been (or will be) authorized and properly executed and will constitute the valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their terms.

(c) Representations and Warranties Prior to Closing. The continued validity in all respects of the foregoing representations and warranties shall be a condition precedent to the obligation of the party to whom the representation and warranty is given to close the transaction contemplated herein. If (i) any of the Seller's representations and warranties shall not be true and correct at any time on or before the Closing whether not true and correct as of the date of this Agreement, or (ii) any change in facts or circumstances has made the applicable representation and warranty no longer true and correct, then the Purchaser may, at the Purchaser's option, exercised by written notice to the Seller (and as its sole and exclusive remedy), either (y) proceed with this transaction, accepting the applicable representation and warranty as being modified by such subsequent matters or knowledge and waiving any right relating thereto, if any, or (z) terminate this Agreement and declare this Agreement of no further force and effect, in which event the Earnest Money shall be immediately returned to the Purchaser and the Seller shall have no further liability hereunder by reason thereof, except for the indemnity provisions set forth in Section 22(p) of this Agreement, any other provision of this Agreement that is expressly intended to survive the termination of this Agreement, and, if the breach of any representation and warranty of the Seller hereunder results from the willful and intentional act of the Seller, the Purchaser shall also have the rights and remedies available to the Purchaser under **Section 18(b)** of this Agreement upon a default by the Seller of its obligations under this Agreement.

(d) Covenants of the Seller. The Seller covenants and agrees that during the period from the date of this Agreement through and including the Closing Date:

(1) The Seller will timely pay and perform its obligations under the Leases. The Seller agrees to effectively terminate (and give written notices of such termination to all of the other parties thereto), effective as of Closing, all Leases. If any tenant asserts any claims or files a lawsuit against the Property or the Seller or the Purchaser in connection with or related to such termination, the Seller shall be solely responsible for all costs and fees related to defending such claims or lawsuits and shall indemnify, defend and hold the Purchaser harmless, from any loss, cost, expenses and liability related thereto.

(2) The Seller will timely pay and perform its obligations under the Service Contracts.

(3) Following the expiration of the Due Diligence Period, the Seller will not enter into any contract or agreement that will be an obligation affecting the Property subsequent to the Closing Date except for contracts entered into in the ordinary course of business that are terminable without cause and without payment of a fee or penalty on not more than 30-days' notice.

(4) [RESERVED]

(5) The Seller will continue to operate and maintain the Property in accordance with past practices and will not make any material alterations or changes thereto.

(6) The Seller will maintain casualty and liability insurance of a level and type consistent with the insurance maintained by the Seller prior to the execution of this Agreement with respect to the Property.

(7) The Seller shall not do anything, nor authorize anything to be done, which would adversely affect the condition of title as shown on the Title Commitment.

(8) The Seller agrees to effectively terminate (and give written notices of such termination to all of the other parties thereto), effective as of Closing, all Service Contracts and Leases.

#### **7. Due Diligence Period.**

(a) The Purchaser shall have a period beginning on the Effective Date and ending at 11:59 p.m., local time where the Premises is located, on the date that is the later of the date which is thirty (30) days from the Effective Date (the "**Due Diligence Period**"), to examine, inspect, and investigate the Property and, in the Purchaser's sole discretion, to determine whether the Purchaser wishes to proceed to purchase the Property. Notwithstanding anything herein to the contrary, in the event that any of the deliveries outlined on **Schedule 6(a)(3)** to this Agreement are not delivered to the Purchaser on the Effective Date, the Due Diligence Period shall be extended by the same number of days as equals any delay in delivery to the Purchaser.

(b) The Purchaser may terminate this Agreement for any reason or for no reason by giving written notice of such termination to the Seller on or before the last day of the Due Diligence Period. If this Agreement is terminated pursuant to this **Section 7**, the Earnest Money shall be immediately returned to the Purchaser, and neither party shall have any further liability or obligation to the other under this Agreement except for the indemnity provisions set forth in **Section 22(p)** of this Agreement and any other provision of this Agreement that is expressly intended to survive the termination of this Agreement.

(c) Subject to the rights of tenants under the Leases, the Purchaser, during the Due Diligence Period and through the Closing, shall have reasonable access to the Property for the purpose of conducting, surveys, architectural, engineering, geo-technical and environmental inspections and tests, and any other inspections, studies, or tests reasonably required by the Purchaser. The Purchaser shall give the Seller not less than twenty-four (24) hours prior

telephonic notice before entering onto the Premises to perform inspections or tests, and in the case of tests (i) the Purchaser shall specify to the Seller the precise nature of the test to be performed, and (ii) the Seller may require, as a condition precedent to the Purchaser's right to perform any such test, that the Purchaser deliver the Seller evidence of public liability and other appropriate insurance naming the Seller as an additional insured thereunder. Such examination of the physical condition of the Property may include an examination for the presence or absence of hazardous or toxic materials, substances or wastes (collectively, "**Hazardous Materials**"), which shall be performed or arranged by the Purchaser at the Purchaser's sole expense. The Purchaser shall keep the Property free and clear of any liens and will indemnify, protect, defend, and hold each of the Seller and its officers, directors members, managers, employees, and agents (each, a "**Seller Related Party**") harmless from and against all losses, costs, damages, claims, liabilities and expenses (including reasonable attorneys' fees and court costs) arising from damage to the Premises and injury to persons asserted against or incurred by any Seller Related Party as a result of such entry by the Purchaser, its agents, employees or representatives. If any inspection or test damages the Property and the Purchaser does not acquire the Property, the Purchaser will restore the Property to substantially the same condition as existed prior to any such inspection or test. The Purchaser and its agents, employees and representatives may, upon not less than 24 hours prior telephonic notice to the Seller, examine and make copies of all books and records and other materials relating to the condition of the Property in the Seller's possession at the office where such records are maintained. Any information provided to or obtained by the Purchaser with respect to the Property shall be subject to the provisions of Section 22(o) of this Agreement.

