

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “Agreement”) made and entered into this ____ day of _____, 2022 (the “Execution Date”),

BETWEEN

[INSERT NAME OF PURCHASER], a **[INSERT TYPE OF ENTITY AND THE CORRESPONDING JURISDICTION OF FORMATION]** (the “Purchaser”),

AND

THE BOROUGH OF FOREST HILLS, a political subdivision of the Commonwealth of Pennsylvania with its principal office located at 4400 Greensburg Pike, Pittsburgh, Pennsylvania 15221, by and through the Borough Council (the “Borough”).

RECITALS:

WHEREAS, The Borough owns all those certain parcel of real property currently located at 444 Avenue D in the Borough’s R-2 Low Density Residential District, currently designated as Allegheny County Block/Lot No. 374-F-68, and Avenue F at its intersection with West Street in the Borough’s R-2 Low Density Residential District, currently designated as Allegheny County Block/Lot No. 374-F-55, more fully described on **Exhibit A**, together with all privileges, rights, easements and appurtenances belonging to such land, and all right, title and interest (if any) of the Borough in and to any streets, alleys, passages, and other rights-of-way or appurtenances included in, adjacent to or used in connection with such land, but specifically excluding and reserving to the Borough all right, title and interest (if any) of the Borough in all mineral and development rights, including, without limitation, oil, natural gas and all constituent products appurtenant to such land (collectively, the “Land”), as well as all other components of the Property (as hereinafter defined); and

WHEREAS, the Borough issued an Initiation to Bid – Specifications for Purchase of Property on or about _____, 2022, a copy of which is incorporated herein as **Exhibit B**, (the “Invitation and Specifications”); and

WHEREAS, in connection with the Invitation and Specifications, Purchaser has submitted to the Borough a bid for the Property, a copy of which is attached hereto and incorporated herein as **Exhibit C**, (the “Bid”); and

WHEREAS, in accordance with the Invitation and Specifications, Purchaser desires to purchase from the Borough, and the Borough desires to sell to Purchaser, the Borough’s entire right, title, and interest in and to: (i) the Land; (ii) all improvements thereon (the “Improvements”), which includes a one and half story, approximately 3,908 square foot brick building (the “Building”) now on the Land; (iii) all tenements, hereditaments and appurtenances thereto, including all fixtures and all personal property listed on **Exhibit D** (the “Tangible Personalty”);

(iv) all of the Borough's right, title and interest, if any, in all warranties and guaranties relating to the Improvements or Tangible Personalty to the extent that the Borough may legally transfer the same (the "Intangible Personalty" and together with the Tangible Personalty, the "Personalty"); and (v) all those certain service, management and leasing contracts affecting the Land or contracts described on **Exhibit E** (collectively, the "Assumed Contracts", and together with the Land, the Improvements, and the Personalty, the "Property"), on the terms and subject to the conditions of this Agreement.

WHEREAS, at its regular meeting held on _____, 2022, the Council of the Borough accepted Purchaser's "_____" bid, providing for _____.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, and with the intent to be legally bound, the Borough and Purchaser agree as follows:

1. Sale and Purchase. Upon the terms and subject to the conditions set forth in this Agreement, the Borough hereby agrees to convey, sell, transfer, assign, and deliver to Purchaser at the Closing (as defined in **Section 11** of this Agreement), and Purchaser hereby agrees to buy and take from the Borough at the Closing, all of the Borough's right, title, estate, and interest in and to the Property, free and clear of all liens, security interests, restrictions and encumbrances whatsoever (collectively, "Encumbrances"), except for any Permitted Exceptions (as defined in **Section 4(a)** of this Agreement). All components of the Property, except the Personalty and Assumed Contracts, shall be transferred and conveyed by execution and delivery of the Borough's **bargain and sale deed** with covenant against grantor's acts in form and substance mutually satisfactory to the Parties a copy of which is attached hereto and incorporated herein as **Exhibit F**, (the "Deed"). The Personalty shall be transferred and conveyed pursuant to a bill of sale in form and substance mutually satisfactory to the Parties (the "Bill of Sale") and the Assumed Contracts shall be assumed, transferred and conveyed pursuant to an assignment and assumption agreement in in form and substance mutually satisfactory to the Parties (the "Assignment and Assumption Agreement").

