

**ROCKWELL DOWNINGTOWN, LLC  
1075 EAGLE ROAD  
WAYNE, PA 19087**

Admitted: PA and NJ

October 23, 2024

Roger N. Huggins, Esquire  
Lamb/McErlane, LC  
24 E. Market Street  
West Chester, PA 19381

**OVERNIGHT MAIL/EMAIL**

Re:     Downingtown Area School District to Rockwell Downingtown, LLC  
          UPI Numbers: 33-1-25; 33-1-26; 33-1-27; 33-1-28; and 33-1-28.1  
          Uwchlan Township, Pennsylvania (collectively, the "Property")

Roger,

In furtherance of recent communications between us in connection with the above-referenced transaction, enclosed please find two (2) copies with all exhibits of my 10/8/24 draft of the Agreement of Purchase and Sale for the above-referenced Property (the "Agreement") between Downingtown Area School District ("Seller") and Rockwell Downingtown, LLC ("Buyer"), executed by Buyer. It is my understanding that the Agreement has been or will be recommended for execution by the Seller and that Seller is prepared to take the Agreement up for consideration at its next meeting in November/2024.

Thank you for your attention to this matter. We look forward to receiving a fully executed copy of the Agreement from Seller and getting to work on this project.

Very truly yours,

Christopher B. Hogan, Esquire

CBH  
Encl.

cc:     Greg Lingo (w/encl; Email Only)

## **AGREEMENT OF PURCHASE AND SALE**

**(Downingtown Area School District Property, Uwchlan Township, PA)**

**THIS AGREEMENT OF PURCHASE AND SALE** (this "Agreement"), dated \_\_\_\_\_, 2024, is entered into as of the Effective Date (as defined herein) by and between **Rockwell Downingtown, LLC**, a Pennsylvania limited liability company ("Buyer"), and the **Downingtown Area School District**, a government unit organized under the Pennsylvania Public School Code ("Seller"). In consideration of the sum of Ten Dollars (\$10.00) paid by the Parties each to the other, the receipt and sufficiency of which are hereby acknowledged, and of the mutual promises contained in this Agreement, Buyer and Seller (sometimes individually referred to as a "Party" and collectively referred to as the "Parties") agree as follows:

1. **Definitions:** Capitalized terms that are not defined when first used in this Agreement shall have the meanings set forth below unless the context clearly indicates to the contrary.

a. **Authorities (each an Authority):** each and every federal, state and/or local governmental and/or quasi-governmental agency, body, entity, board and/or authority that has full or partial jurisdiction over the Property (defined below), the furnishing of utilities or other services to the Property, or the subdivision, improvement, development, rezoning, redevelopment, occupancy, sale or use of the Property including without limitation, the PADEP (defined below), the County and the Township. The term "Commonwealth" shall mean the Commonwealth of Pennsylvania. The term "County" shall mean Chester County, Pennsylvania. The term "Township" shall mean the Township of Uwchlan, Chester County, Pennsylvania.

b. **Brokers:**

(i) Seller's Broker: Berkshire Hathaway/Fox & Roach (Edward Ritti);

(ii) Buyer's Broker: N/A;

c. **Buyer Easements (each a Buyer Easement):** to the extent that reasonable access to any Parcel (defined below) purchased by Buyer is not available via public roadway, one or more written easements from Seller to Buyer across, through and over convenient parts of the Property still owned by Seller, which easement(s) shall be subject to approval by the Seller and the Buyer, not to be unreasonably withheld or delayed, whereby reasonable access to, from, over and through the said surrounding land is provided as follows: (i) to Buyer for purposes of developing and otherwise improving the Parcels for Buyer's Intended Use and conducting marketing, sales, leasing and related activities; (ii) to Buyer's contractors, subcontractors, vendors, employees, agents and representatives in furtherance of the purposes set forth above; and (iii) to Buyer's customers in furtherance of Buyer's Intended Use of the Property. Any Buyer Easements that may be required under this Agreement shall be in recordable form and recorded at or before the time of the First Closing (defined below) and may be included in any Planned Community Documents (hereinafter defined) to be recorded against all or part of the Property.