8. As Is Sale.

**EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES OF THE SELLER SET FORTH IN THIS AGREEMENT AND THE CLOSING DOCUMENTS (AS DEFINED BELOW), THE PURCHASER UNDERSTANDS AND AGREES THAT THE SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESSED OR IMPLIED, WITH RESPECT TO THE PROPERTY OR THE TRUTH, ACCURACY OR COMPLETENESS OF ANY MATERIALS, DATA OR INFORMATION DELIVERED BY THE SELLER TO THE PURCHASER IN CONNECTION WITH THE TRANSACTION CONTEMPLATED HEREBY. THE PURCHASER ACKNOWLEDGES AND AGREES THAT UPON CLOSING THE SELLER SHALL TRANSFER AND CONVEY TO THE PURCHASER AND THE PURCHASER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS", EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT OR IN ANY AGREEMENT OR INSTRUMENT EXECUTED BY THE SELLER AND DELIVERED TO THE PURCHASER AT CLOSING ("CLOSING DOCUMENTS").**

**THE PURCHASER REPRESENTS TO THE SELLER THAT THE PURCHASER HAS CONDUCTED, OR WILL CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS THE PURCHASER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION**



**OF THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF THE SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE SELLER AS ARE EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE CLOSING DOCUMENTS.**

**9. Survival of Representations After Closing.**

(a) All representations and warranties of the Seller herein shall survive the Closing for a period of one (1) year (the "**Limitation Period**").

(b) The Purchaser shall provide written notice to the Seller of any breach of any of the Seller's warranties or representations of which the Purchaser acquires knowledge, through any means, at any time after the Closing Date but prior to the expiration of the Limitation Period, and shall allow the Seller thirty (30) days from the date of such Purchaser's notice to Seller within which to cure such breach, or, if such breach is susceptible of cure but cannot reasonably be cured within thirty (30) days, an additional reasonable time period required to effect such cure so long as such cure has been commenced within such thirty (30) days and diligently pursued but in no event more than ninety (90) days from the date of such Purchaser's notice to Seller. If the Seller fails to cure such breach after written notice and within such cure period (as extended), the Purchaser's sole remedy shall be an action at law for damages as a consequence thereof, which must be commenced, if at all, within six (6) months after the expiration of the Limitation Period.

**10. Closing.**

(a) The closing shall be accomplished through the escrow referred to in **Section 10(b)** below, and shall take place on the date (the "**Closing Date**") that is selected by the Purchaser by written notice to the Seller, which date shall be no later than November 30, 2013, provided that all conditions precedent to the Closing have been fulfilled or have been waived in writing by the respective party entitled to waive same. Notwithstanding the foregoing, in the event Purchaser has not received financing for the acquisition of the Property, on terms and condition acceptable to Purchaser in its sole and absolute discretion, or such lender needs additional time to provide such financing, Purchaser shall have, in its sole discretion, the unilateral (one time only) right to extend the Closing Date for up to five (5) business days by providing Seller with written notice of such election to extend on or prior to the Closing Date.

(b) On or prior to the date set for Closing under this Agreement, the parties shall establish a customary deed and money escrow with the Title Insurer. Counsel for the respective parties are hereby authorized to execute the escrow trust instructions as well as any amendments thereto on behalf of their respective clients.

**11. Conditions to the Purchaser's Obligation to Close.**

(a) The Purchaser shall not be obligated to proceed with the Closing unless and until each of the following conditions has been either fulfilled or waived in writing by the Purchaser:

(1) This Agreement shall not have been previously terminated pursuant to any other provision hereof;

(2) The Seller shall be prepared to deliver or cause to be delivered to the Purchaser all instruments and documents to be delivered to the Purchaser at the Closing pursuant to **Section 14** and **Section 16** or any other provision of this Agreement;

(3) All Service Contracts, Leases and any property management agreements with respect to the Premises shall have been effectively terminated on or prior to the Closing at no cost, liability or expense to the Purchaser;

(4) Seller shall have performed all of its obligations required to be performed hereunder on or before Closing;

(5) [RESERVED];

(6) The Title Insurer shall have committed to issue a title policy satisfying the requirements of **Section 13** hereof;

(7) There shall exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, against or involving Seller that would materially and adversely affect Seller's ability to perform its obligations under this Agreement;

(8) [RESERVED]; and

(9) Purchaser shall have conducted, immediately prior to the Closing, a re-inspection of the Property which confirms that no material change has occurred from the date of the original Property inspection. If the Property has materially changed from the date of the original Property inspection, the Purchaser shall have the rights and remedies under **Section 18(b)** hereof.

(b) In the event that any of the foregoing conditions shall not have been fulfilled on or before the time for Closing hereunder, then subject to the provisions of **Section 18(b)** hereof, the Purchaser may elect, upon notice to the Seller, to either (1) terminate this Agreement, in which event the Earnest Money shall be immediately returned to the Purchaser and neither party shall have any further liability or obligation to the other, except for the indemnity provisions set forth in **Section 22(p)** of this Agreement and any other provision of this Agreement that is expressly intended to survive the termination of this Agreement, or (2) waive any one or more of the foregoing conditions and proceed to Closing.