2. Purchase Price. The aggregate purchase price for the Property shall be [_____] and ___/100 Dollars (\$[_____]) (the "Purchase Price"), subject to the prorations as provided by this Agreement, and payable by Purchaser to the Borough as follows:

(a) Ten Thousand and No/100 Dollars (\$10,000.00) in earnest money (the "Escrow Deposit") to be deposited by Purchaser in escrow account (the "Escrow Account") opened by Purchaser with [INSERT NAME OF TITLE COMPANY] (the "Title Company"), attention [INSERT NAME OF INDIVIDUAL AGENT], as escrow agent (the "Escrow Agent"), within one (1) business day of the date of Purchaser's receipt of a fully-executed original of this Agreement and, unless refunded to Purchaser pursuant to the termination of this Agreement as permitted by this Agreement, to be delivered to the Borough and credited against the Purchase Price at Closing; and

(b) The balance of the Purchase Price paid to the Borough in cash or other immediately-available funds at the Closing, subject to the prorations as provided by this Agreement.

3. Prorations, Closing Costs, and Adjustments.

(a) All prorations, adjustments, and final utility readings shall be made as of 11:59 p.m. of the day preceding the Closing Date (the "Adjustment Date").

(b) General real estate and personal property taxes and assessments or any other governmental tax or charge in respect of the Property (to the extent applicable) shall be prorated based on the fiscal period for which assessed, except that if the Closing shall occur before the actual amounts are known, apportionment with respect to the Property shall be based on the rate and valuation shown on the last available tax bills (the "Closing Tax Bills"), but subject to further adjustment as provided below.

(c) Final readings and final billings for any utilities supplied to the Property and not paid for by the tenant or occupant(s) thereof, shall be made as of the Adjustment Date. The Borough shall pay all such outstanding amounts due, or if not reflected on a final billing, accrued, as of such time based on the most receipted issued bills therefor, or such amounts shall be credited to Purchaser at Closing.

(d) The Borough shall be responsible for the costs of preparing the Deed and the cost of recording any lien or mortgage discharges. Purchaser shall be responsible for the following amounts at Closing: recording costs associated with the Deed, the cost of the Title Policy (as defined in **Section 4** of this Agreement) premium, the cost of the title search and examination, the cost of all realty transfer taxes, and the cost of the Survey (as defined in **Section 4** of this Agreement). Each Party shall pay its respective attorneys', consultants', and experts' fees. Any fees charged by the Title Company, as identified herein, not otherwise provided for by this Agreement shall be borne by Purchaser.

(e) Any prorations to which Purchaser may be entitled by reason of the foregoing shall be credited against the Purchase Price to be paid at Closing. Any prorations to which the Borough may be entitled by reason of the foregoing shall be paid by Purchaser to the Borough at Closing in addition to the Purchase Price.

(f) Except as otherwise expressly provided in this Agreement to the contrary, the Borough shall be responsible for and bear all operating expenses relative to the Property (and shall be entitled to all revenue generated by or income arising from the Property) accruing on or prior to the Closing Date, and Purchaser shall be responsible for and bear all operating expenses for the Property (and shall be entitled to all revenue generated by or income arising from the Property) accruing after the Closing Date. Prorations of items under this **Section 3** shall be made at Closing based on the best information available to the Parties, with an adjustment and reconciliation to the extent necessary made within ninety (90) days of Closing, and with payment from one Party to the other (to the extent required) to be made within thirty (30) days following

such reconciliation. Such prorations, as so adjusted, shall be considered final and binding for all purposes absent mistake of fact. This **Section 3(f)** shall survive the Closing.