d. **Buyer's Intended Use:** the subdivision of the Property into two (2) or more parcels of land (collectively, the "Parcels" and each a "Parcel") to be developed and otherwise improved in accordance with applicable Legal Requirements either (i) in a manner consistent with the Township zoning designations for the Property as of the Effective Date of this Agreement (Rural Residential and Planned Industrial – Commercial District) (the "By-Right Project") or (ii) if permitted and approved by the applicable Authorities, including, if reasonable or necessary, any amendment to the Township zoning ordinance and/or zoning map, to include and contain a 55+ age-restricted senior housing community and

related amenities and a continuing care retirement community and related amenities consisting of one or more main buildings and independent living units (collectively, the "Senior Housing Project"), together in either such case with any open space or recreational areas, common elements and any incidental or related uses of the Property including, the Natatorium (hereinafter defined).

e. **Closing:** the act of settlement on the purchase and sale of a portion of the Property in the form of fully subdivided Parcels at which time Seller shall convey fee simple title to certain of the Parcels [including, if applicable, any common elements, facilities or convertible real estate appurtenant thereto as identified on the Approved Plan (defined below)], to Buyer by delivery of one or more deeds and Buyer shall deliver that portion of the Purchase Price payable for the Parcels in question to Seller, all subject to the terms, conditions and adjustments as set forth in this Agreement. The Parties contemplate that there will be more than one (1) Closing under this Agreement in accordance with the Takedown Schedule (defined below) set forth in Section 5 hereof and the terms and conditions of this Agreement shall apply to each and every such Closing.

f. **Deposit:** a total of Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000) in the form of cash, to be delivered and handled in accordance with Section 3 herein.

g. **Development Easements:** those written easements, licenses and/or rights-of-way, if any, to or from Seller, Buyer and/or an Authority which are necessary for development of the Property for Buyer's Intended Use, whereby use of and/or reasonable access to, from, over, across and/or through certain parts of the Property is provided to Buyer and/or an Authority, including, any such easements for sanitary sewer, utility tie-in and/or stormwater management purposes.

h. **Documents:** any and all of the following within Seller's possession or control with respect to the Property or that relate in any way to any part of the Property: engineering, environmental, economic, marketing, and other studies; surveys, maps, drawings, plans; title reports, commitments and policies and copies of exceptions referenced therein (if available); easements affecting the Property; appraisals and supporting reports; environmental reports; wetland studies; flood elevation certificates; traffic studies; engineering studies, geotechnical studies or reports, soil studies or reports and other similar studies or reports; real property tax records; any existing Government Approvals (defined below) or submitted applications for a Government Approval; any correspondence to or from an Authority; and the Farming Lease (hereinafter defined), including any and all exhibits or amendments thereto. Any Documents due to Buyer hereunder shall be delivered to Buyer by way of hard copy and/or accessible electronic format or shall be made available to Buyer for review at the offices of Seller.

i. **Effective Date:** the date on which the last of all required signatures to this Agreement has been affixed hereto. The Effective Date may be inserted by hand by or for a Party in the space at the beginning of this Agreement, upon establishment of same, with notice by Email to, and consent of, the other Party or its attorney.

j. **Environmental Laws (each an "Environmental Law"):** any and all existing or future federal, state and local statutes, ordinances, regulations, rules, executive orders, standards and requirements applicable to the Property, as each may be amended from time to time, and including the requirements imposed by common law, concerning or relating to industrial hygiene and/or the protection of health and the environment, including, without limitation, as and when applicable: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq. ("CERCLA"); (ii) the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6901 et seq. ("RCRA"); (iii) the Clean Air Act, as amended, 42 U.S.C. § 7901 et seq.; (iv) the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.; (v) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801. et seq.; (vi) the Toxic Substances Control Act, 15

U.S.C. § 2601 *et. seq.*, as amended (“TSCA”); and (vii) any and all laws and regulations in connection with which the Pennsylvania Department of Environmental Protection (“PADEP”) and/or any agency or board related thereto or affiliated therewith serves in full or part as an Authority, including, without limitation, Pennsylvania’s Land Recycling and Environmental Remediation Standards Act, Act of May 19, 1995, as amended, 35 P.S. §§ 6026.101 - 6026.908 (“Act 2”).