## 12. **Conditions to the Seller's Obligation to Close.**

(a) The Seller shall not be obligated to proceed with the Closing unless and until each of the following conditions has been fulfilled or waived in writing by the Seller:

(1) The Purchaser shall be prepared to pay to the Seller the Purchase Price and all other amounts to be paid to it at Closing pursuant to the provisions of this Agreement;

(2) The Purchaser shall be prepared to deliver to the Seller all instruments and documents to be delivered to the Seller at the Closing pursuant to **Section 15** and **Section 16** or any other provision of this Agreement; and

(3) This Agreement shall not have been previously terminated pursuant to any other provision hereof.

(b) In the event that any of the foregoing conditions shall not have been fulfilled on or before the time for Closing hereunder, then subject to the provisions of **Section 18(a)** hereof, the Seller may elect, upon notice to the Purchaser, to terminate this Agreement, in which event the Earnest Money shall be immediately returned to the Seller and neither party shall have any further liability or obligation to the other, except for the indemnity provisions set forth in **Section 22(p)** of this Agreement and any other provision of this Agreement that is expressly intended to survive the termination of this Agreement.

### 13. **Title Insurance.**

(a) Within five (5) business days of the date of this Agreement, the Seller shall deliver (or cause the Title Insurer to deliver to the Purchaser) a commitment for the Title Policy described in **Section 13(b)** below dated on or after the Effective Date (the “**Title Commitment**”), together with legible copies of all of the underlying documentation described in such Title Commitment (the “**Title Documents**”) and the Survey to the extent not already delivered to Purchaser. Purchaser may order an updated ALTA survey at Purchaser’s sole cost and expense (the “**Updated Survey**”). The Due Diligence Period shall be extended for each day in which Seller does not deliver the Title Commitment as required under this **Section 13(a)**.

(b) Purchaser shall have a period of fifteen (15) days after receipt by Purchaser of the latest of the Survey, the Updated Survey, if any, the Title Commitment and the Title Documents (“**Title Review Period**”) in which to review the Title Commitment, the Title Documents, the Updated Survey, if any, and the Survey and notify Seller in writing, at Purchaser’s election, of such objections as Purchaser may have to any matters contained therein (“**Purchaser’s Objection Notice**”; any of said objections listed on Purchaser’s Objection Notice are deemed the “**Objectionable Exceptions**”). If Seller does not notify Purchaser in writing within three (3) business days after receiving the Purchaser’s Objection Notice, Seller shall conclusively be deemed to have agreed to remove all said Objectionable Exceptions at or before Closing. On the other hand, if Seller notifies Purchaser in writing within three (3) business days after receipt of the Purchaser’s Objection Notice that it has elected not to cure one or more of said Objectionable Exceptions (“**Seller’s Notice**”) (subject to Seller’s obligation to remove or cure those items referenced in **Section 13(b)** below) (and if necessary, such Due Diligence Period and Title Review Period shall be extended to compensate for such timeframe), Purchaser shall have the right to either (a) terminate this Agreement by delivering written notice within five (5) business days after receipt of such Seller’s Notice, in which event, the Earnest Money shall be returned to Purchaser and neither party shall have any further rights or obligations under the

Agreement, except for the indemnity provisions set forth in **Section 22(p)** of this Agreement and any other provision of this Agreement that is expressly intended to survive the termination of this Agreement, or (b) Purchaser may consummate the transaction contemplated by this Agreement in accordance with the terms hereof, in which event, all those Objectionable Exceptions that Seller has so elected not to cure shall conclusively be deemed to constitute “**Permitted Encumbrances**”. Notwithstanding the foregoing, prior to Closing, Purchaser may, at its cost and expense, obtain an update or endorsement to the Title Commitment which updates the effective date of the Title Commitment. If such update or endorsement adds any previously unlisted title or survey exceptions to Schedule B-II of the Title Commitment or its equivalent which: (i) renders title to the Premises unmarketable, (ii) would materially and adversely affect Purchaser’s contemplated use(s) of the Premises, and/or (iii) may increase the costs to complete any project that Purchaser desires to construct on the Premises by more than Ten Thousand Dollars (\$10,000) in the aggregate, each as determined in Purchaser’s reasonable discretion, then Purchaser may object to any such new exception(s) by delivering written notice to Seller prior to Closing and any such notice shall: (x) be treated as a Purchaser’s Objection Notice, (y) the exception(s) objected to in any such notice shall be treated as Objectionable Exceptions, and (z) the Seller shall have until the earlier to occur of: (1) the time period provided under Section 13(b), or (2) the Closing, to respond to such Purchaser’s Objection Notice; provided, however, that matters of title or survey created by, through, or under Purchaser, if any, shall not be objectionable and shall automatically be additional Permitted Encumbrances.

(c) The Seller, at its sole expense, shall cause to be delivered to the Purchaser at Closing an owner’s title insurance policy with extended coverage (the “**Title Policy**”) issued by the Title Insurer, dated the day of Closing, in the full amount of the Purchase Price, the form of which shall be American Land Title Association Owner’s Policy, Standard Form B, 2006 (or such other form required or promulgated pursuant to applicable state insurance regulations), subject only to the Permitted Exceptions (as defined below). The Title Policy may contain any endorsements requested by the Purchaser; provided that, the Purchaser shall satisfy itself as to the availability of any such endorsements prior to the expiration of the Due Diligence Period. The costs of any such endorsements shall be paid for by the Purchaser unless otherwise provided herein.