4. Title and Possession of the Property.

(a) At the Closing, Purchaser shall have the right to obtain an ALTA owner's policy of title insurance in the amount of the Purchase Price on the Title Company's standard form (the "Title Policy") issued by the Title Company (the costs of the Title Policy shall be borne by Purchaser in accordance with the provisions of **Section 3(c)** of this Agreement), to insure that, upon Closing, Purchaser will hold good, valid, and indefeasible fee simple title in and to the Property, free and clear of all Encumbrances whatsoever, except for the permitted exceptions set forth on **Exhibit G** (the "Permitted Exceptions").

(b) Purchaser shall be entitled, at its cost, to obtain an ALTA survey of the Property from a Pennsylvania-licensed surveyor (the "Survey") prior to Closing that must be satisfactory to Purchaser in all respects. If Purchaser requests, the Borough shall include in the Deed a legal description of the Land that accords with the Survey, provided, however, (i) prior to the Closing, Purchaser provides the Borough with two prints of the Survey with the ink signature and the raised seal of the surveyor affixed thereto certified to the Borough and the Borough's counsel; and (ii) the Borough shall have no liability or obligation related to or arising from any errors or inaccuracies in such description.

(c) The Borough shall remove or cause to be removed and discharged all Monetary Title Exceptions prior to Closing by taking the actions necessary to have the Monetary Title Exceptions deleted by the Title Company or transferred to bond so that the Monetary Title Exceptions are removed from the Title Policy. For purposes of this Agreement, the term "Monetary Title Exceptions" shall mean all liquidated judgments, real estate taxes due and payable prior to Closing, or other liens (including any mortgages encumbering the Property), dischargeable solely by the payment of money.

5. Intentionally Left Blank.

6. Representations and Warranties of The Borough.

(a) The Borough hereby represents and warrants to Purchaser as of the Execution Date and again as of the Closing Date that:

(i) Authorization of Transaction. The Borough has all requisite power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. The execution and delivery by the Borough of this Agreement and the performance and consummation by the Borough of the transactions contemplated by this Agreement have been duly and validly authorized by all requisite and necessary actions of and by the Forest Hills the Borough Council ("the Borough Council") at a duly advertised public meeting or meetings and other internal action on the part of the Borough.

(ii) Delivery of Agreement. This Agreement has been duly and validly executed and delivered by the Borough. On and after the execution hereof and until the Closing hereunder, and thereafter as to those obligations that expressly survive the Closing, this Agreement will be a valid and binding obligation of the Borough, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency and similar laws affecting creditors' rights generally.

(iii) No Violations. The Borough has not received any written notice indicating that the Property is in violation, or that with the giving of notice or the passage of time would be in violation, of any applicable law, enactment, statute, code, ordinance, rule, regulation, judgment, writ, injunction, authorization, covenant, condition, restriction or agreement, or other direction or requirement of any governmental authority ("Legal Requirement(s)").

(iv) FIRPTA. The Borough is not a "foreign person" as defined in Section 1445(f)(3) of the Internal Revenue Code of 1986.

(b) Except as is otherwise expressly provided in this Agreement, the Borough hereby specifically disclaims any warranty (oral or written) concerning (i) the nature and condition of the Property and the suitability thereof for any and all activities and uses that Purchaser may elect to conduct thereon; (ii) the manner, construction, condition and state of repair or lack of repair of the Improvements; (iii) the compliance of the Land and the Improvements or their operation with any laws, rules, ordinances or regulations of any government or other body; and (iv) any other matter whatsoever except as expressly set forth in this Agreement. EXCEPT AS IS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON A STRICTLY "AS IS" "WHERE IS" BASIS AS OF THE CLOSING DATE AND THE BOROUGH MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF QUANTITY, QUALITY, CONDITION, HABITABILITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, ANY IMPROVEMENTS LOCATED THEREON OR ANY SOIL CONDITIONS RELATED THERETO.