k. **Escrow Agent:** Hollister Land Services, LLC, 124 E. State Street, Media, PA 19063.

l. **Feasibility Period:** the period of sixty (60) days beginning on the first business day after the Effective Date.

m. **Final and Unappealable:** shall mean, with respect to each Government Approval, as and when applicable, the point in time which is two (2) business days after (i) a Government Approval has received full and final written approval by one or more Authority as required by and in accordance with applicable Legal Requirements and (ii) any and all appeal periods related in any way to such full and final written approval of the Government Approval by the applicable Authorities shall have expired without any appeal thereto having been filed.

n. **Government Approvals (each a “Government Approval”):** all final, non-appealable permits, approvals, licenses, certificates, authorizations, amendments, restatements, revisions, variances, conditional-use approvals and/or exceptions from one or more Authority necessary for the subdivision, maintenance, development, improvement and/or use of the Property as contemplated hereunder, which Government Approvals shall include, without limitation: (i) an approved, final subdivision plan for the Property (the “Subdivision Plan”) and an approved, final development plan, or plans, for the Property (collectively, the “Development Plans” and together with the Subdivision Plan, the “Approved Plan”) which collectively shall be consistent with Buyer’s Intended Use of the Property (either the By-Right Project or the Senior Housing Project), with satisfaction of all conditions thereto, inclusion of all required authorized signatures thereon, expiration of all applicable appeal periods therefrom and, as and when applicable, recording thereof in the Recorder’s Office prior to the First Closing; provided, however, that Government Approvals shall not include the satisfaction of any conditions of recording of the Approved Plan that remain unsatisfied due to the failure of Buyer to post any financial security required by any Authority or the failure of Buyer to record any document or instrument required as a condition of any Government Approval; (ii) allocation of utilities necessary under applicable Legal Requirements to serve the Property for Buyer’s Intended Use with sufficient capacity to serve all Parcels, including, if applicable, allocation and/or authorization of sufficient equivalent dwelling units (each an “EDU”) under applicable Legal Requirements to serve all approved dwelling units within the Property and/or allocation and authorization of sufficient sewer capacity for all Parcels; (iii) all other permits, approvals, licenses, certificates, authorizations, amendments, restatements, revisions, variances and/or exceptions necessary to enable Buyer to perform and complete its construction obligations with respect to the Parcels, including, without limitation, as and when applicable, grading permits, state highway access permits, wetlands crossing permits, NPDES permits or approvals, conservation district permits or approvals, architectural approvals (if required by an Authority as a condition to issuance of a Government Approval) and the like, but excluding any review and approval of Buyer’s plans and specifications to the extent required to obtain a building permit; (iv) any zoning text or map amendments, variances, conditional-use approvals and/or exceptions required from an Authority for development of the Property for Buyer’s Intended Use; (v) all “will-serve” letters for the Property from applicable Authorities; (vi) fully executed development agreements with the Township, the County and/or other applicable Authority, as the case may be (each a “Development Agreement”) unless the failure of an Authority to execute a Development Agreement is due to Buyer’s failure to post any required financial security; and (vii) as and when required by an Authority as a condition of approval of a Government Approval, approval by or for

said Authority of any Planned Community Documents. For purposes of clarification and not limitation, the term "Government Approvals" shall apply equally to development of the Property in accordance with the By-Right Project or development of the Property in accordance with the Senior Housing Project. Notwithstanding anything in this Agreement to the contrary, the "Approved Plan" shall be the Subdivision Plan and Development Plans receiving actual Final and Unappealable approval from the Township for recording against the Property, pertaining either to the By-Right Project or the Senior Housing Project, as determined in the sole discretion of Buyer. Notwithstanding anything contained herein to the contrary, any Government Approval and the Approved Plan may be subject to such conditions that are reasonable and customary for final plan approval of similar developments in the general Chester County vicinity and such other conditions as are reasonably acceptable to Buyer.