(d) Prior to the expiration of the Due Diligence Period, the Purchaser shall review title to the Premises as disclosed by the Title Commitment, the Survey and the Updated Survey, and satisfy itself as to the availability from the Title Insurer of all requested endorsements to such Title Policy.

(e) The Seller shall have no obligation to remove or cure title objections, except for (1) liens of an ascertainable amount, which liens the Seller shall cause to be released at the Closing or affirmatively insured over by the Title Insurer with the Purchaser’s approval and, (2) any exceptions or encumbrances to title which are created by the Seller after the Effective Date without the Purchaser’s consent. In addition, the Seller and Purchaser shall provide the Title Insurer with all affidavits, ALTA statements or personal undertakings (collectively, the “**Owner’s Affidavit**”), in form and substance reasonably acceptable to the Title Insurer, that will permit the Title Insurer to provide extended coverage and to remove the standard “mechanics lien” and “GAP” exceptions and otherwise issue the Title Policy.

(f) **“Permitted Exceptions”** shall mean: (1) any exception arising out of an act of the Purchaser or its representatives, agents, employees or independent contractors; (2) zoning and subdivision ordinances and regulations; (3) Permitted Encumbrances, as described in **Section 13(b)** above; (4) rights of tenants under the Leases, except those Leases to be terminated by Seller pursuant to Section 6(d)(1) of this Agreement, as tenants, licensees, occupants, users or other grantees of the Premises only; (5) other title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount, which Seller (with the consent of Purchaser) elects to have removed or insured over by the Title Insurer by the payment of money and which are removed or insured over at or prior to Closing; and (6) real estate taxes and assessments not yet due and payable.

14. **Documents to be Delivered to the Purchaser at Closing.**

At Closing, the Seller shall deliver or cause to be delivered to the Purchaser each of the following instruments and documents:

(a) Deed. The Deed, in the form attached hereto as **Exhibit C**.

(b) [RESERVED]

(c) The Title Policy. The Title Policy, provided, however, that the Title Policy may be delivered after the Closing if at the Closing the Title Insurer, issues a currently effective, duly-executed “marked-up” Title Commitment and irrevocably commits in writing to issue the Title Policy in the form of the “marked-up” Title Commitment after the Closing.

(d) [RESERVED]

(e) Transfer Tax Declarations. Original copies of any required real estate transfer tax excise or documentary stamp tax declarations executed by the Seller or any other similar documentation required to evidence the payment of any tax imposed by the state, county and city on the transaction contemplated hereby.

(f) FIRPTA. An affidavit, in the form attached hereto as **Exhibit F**, stating the Seller’s U.S. taxpayer identification number and that the Seller is a “United States person”, as defined by Internal Revenue Code Section 1445(f)(3) and Section 7701(b).

(g) Owner’s Affidavit. The Owner’s Affidavit referred to in **Section 13(e)** above.

(h) Surveys, Plans, Permits and Specifications. All existing surveys, blueprints, drawings, designs, plans and specifications, permits, and operating manuals for or with respect to the Premises or any part thereof to the extent the same are in the Seller’s possession or control.

(i) Keys. All keys to the improvements, to the extent the same are in the Seller’s possession or control.

(j) Leases. Written evidence, in form and substance reasonably acceptable to Purchaser, that all Leases have been terminated effective as of Closing.

(k) Service Contracts. Written evidence, in form and substance reasonably acceptable to Purchaser, that all Service Contracts effective as of Closing.

(l) Certificate. A certificate of the Seller dated as of the Closing Date certifying that the representations and warranties of the Seller set forth in Section 6(a) of this Agreement as applicable, remain true and correct in all material respects as of the Closing Date.

(m) Certified Rent Roll. A rent roll for the Premises, certified by an authorized officer, manager or member of Seller, dated not more than three (3) days prior to Closing.

(n) Other Deliveries. Such other documents and instruments as may be required by any other provision of this Agreement.

(o) Termination of Property Management Agreement. A certificate certified by an authorized officer, manager or member of Seller that there is no property management agreement affecting the Premises.

**15. Documents to be Delivered to the Seller at Closing.**

At Closing, the Purchaser shall deliver or cause to be delivered to the Seller each of the following instruments, documents and amounts:

(a) Purchase Price. The Purchase Price calculated pursuant to Section 5 hereof, subject to adjustment and proration as provided in Section 17 below.

(b) Transfer Tax Declarations. Original copies of any required real estate transfer tax or documentary stamp tax declarations executed by the Purchaser or any other similar documentation required to evidence the payment of any tax imposed by the state, county and city on the transaction contemplated hereby.

(c) [RESERVED]

(d) Certificate. A certificate of the Purchaser dated as of the Closing Date certifying that the representations and warranties of the Purchaser set forth in Section 6(b) of this Agreement, as applicable, remain true and correct in all material respects as of the Closing Date.

(e) Other Documents. Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required to carry out the terms and intent of this Agreement.

**16. Documents to be Delivered by the Seller and the Purchaser at Closing.**

At Closing, the Purchaser and the Seller shall deliver or cause to be delivered each of the following instruments and documents:

- (a) Escrow Instructions. Escrow instructions as described in **Section 10(b)**.
- (b) Settlement Statement. A fully executed settlement statement.