(c) PURCHASER SPECIFICALLY ACKNOWLEDGES THAT PURCHASER IS NOT RELYING ON (AND THE BOROUGH HEREBY DISCLAIMS AND RENOUNCES) ANY REPRESENTATIONS OR WARRANTIES MADE BY OR ON BEHALF OF THE BOROUGH OF ANY KIND OR NATURE WHATSOEVER, EXCEPT FOR REPRESENTATIONS AND WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT. PURCHASER, FOR ITSELF AND PURCHASER'S SUCCESSORS AND ASSIGNS, HEREBY RELEASES THE BOROUGH FROM AND WAIVES ANY AND ALL CLAIMS AND LIABILITIES AGAINST THE BOROUGH FOR, RELATED TO, OR IN CONNECTION WITH, ANY ENVIRONMENTAL OR PHYSICAL CONDITION AT THE PROPERTY (OR THE PRESENCE OF ANY MATTER OR SUBSTANCE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY), INCLUDING, BUT NOT LIMITED TO, CLAIMS AND/OR LIABILITIES RELATING TO (IN ANY MANNER WHATSOEVER) ANY HAZARDOUS, TOXIC OR DANGEROUS MATERIALS OR SUBSTANCES LOCATED IN, AT, ABOUT OR UNDER THE PROPERTY, OR FOR ANY AND ALL CLAIMS OR CAUSES OF ACTION (ACTUAL OR THREATENED) BASED UPON, IN CONNECTION

WITH OR ARISING OUT OF CERCLA, AMENDED BY SARA, AND AS MAY BE FURTHER AMENDED FROM TIME TO TIME), RCRA, OR ANY OTHER CLAIM OR CAUSE OF ACTION (INCLUDING ANY FEDERAL OR STATE BASED STATUTORY, REGULATORY OR COMMON LAW CAUSE OF ACTION) RELATED TO ENVIRONMENTAL MATTERS OR LIABILITY WITH RESPECT TO OR AFFECTING THE PROPERTY. PURCHASER REPRESENTS TO THE BOROUGH THAT 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 PURCHASER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE LAND OR THE IMPROVEMENTS AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF THE BOROUGH OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS AND WARRANTIES OF THE BOROUGH AS ARE EXPRESSLY SET FORTH IN THIS AGREEMENT. UPON CLOSING, PURCHASER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY PURCHASER'S INVESTIGATIONS, AND PURCHASER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED THE BOROUGH FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH PURCHASER MIGHT HAVE ASSERTED OR ALLEGED AGAINST THE BOROUGH, AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS (INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL LAWS).

(d) PURCHASER ACKNOWLEDGES AND AGREES THAT THE WAIVERS, RELEASES AND OTHER PROVISIONS CONTAINED IN THIS SECTION 6 WERE A MATERIAL FACTOR IN THE BOROUGH'S ACCEPTANCE OF THE PURCHASE PRICE AND THAT THE BOROUGH WAS UNWILLING TO SELL THE PROPERTY TO PURCHASER UNLESS THE BOROUGH WAS RELEASED AS EXPRESSLY SET FORTH ABOVE. PURCHASER, WITH PURCHASER'S COUNSEL, HAS FULLY REVIEWED THE DISCLAIMERS AND WAIVERS SET FORTH IN THIS AGREEMENT, AND UNDERSTANDS THE SIGNIFICANCE AND EFFECT THEREOF. THE TERMS AND CONDITIONS OF THIS SECTION 6 WILL EXPRESSLY SURVIVE THE CLOSING, WILL NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENTS AND WILL BE INCORPORATED INTO THE DEED.

(e) As used herein, (i) "Environmental Laws" means any federal, state or local statutes, laws, regulations, rules, decrees, orders, judgments, stipulations, ordinances, policies or common law related to the protection of human health and the environment or the use, handling, treatment, storage, disposal, release, remediation or transportation, or exposure of persons to,

Hazardous Substances, and (ii) “Hazardous Substances” means any waste, substance, material or chemical, pollutant or contaminant, including without limitation petroleum, petroleum products, petroleum distillates, polychlorinated biphenyls and/or chlorinated compounds, which is regulated by or can result in liability under the Environmental Laws.

7. Representations and Warranties of Purchaser. Purchaser does hereby represent and warrant to the Borough as follows:

(a) Purchaser is a **[INSERT ENTITY TYPE]** duly organized, validly existing and in good standing under the laws of the **[INSERT JURISDICTION]** with full power and authority to carry on the business in which it is engaged and to execute and deliver, and carry out the transactions contemplated by, this Agreement.