o. **Legal Requirements (each a Legal Requirement):** all rules, regulations, statutes, laws, ordinances, standards, approved plans, directives, resolutions, orders and other requirements of, from or through any one or more Authority which are applicable to the Property or any Parcel, including, without limitation the Commonwealth, County and Township, as each or all may be amended, updated, restated or otherwise revised in writing, including the Environmental Laws.

p. **Person:** means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, non-incorporated organization or government or any agency or political subdivision thereof.

q. **Planned Community Documents:** those documents and recordable instruments necessary pursuant to applicable Legal Requirements to create or form upon, or otherwise encumber, all or part of the Property with one or more condominium regimes pursuant to Pennsylvania's Uniform Condominium Act, 68 Pa.C.S. §3101, et seq (as amended or restated from time to time, the "Condominium Act"), and/or planned communities pursuant to Pennsylvania's Uniform Planned Community Act, 68 Pa.C.S. §5101, et seq (as amended or restated from time to time, the "UPCA"), including any "master association" pursuant to either the Condominium Act or UPCA.

r. **Projects:** means the By-Right Project and the Senior Housing Project.

s. **Property:** that certain real property in Uwchlan Township, consisting of approximately 240 acres, identified by the County as UPI Numbers 33-1-25, 33-1-26, 33-1-27, 33-1-28 and 33-1-28.1, being the same real property purchased by Seller on or about September 19, 2016 by Deed in Lieu of Condemnation recorded in the Recorder's Office at Deed Book 6969, Page 618, and the interest of Seller in any easements, rights of way, permits, approvals, privileges, water rights, mineral rights, and entitlements appurtenant thereto and all of Seller's right, title and interest in and to all streets and water courses adjacent to, abutting or serving the Property. Without limitation of the foregoing, the "Property" shall also include (i) any reversionary rights attributable to Seller with respect to the real property, and (ii) to the extent transferable or assignable, Seller's rights to any sewage treatment capacity, water capacity and other utility capacity allocated by any public or private utility to serve the real property, and (iii) all right, title and interest of Seller, if any, in and to all land in the bed of any street, road or avenue and water courses adjacent to, abutting or serving the real property. A metes and bounds description for the Property shall be attached hereto and incorporated herein as **Exhibit A**.

t. **Purchase Price:** the sum of Sixty-Four Million Dollars (\$64,000,000), payable in accordance with the terms of this Agreement.

u. **Recorder's Office:** the Office of the Recorder of Deeds for Chester County, Pennsylvania.

2. **Purchase and Sale; Purchase Price.** Buyer agrees to purchase the Property for the Purchase Price set forth herein and Seller agrees to convey the Property to Buyer, all in accordance with and subject to the terms and conditions of this Agreement.

3. **Deposit.**

a. **Delivery of Deposit; Deposit Credit.** Buyer shall deliver the Deposit to Escrow Agent by check or wire transfer of readily available funds according to the following schedule: (i) \$100,000 within three (3) business days after receipt of a fully executed copy of this Agreement from Seller ("Deposit Payment #1"); (ii) \$400,000 upon the expiration of the Feasibility Period without termination by Buyer ("Deposit Payment #2"); (iii) \$250,000 within three (3) business days after the earlier of twelve (12) months after expiration of the Feasibility Period or the Township's formal approval of an amendment to the Township zoning ordinance and/or map to authorize the Senior Housing Project on the Property ("Deposit Payment #3"); (iv) \$1,000,000 within three (3) business days after the earlier of sixteen (16) months after Buyer's application for preliminary plan approval by the Township of either the By-Right Project or Senior Housing Project or issuance by the Township of preliminary plan approval for either the By-Right Project or Senior Housing Project ("Deposit Payment #4"); (v) \$500,000 within three (3) business days of Buyer's application for final plan approval by the Township of either the By-Right Project or Senior Housing Project ("Deposit Payment #5"); and, (vi) \$1,000,000 within three (3) business days after the earlier of twelve (12) months after Buyer's application for final plan approval by the Township of either the By-Right Project or Senior Housing Project or issuance by the Township of final plan approval of either the By-Right Project or the Senior Housing Project ("Deposit Payment #6" and, with Deposit Payment #1, Deposit Payment #2, Deposit Payment #3, Deposit Payment #4 and Deposit Payment #5, collectively the "Deposit"). All dates for the delivery of Deposit funds shall be of the essence and strictly construed. Any funds held in escrow by the Escrow Agent shall be held in a federally insured account, which may be non-interest bearing, in accordance with the terms and conditions of this Agreement; provided, if the Deposit is held in an interest-bearing account, any such interest shall accrue to the benefit of the Seller upon Buyer's default in accordance with the terms of this Agreement and otherwise to the Buyer. If requested by Escrow Agent, the Parties shall enter into a separate escrow agreement with Escrow Agent regarding Escrow Agent's receipt and handling of the Deposit at terms reasonably acceptable to the Parties and Escrow Agent. The Deposit shall be credited toward the Purchase Price payable at time of the applicable Closing on a pro rata basis (the "Deposit Credit"), or returned to Buyer, or delivered to Seller, all as set forth in this Agreement.