**17. Prorations and Adjustments.**

(a) Prorations and Adjustments. Real estate and personal property taxes and assessments will be prorated between Purchaser and Seller for the period for which such taxes are assessed, regardless of when payable. If the current tax bill is not available at Closing, then the proration shall be made on the basis of 103% of the most recent ascertainable tax assessment and tax rate. Any taxes paid at or prior to Closing shall be prorated based upon the amounts actually paid. If taxes and assessments for the fiscal year in which Closing occurs or any prior years have not been paid before Closing, Purchaser shall be credited by Seller at the time of Closing with an amount equal to that portion of such taxes and assessments which are ratably attributable to the period before the Closing Date and Purchaser shall pay (or cause to be paid) the taxes and assessments prior to their becoming delinquent. If taxes and assessments for the fiscal year in which Closing occurs have been paid before Closing (or are paid at Closing with proceeds from the Purchase Price), Seller shall be credited by Purchaser at the time of Closing with an amount equal to that portion of such taxes and assessments which are ratably attributable to the period from and after the Closing Date. All prorations pursuant to this **Section 17** shall be final.

(b) Utilities. All utilities shall be prorated based upon estimates using the most recent actual invoices. Seller shall receive a credit for the amount of deposits, if any, with utility companies that are transferable and that are assigned to Purchaser at the Closing. In the case of non-transferable deposits, Purchaser shall be responsible for making any security deposits required by utility companies providing service to the Premises.

**18. Default; Termination.**

(a) If the Purchaser defaults in any material respect hereunder, the Seller's sole remedy shall be to terminate this Agreement by giving written notice thereof to the Purchaser, whereupon the Earnest Money (or the portion thereof which has been deposited by the Purchaser with the Title Insurer) shall be retained by the Seller as liquidated damages as the Seller's sole and exclusive remedy, and neither party shall have any further liability or obligation to the other, except for the indemnity provisions set forth in **Section 22(p)** of this Agreement and any other provision of this Agreement that is expressly intended to survive the termination of this Agreement. The parties acknowledge and agree that the Seller's actual damages in the event of purchaser's default are uncertain in amount and difficult to ascertain and that said amount of liquidated damages was reasonably determined and is not a penalty. The Seller may not exercise its sole remedy if the Seller is in default in any material respect under this Agreement.

(b) If the Seller defaults in any material respect hereunder, the Purchaser may, at its sole election, either:

- (1) Terminate this Agreement, whereupon the Earnest Money shall be immediately returned to the Purchaser and neither party shall have any further liability or obligation to the other, except for the indemnity provisions set forth in **Section 22(p)** of

this Agreement and any other provision of this Agreement that is expressly intended to survive the termination of this Agreement; or

(2) Assert and seek judgment against the Seller for specific performance, provided that if a court of competent jurisdiction determines that the remedy of specific performance is not available to the Purchaser (for example, but not in limitation, because the Seller's default arose under the last sentence of **Section 6(c)** or the Seller has sold all or any portion of the Property to a third party in violation of the terms of this Agreement), then the Purchaser shall have all remedies available to it at law or in equity, including, without limitation, the right to seek judgment against the Seller for actual contract damages.

The Purchaser may not exercise its remedies hereunder if the Purchaser is in default in any material respect under this Agreement,

19. **Expenses.**

(a) Title insurance premiums for the extended coverage Title Policy (other than the costs of the endorsements to such Title Policy other than extended coverage), all state, county, or local transfer taxes, one-half (1/2) of the escrow fee, and all costs of updating or obtaining a new survey, shall be borne and paid by the Seller.

(b) The costs of the endorsements to the Title Policy, one-half (1/2) of the escrow fee and all recording fees respecting the Deed shall be borne and paid by the Purchaser.

(c) All other costs, charges, and expenses shall be borne and paid as provided in this Agreement, or in the absence of such provision, in accordance with applicable law or local custom.

20. **Intermediaries.**

(a) The Purchaser and the Seller acknowledge and agree that there is no broker involved in this transaction.

(b) The Seller represents to the Purchaser, and the Purchaser represents to the Seller, that there is no broker, finder, or intermediary of any kind with whom such party has dealt in connection with this transaction. Except as expressly set forth above, if any claim is made for broker's or finder's fees or commissions in connection with the negotiation, execution or consummation of this Agreement or the transactions contemplated hereby by or through acts of Seller or Purchaser or their respective partners, agents or affiliates, then Seller or Purchaser, as applicable, shall defend, indemnify and hold harmless the other party from and against any such claim based upon any statement, representation or agreement of such party, which obligation shall survive Closing.



21. [RESERVED]

22. **General Provisions.**

(a) **Entire Agreement.** This Agreement, including all exhibits and schedules attached hereto and documents to be delivered pursuant hereto, shall constitute the entire agreement and understanding of the parties with respect to the subject matter contained herein, and there are no other prior or contemporaneous written or oral agreements, undertakings, promises, warranties, or covenants related to such subject matter not contained herein.

(b) **Amendments in Writing.** This Agreement may be amended only by a written agreement executed by all of the parties hereto. Purchaser and Seller agree that any amendments or modifications to this Agreement may be entered into by either Purchaser or its counsel or Seller or its counsel (including without limitation, amendments or modifications related to title and survey matters) and the execution of an amendment or modification by counsel instead of the applicable Purchaser or Seller is expressly permitted and agreed to by the parties to this Agreement and each party's counsel shall be deemed a permitted and authorized agent of such party until the time that the Purchaser or Seller notifies the other party in writing that their respective counsel does not have authority to amend or modify this Agreement on its behalf.

(c) **Waiver.** No waiver of any provision or condition of this Agreement by any party shall be valid unless in writing signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default.