(b) The execution and delivery by Purchaser of this Agreement and the performance and consummation by Purchaser of the transactions contemplated by this Agreement (i) have been duly and validly authorized by all requisite and necessary limited liability companies and other internal action on the part of Purchaser, and (ii) do not, and will not, result in a breach of, or constitute a default under, any provision of the governing documents of Purchaser.

(c) This Agreement has been duly and validly executed and delivered by Purchaser. On and after the execution hereof and until the Closing hereunder, and thereafter as to those obligations that expressly survive the Closing, this Agreement will be a valid and binding obligation of Purchaser, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency and similar laws affecting creditors’ rights generally.

(d) Purchaser has not taken any action that would give any person, broker or agent a right to a finder’s fee or any type of brokerage fee or commission in relation to, or in connection with, the transactions contemplated by this Agreement.

(e) The execution by Purchaser of this Agreement and the consummation by Purchaser of the transaction contemplated hereby does not result in a breach of any of the terms or provisions of or constitute a default of a condition which upon notice or lapse of time or both would ripen into a default under any indenture, agreement, instrument or obligation to which Purchaser is a party, and does not conflict with any order, judgment, injunction, award or decree of any governmental body, administrative agency or court affecting Purchaser or by which Purchaser or any of Purchaser’s assets or properties is bound.

(f) Purchaser has the financial ability to carry out the transactions provided for in this Agreement. Purchaser’s performance of Purchaser’s obligations under this Agreement is not contingent on Purchaser obtaining any financing of any nature whatsoever.

8. Mechanic’s Liens. The Borough shall indemnify, defend and hold Purchaser harmless from and against any and all costs, damages, and expenses incurred by Purchaser, directly or indirectly, as the owner of the Property, including reasonable attorneys’ fees, as a result of the filing against the Property of any mechanic’s lien by any person or entity claiming to have performed work on the Property or to supply materials for the Property prior to the Closing, except to the extent such claimed work was purportedly undertaken, or supplies were purportedly

delivered, at the request of or on behalf of Purchaser. The Borough agrees to give Purchaser notice of any such lien (and/or any claim relating to the potential assertion thereof) promptly after obtaining knowledge thereof. This **Section 8** shall survive the Closing.

9. Intentionally Left Blank.

10. Intentionally Left Blank.

11. Closing.

(a) The closing of the transaction contemplated under this Agreement (the “Closing”) shall occur on the date hereof or on such other date as may be permitted pursuant to the terms of this Agreement at the offices of the Title Company at 10:00 a.m. local time, or at such other place and time as the Borough and Purchaser shall agree. In lieu of making a personal appearance at the place of Closing, either Party may cause its documents and other deliveries to be delivered and tendered in escrow with the Title Company on or prior to the Closing Date. As used in this Agreement, “Closing Date” shall mean the date on which the Closing occurs, and “Close” shall mean, with respect to each Party, the performance of the obligations of such Party under this **Section 11** of this Agreement relative to the Closing. Documents required for Closing, except for such documents that are to be recorded, may be executed in counterparts, each of which shall be deemed to constitute an original and all of which shall be deemed to constitute the same instrument. The Parties agree that a facsimile signature and/or PDF or facsimile copies shall have the same legal force and effect as an original signature.

(b) At the Closing, the Borough shall deliver the following to or for the benefit of Purchaser:

(i) originals or true, correct, and complete copies of all books, records, and files in the Borough’s possession relating to the Property and the Borough’s operation of the Property, including, without limitation, the Assumed Contracts;

(ii) originals or true, correct, and complete copies of all Permits in the Borough’s possession relative to the Property, including, without limitation, all licenses, plans, specifications, surveys, guaranties and warranties;

(iii) an affidavit of the Borough stating that the Borough is not a foreign person within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986 and delivered in the form attached hereto as **Exhibit H**;