(d) **Time of the Essence.** Time is of the essence of this Agreement. However, if the Purchaser is acting diligently and in good faith to proceed with the consummation of the transaction contemplated by this Agreement on the Closing Date, the Seller will, upon the written request of the Purchaser, extend the Closing Date, one time only, up to three (3) business days. In the computation of any period of time provided for in this Agreement or by law, any date falling on a Saturday, Sunday or legal holiday when banks are not open for business in either: (i) Chicago, Illinois and/or (ii) Michigan shall be deemed to refer to the next day which is not a Saturday, Sunday, or legal holiday when banks are not open for business in such locations.

(e) **Severability.** Except as otherwise provided in the succeeding sentence, every term and provision of this Agreement is intended to be severable, and if any term or provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of this Agreement. The preceding sentence shall be of no force or effect if the consequence of enforcing the remainder of this Agreement without such illegal or invalid term or provision would be to cause any party to lose the benefit of its economic bargain.

(f) **Headings.** Headings of sections are for convenience of reference only, and shall not be construed as a part of this Agreement.

(g) **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefits of the parties hereto, and their respective successors, and permitted assigns. This Agreement may not be assigned by either party without the consent of the other party,

provided that this Agreement may be assigned by the Purchaser to an affiliate provided that, such assignment shall not release the Purchaser from its obligations under this Agreement.

(h) Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to be an adequate and sufficient notice if given in writing and delivery is made either by (i) personal delivery, in which case the notice shall be deemed received the date of such personal delivery or refusal of receipt, (ii) nationally recognized overnight air courier service, next day delivery, prepaid, in which case the notice shall be deemed to have been received one (1) business day following delivery to such nationally recognized overnight air courier service or refusal of receipt, (iii) facsimile, provided that at the time of being sent by facsimile, delivery thereof is confirmed by sender's receipt of a transmission report generated by sender's facsimile machine, which confirms that the facsimile was successfully transmitted, or (iv) email, provided that delivery thereof is acknowledged by the receiving party, evidenced by the sender's receipt of a receipt evidencing delivery from its email program, or the sender of an email notice otherwise does not receive any indication that such email did not get delivered properly to the applicable recipient, and to the following addresses, facsimile numbers or email addresses, as applicable:

IF TO THE PURCHASER:

c/o Clark Street Holdings, LLC  
161 N. Clark Street, Suite 4900  
Chicago, Illinois 60601  
Attention: Thomas M. Scott  
Facsimile: (312) 994-1880  
Email: [tscott@campusacquisitions.com](mailto:tscott@campusacquisitions.com)

with copies to:

Polsinelli PC  
161 N. Clark St., Suite 4200  
Chicago, Illinois 60601  
Attention: Eric G. Greenfield  
Facsimile: (312) 873-2932  
Email: [egreenfield@polsinelli.com](mailto:egreenfield@polsinelli.com)

IF TO THE SELLER:

City of Ann Arbor, Michigan  
Larcom City Hall, Third Floor  
301 E. Huron Street  
Ann Arbor, Michigan 48104  
Attention: Steve Powers, City Administrator  
Facsimile: (734) 994-8297  
Email: \_\_\_\_\_

with copies to:

[\_\_\_\_\_  
[\_\_\_\_\_  
[\_\_\_\_\_  
Attention: [\_\_\_\_\_  
Facsimile: [\_\_\_\_\_  
Email:[\_\_\_\_\_]

or to such additional or other persons, at such other address or addresses as may be designated by notice from the Purchaser or the Seller, as the case may be, to the other party. Any notice to be delivered pursuant to this Agreement (including without limitation, any notice or responses related to title, survey or other due diligence matters) may be delivered by either Purchaser or its counsel or Seller or its counsel and the delivery of notice by counsel instead of the applicable Purchaser or Seller is expressly permitted and agreed to by the parties to this Agreement and each party's counsel shall be deemed a permitted and authorized agent of such party for purposes of delivering notices until the time that the Purchaser or Seller notifies the other party in writing that their counsel does not have authority to deliver notices of this Agreement on its behalf, respectively.

(i) Governing Law. This Agreement shall be governed in all respects by the internal laws of the State of Michigan.

(j) Counterparts; Non-Paper Records. This Agreement may be signed or otherwise authenticated in any number of counterparts and by different parties to this Agreement on separate counterparts, each of which, when so authenticated, shall be deemed an original, but all such counterparts shall constitute one and the same Agreement. Any signature or other authentication delivered by facsimile or electronic transmission shall be deemed to be an original signature hereto. Each party who signs or otherwise authenticates this Agreement hereby: (1) agrees that the other party may create a duplicate of this Agreement by storing an image of it in an electronic or other medium (a "Non-Paper Record"); (2) agrees that, after creating the Non-Paper Record, such party may discard or destroy the original in reliance on this Section; (3) agrees that the Non-Paper Record shall be treated as the original for all purposes; and (4) expresses its present intent to adopt and accept the Non-Paper Record as an authenticated record of this Agreement. This Agreement, when signed or authenticated pursuant to this Section, shall be evidence of the existence of this Agreement and may be received in all courts and public spaces as conclusive evidence of the existence of this Agreement and that this Agreement was duly executed by the parties to this Agreement.

(k) Attorney's Fees. In the event of any action or proceeding brought by either party against the other under this Agreement, the prevailing party shall be entitled to recover all costs and expenses including its attorneys' fees in such action or proceeding in such amount as the court may adjudge reasonable. The prevailing party shall be determined by the court based upon an assessment of which party's major arguments made or positions taken in the proceedings could fairly be said to have prevailed over the other party's major arguments or positions on major disputed issues in the court's decision. If the party which shall have

commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

(l) Construction. This Agreement shall not be construed more strictly against the Purchaser merely by virtue of the fact that the same has been prepared by the Purchaser or its counsel, it being recognized both of the parties hereto have contributed substantially and materially to the preparation of this Agreement. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders and any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(m) Reporting Obligations. The Seller and the Purchaser hereby designate the Title Insurer to act as and perform the duties and obligations of the “reporting person” with respect to the transaction contemplated by this Agreement for purposes of 26 C.F.R. Section 1.6045-4(e)(5) relating to the requirements for information reporting on real estate transaction closed on or after January 1, 1991. If required, the Seller, the Purchaser and the Title Insurer shall execute at Closing a designation agreement designating the Title Insurer as the reporting person with respect to the transaction contemplated by this Agreement.

(n) [RESERVED]

(o) Confidentiality/Exclusivity. The: (i) Purchaser and its respective representatives shall hold in strictest confidence all data and information obtained with respect to the operation and management of the Property and the terms and conditions of this Agreement, and (ii) Seller and its respective representatives shall hold in strictest confidence all data and information obtained with respect to Purchaser and its affiliates’ operations and the terms and conditions of this Agreement, whether obtained before or after the execution and delivery hereof, and shall not use such data or information for purposes unrelated to this Agreement or disclose the same to others except as expressly permitted hereunder. The preceding sentence shall not be construed to prevent either party from disclosing to: (y) its prospective lenders or investors, or to its officers, directors, attorneys, accountants, architects, engineers and consultants to perform their designated tasks in connection with the transaction contemplated by this Agreement; provided that such disclosing party advises any such third party of the confidential nature of the information disclosed, or (z) the Title Insurer. However, neither party shall have this obligation concerning information which: (a) is published or becomes publicly available through no fault of either the Purchaser or the Seller; (b) is rightfully received from a third party; or (c) is required to be disclosed by law. Seller agrees that, from the date of the expiration or waiver of the Due Diligence Period until the earlier of such time as (1) the Closing Date or (2) the termination of this Agreement, Seller shall not, directly or indirectly, through any officer, director, agent, representative or otherwise, solicit, initiate or encourage the making of any inquiries, engage in negotiations or other substantial discussions, or enter into any agreement with any party, with respect to the transaction contemplated under this Agreement and shall discontinue any pending discussions or negotiations with respect to the transaction contemplated hereunder.

(p) Indemnification. The Seller hereby agrees to indemnify, protect, defend and hold the Purchaser and its officers, directors, members, managers, partners, shareholders, employees and agents harmless from and against any third party loss, cost, damage, claim,

liability or expense (including reasonable attorneys' fees and court costs) relating to the Property or as a result of a breach or inaccuracy of one of Seller's covenants, representations or warranties pursuant to this Agreement and arising or accruing at any time prior to the Closing or the earlier termination of this Agreement, as the case may be. This provision shall survive the Closing or the earlier termination of this Agreement, as the case may be. All indemnification covenants contained in this Agreement shall be enforceable only to the extent allowed by law.

***[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; THE  
SIGNATURE PAGE TO THIS REAL ESTATE AGREEMENT FOLLOWS.]***

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

SELLER

CITY OF ANN ARBOR, MICHIGAN

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

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

Its: \_\_\_\_\_

PURCHASER:

CLARK STREET HOLDINGS, LLC

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

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

Its: \_\_\_\_\_

**LIST OF EXHIBITS AND SCHEDULES**

<b>EXHIBITS</b>	<b>DESCRIPTIONS</b>
1. EXHIBIT A	LEGAL DESCRIPTION
2. EXHIBIT B	LIST OF SERVICE CONTRACTS & LEASES
3. EXHIBIT C	FORM OF DEED
4. EXHIBIT D	Intentionally Omitted
5. EXHIBIT E	Intentionally Omitted
6. EXHIBIT F	FORM OF FIRPTA AFFIDAVIT
<b>SCHEDULES</b>	<b>DESCRIPTIONS</b>
1. 6(a)(3)	PROPERTY INFORMATION
2. 6(a)(5)	RENT ROLL

**EXHIBIT A**

**LEGAL DESCRIPTION OF PREMISES**



**EXHIBIT B**

**LIST OF SERVICE CONTRACTS & LEASES**

**EXHIBIT C**

**FORM OF SPECIAL WARRANTY DEED**

Prepared by:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

After Recording return to:

Eric G. Greenfield, Esq.  
Polsinelli PC  
161 N. Clark St., Suite 4200  
Chicago, Illinois 60601

(For Recorder's Use Only)

**[NOTE: FORM OF DEED TO BE CONFORMED TO COMPLY WITH LOCAL REQUIREMENTS]**

**SPECIAL WARRANTY DEED  
(Michigan)**

This SPECIAL WARRANTY DEED is made this \_\_\_ day of \_\_\_\_\_, 2013, by [\_\_\_\_\_] a [limited liability company / corporation / general / limited partnership] created and existing under and by virtue of the laws of the State of [\_\_\_\_\_] ("Grantor"), having an address of [\_\_\_\_\_] to [\_\_\_\_\_] a [\_\_\_\_\_] having an address of [\_\_\_\_\_] (the "Grantee").