(iv) a duly executed affidavit to the Title Company, in the form reasonably acceptable to the Borough and the Title Company, relating to certain title matters (which may include a statement that the Borough has included a legal description in the Deed that accords with the Survey as an accommodation to, and at the request of, Purchaser and makes no representation or warranty as to its accuracy), along with any agreements, affidavits, or other documents as reasonably required by the Title Company to issue the Title Policy, including any non-imputation endorsement;

(v) a duly executed copy of the closing statement;

(vi) a duly executed original of the Deed, the Assignment and Assumption Agreement, and the Bill of Sale;

(vii) a written agreement or other evidence deemed sufficient in Purchaser's sole discretion that any leases that are not Assumed Contracts have been terminated; and

(vii) such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required to give effect to the terms and intent of this Agreement.

(c) At the Closing, Purchaser shall deliver the following to or for the benefit of the Borough:

(i) the Purchase Price, as adjusted pursuant to the terms of this Agreement, in the form and in the manner set forth in **Section 2** of this Agreement;

(ii) a duly executed copy of the Assignment and Assumption Agreement;

(iii) a duly executed copy of the closing statement;

(iv) A certificate from the surety or lending institution showing that the bond or letter of credit premiums are paid in full; and

(v) such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required to give effect to the terms and intent of this Agreement.

12. Other Agreements. At any time and from time to time after the Closing, at the request of Purchaser and without further consideration, the Borough shall execute and deliver such other instruments of sale, transfer, conveyance and assignment and take such actions as Purchaser may reasonably request to more effectively transfer, convey and assign to Purchaser, and to confirm Purchaser's rights to, title in and ownership of, the Property and to place Purchaser in actual possession and operating control thereof. This **Section 12** shall survive the Closing.

13. Assumption of Certain Liabilities. On the Closing Date, Purchaser shall assume, and otherwise pay, satisfy and discharge, only those liabilities of the Borough under the Assumed Contracts that accrue after the Closing Date (the "Assumed Liabilities"). Notwithstanding anything to the contrary, Purchaser is not assuming under this Agreement or any other Ancillary Document, and the Borough agrees to pay, perform, satisfy and discharge, any and all liabilities and obligations that are not specifically described in the previous sentence as an Assumed Liability, including, without limitation, all liabilities for any breach, act or omission by the Borough on or prior to the Closing Date (each, a "Retained Liability"), whether relating to the

Property or otherwise. Without limiting the generality of the foregoing, all liabilities relating to employees of the Borough, regardless of whether such liabilities occur or arise prior to, on or after the Closing Date, shall be Retained Liabilities. This **Section 13** shall survive the Closing.

14. Prohibition against Transfer of Equity. Purchaser represents and agrees for itself, its shareholders, members, and partners, as well as their respective successors in interest that prior to the completion of the Redevelopment as determined by the Borough, and without prior approval by the Borough, which approval the Borough may withhold in its sole discretion, (a) there shall be no transfer by any party owning ten percent (10%) or more of the equity interest in Purchaser (each, a “Material Equity Transfer”); (b) nor shall any owner of such equity suffer a Material Equity Transfer to occur; (c) nor shall there be or be suffered to be by Purchaser, or by any owner of ten percent (10%) or more of such equity or in the relative distribution thereof, or with respect to the identity of the parties in control of Purchaser or the degree thereof, by any other method or means, whether by increased capitalization, merger with another entity, amendment of Purchaser’s governance documents, issuance of additional or new equity or classification of equity or otherwise. With respect to this Section 14, Purchaser and the parties signing this Agreement on behalf of Purchaser represent that they have the authority of all of the Purchaser’s existing equity holders to agree to this provision on their individual behalves and to bind them relative thereto.

15. Physical Condition of the Property.

(a) Except as otherwise set forth in this Agreement, the Property is being sold “**AS IS**” and “**WHERE IS,**” “**WITH ALL FAULTS**”. Upon completion of the Avenue D Parcel Walk Through (as defined in the Invitation and Specifications), Purchaser will have inspected the Property and completed all due diligence inspections, including all structural, engineering and environmental inspections that Purchaser decides to undertake, and will rely on those inspections and any rights which may be provided for elsewhere in this Agreement. Purchaser acknowledges that the Borough has afforded Purchaser the opportunity for full and complete investigation, examination and inspection of the Property and that Purchaser will have completed all such investigations, examinations and inspections as it desires to undertake or has elected to purchase the Property without them. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, THE BOROUGH DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS AND MERCHANTABILITY.

(b) Purchaser further acknowledges and agrees that the Borough is not liable or bound in any manner by any verbal or written statement, representation or information pertaining to the Property, or the operation thereof, furnished by any contractor, agent, employee, servant or other person not expressly set forth herein.

(c) The provisions of this Section 17 shall survive the Closing and the delivery of the Deed or any expiration or termination of this Agreement.

16. Miscellaneous.

(a) This Agreement and the Ancillary Documents shall be governed and construed in accordance with the internal laws of the Commonwealth of Pennsylvania, notwithstanding any choice of law or conflict of law provision or rule of Pennsylvania or any other jurisdiction that would cause the application of laws of any jurisdiction other than Pennsylvania. Any legal suit, action or proceeding arising out of or based on this Agreement or any Ancillary Document shall be commenced and adjudicated in the state or federal courts situate in the County of Allegheny, County of Allegheny, and the Parties irrevocably submit to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

(b) This Agreement may be amended only by a written instrument signed by all Parties.

(c) No waiver, release or other action hereunder shall be enforceable unless signed by the Party against which enforcement is sought, and no such waiver, release or other action shall be effective with respect to more than the specific instance in which it was granted unless the instrument specifically so states.

(d) This Agreement, together with the Ancillary Documents, including the Invitation and Specifications, contains the entire agreement between Purchaser and the Borough in respect of the subject matter hereof and supersedes all other prior agreements, oral or written. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement. Signatures obtained by facsimile, PDF or other means of electronic transmission shall constitute effective execution and delivery of this Agreement and shall be deemed original signatures for all purposes.

(e) All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if delivered by e-mail, or if served personally on the party to whom notice is to be given (provided that if delivery by such method is outside business hours, such delivery shall be deemed effected on the next following business day); or if delivered by overnight private carrier, on the date of delivery; or on the third day after mailing if mailed to the party to whom notice is to be given by first class mail, certified, postage prepaid, and properly addressed as follows:

To the Borough:

With Copy To:

To Purchaser

With Copy To:

(f) In the event that any legal action is commenced by any Party to enforce or interpret the provisions and terms contained herein, the prevailing Party shall be entitled to its reasonable attorney's fees and costs incurred.

(g) The covenants required of the Parties pursuant to this Agreement shall survive the Closing to the extent specifically set forth in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

[INSERT PURCHASER'S NAME]

By _____
Name: _____
Title: _____

ATTEST:

THE BOROUGH OF FOREST HILLS

Steven J. Morus
The Borough Manager/Secretary

By: _____
Name: _____
Title: _____

(Seal)

Exhibit A

Legal Description

[TO BE PROVIDED]

Exhibit B

Invitation to Bid – Specifications for Purchase of Property

[TO BE INSERTED]

Exhibit C

Bid

[TO BE PROVIDED]

Exhibit D

Tangible Personalty

[TO BE PROVIDED]

Exhibit E

Assumed Contracts

[To be completed by Purchaser]

Exhibit F

Deed

[TO BE PROVIDED]

Exhibit G

Permitted Exceptions

[TO BE PROVIDED]

Exhibit H

FIRPTA Certificate

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the transfer of a U.S. real property interest by _____ to the transferee, the undersigned hereby certifies the following on behalf of _____:

- 1) _____ is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
- 2) _____ is not a disregarded entity as defined in Reg. §1.1445-2(b)(2)(iii);
- 3) The U.S. employer identification number of _____ is _____; and
- 4) The office address of _____ is _____.

The undersigned understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of _____.

By: _____
Name:
Title:

Sworn and Subscribed to
before me this ____ day
of _____, 2022.

Notary Public