**Grantor**, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) paid to Grantor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has CONVEYED and does hereby CONVEY unto Grantee, all of Grantor's interest in the real property located in Washentaw County, Michigan, and being more particularly described on **Exhibit A** attached hereto (the "Property").

*This conveyance is made and accepted subject to the permitted exceptions described on **Exhibit B** attached hereto (collectively, the "**Permitted Exceptions**").*

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, unto Grantee and Grantee's successors and assigns in fee simple forever; and, subject to the Permitted Exceptions, Grantor does hereby warrant the title to the Property and will defend the title to the

Property against the lawful claims of every person claiming by, through, or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed and delivered by its duly authorized officer, as of the day and year first above written.

[\_\_\_\_\_] , a  
[\_\_\_\_\_]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MICHIGAN     )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_ a notary public in and for said County, in the State aforesaid, do hereby certify that \_\_\_\_\_ personally known to me to be the \_\_\_\_\_ of \_\_\_\_\_, a [\_\_\_\_\_], and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such \_\_\_\_\_ of such [\_\_\_\_\_], he signed and delivered the said instrument pursuant to authority given by the operating agreement of such [\_\_\_\_\_], as his free and voluntary act and as the free and voluntary act and deed of such [\_\_\_\_\_], for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**Exhibit A**

LEGAL DESCRIPTION

COMMONLY KNOWN AS: \_\_\_\_\_

PERMANENT TAX INDEX NUMBER: \_-\_-\_-\_-\_-

**Exhibit B**

**PERMITTED EXCEPTIONS**

**EXHIBIT D**

**Intentionally Omitted.**

**EXHIBIT E**

**Intentionally Omitted.**

**EXHIBIT F**

**FORM OF FIRPTA AFFIDAVIT**

Section 1445 of the Internal Revenue Code, as amended, provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the Transferee (hereinafter defined) that withholding of tax is not required upon the disposition of a United States real property interest by \_\_\_\_\_, a \_\_\_\_\_ (the "**Transferor**") to \_\_\_\_\_, a \_\_\_\_\_ (the "**Transferee**") relating to the real property described on **Schedule A** hereto (the "**Transferred Interests**"), the undersigned, being first duly sworn upon oath, does hereby depose and say, and does hereby on behalf of the Transferor represent that the following is true as of the date hereof:

1. \_\_\_\_\_ is the \_\_\_\_\_ of the Transferor, and is familiar with the affairs and business of the Transferor;

2. The Transferor is not a foreign person; that is, the Transferor is not a nonresident alien, a foreign corporation, foreign partnership, foreign trust or foreign estate (as all such terms are defined in the Internal Revenue Code of 1986, as amended, and United States Treasury Department Income Tax Regulations in effect as of the date hereof);

3. The Transferor is a \_\_\_\_\_ duly organized, validly existing and in good standing under the laws of the State of \_\_\_\_\_;

4. The Transferor's United States employer identification number is \_\_\_\_\_;

5. The Transferor's office address and principal place of business is c/o \_\_\_\_\_; and

6. Transferor is not a disregarded entity as defined in §1.1445-2(b)(2)(iii).

The undersigned and the Transferor understand that this affidavit and certification may be disclosed to the United States Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

All terms (whether capitalized or not) used but not defined herein shall have the same respective meanings as in the Internal Revenue Code of 1986, as amended, and the United States Treasury Department Income Tax Regulations in effect as of the date hereof.

Under penalties of perjury, we declare that we have examined this affidavit and certificate, and to the best of our knowledge and belief, it is true, correct and complete. We further declare that we have authority to sign this affidavit and certificate on behalf of the Transferor.



IN WITNESS WHEREOF, Transferor has executed and delivered this FIRPTA Affidavit as of \_\_\_\_\_, 2013.

\_\_\_\_\_, a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MICHIGAN            }  
  } SS.  
COUNTY OF \_\_\_\_\_        }

I, the undersigned a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named \_\_\_\_\_, being the \_\_\_\_\_ of \_\_\_\_\_, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Notary Public  
My Commission Expires:

**SCHEDULE 6(a)(3)**  
**PROPERTY INFORMATION**

1. Copies of all Service Contracts, if any.
2. Copies of all certificates of occupancy and other licenses and permits, if in the Seller's possession.
3. Copies of all as-built plans and specifications for the improvements, if any.
4. Copies of all environmental, engineering, geo-technical reports, if in Seller's possession.
5. Income and expense statements for the Premises for calendar years 2011, 2012 and year to date statements for calendar year 2013, if any.
6. Copies of all insurance bills and policies.
7. Copies of Property insurance bills and policies, if any.
8. Copies of any agreements that will be binding on the Purchaser after closing, if any.
9. Copies of all leases from the Property.
10. Copies of all easements, if any.
11. Insurance loss histories for calendar years 2011, 2012 & 2013, if any.
12. Copies of the real estate tax bills for tax years 2010, 2011, 2012 & 2013, if in Seller's possession.
13. A copy of the most recent survey of the Premises along with an updated survey, if any.
14. A copy of the Seller's existing Owner's Title Insurance Policy, if in Seller's possession.
15. Copies of utility bills for the past three months, if in Seller's possession.
16. Summary of all pending and threatened litigation and claims, if any.
17. Capital expenses for 2011, 2012 & 2013, if any.
18. Copy of any ADA surveys, if any.
19. Copies of all existing warranties, if any.
20. A current certified rent roll.
21. All other documentation reasonably requested by the Purchaser and only if in Seller's possession.

**SCHEDULE 6(a)(5)  
RENT ROLL**