b. **Release of Deposit.** Notwithstanding anything herein to the contrary, Deposit Payment #1 and Deposit Payment #2 as set forth in Section 3.a shall be non-refundable to Buyer upon the expiration of the Feasibility Period, except in the event of a Seller default or as otherwise provided in this Agreement, including Section 19. Notwithstanding the provisions of Section 3.a, Deposit Payment #3, Deposit Payment #4, Deposit Payment #5 and Deposit Payment #6 shall be paid directly to Seller when due (and deemed released by Escrow Agent) and shall be non-refundable except in the event of a Seller default or as otherwise provided in this Agreement, including Section 19. Deposit Payment #1 and Deposit Payment #2 shall remain in escrow with Escrow Agent until required to be released in accordance with the terms of this Agreement. Seller acknowledges that, despite the release and payment of a portion of the Deposit to Seller as set forth above, all released portions of the Deposit and any portions delivered to Seller shall remain part of the "Deposit" under this Agreement, and shall be credited to the Purchase Price at each Closing as provided in this Agreement.

c. **Conditions to Release of Deposit.** The release and payment of the aforesaid portions of the Deposit to Seller shall be subject to the following conditions (or the waiver thereof by Buyer):

(i) This Agreement shall be in full force and effect, and Seller shall not be in default, beyond any applicable notice and cure period, under this Agreement, nor shall any event have occurred which, with notice and/or the passage of time, would cause Seller to be in default under this Agreement, and which event remains uncorrected.

(ii) Title to the Property shall be in the condition required by Section 6 of this Agreement.

(iii) Seller shall have established and funded the account and provided Buyer with the pertinent information concerning said account, as described in Section 3.d below.

d. **Security for Deposit.** As security for Seller's obligation to return those portions of the Deposit paid to Seller, Seller shall establish a segregated account into which Seller shall deposit, on a dollar-for-dollar basis, an amount equal to those Deposit amounts paid to Seller (the "Deposit Account") as and when such Deposit amounts are paid to Seller. Funds in the Deposit Account may be decreased on a dollar-for-dollar basis as Deposit funds are credited to the Purchase Price at each Closing. The Deposit Account shall be terminated and all funds therein delivered to Seller upon the termination of this Agreement and the return of any Deposit amounts due to Buyer, if any. Seller shall notify Buyer as to the banking institution holding the funds comprising the Deposit Account and the account number for the Deposit Account and shall update this information if and when appropriate. Further, Seller shall notify Buyer by Email as to the amount of each deposit into the Deposit Account.

e. **Return of Deposit.** The Deposit shall be credited to the applicable portion of the Purchase Price on a pro rata basis at each Closing; provided, however, that at the Final Closing under this Agreement, all remaining, uncredited portions of Deposit shall be credited to the applicable portion of the Purchase Price to be paid at such Closing. If this Agreement is terminated for any reason, the Deposit shall be disbursed in accordance with the applicable provisions of this Agreement and, provided that any portion of the Deposit due to Buyer hereunder has been disbursed therefrom or otherwise paid to Buyer, the Deposit Account thereafter terminated.

#### 4. **Preliminary Matters.**

a. **Feasibility Study.** Buyer shall have the right during the Feasibility Period, and thereafter as provided herein, to investigate title and to make such investigations, studies and tests with respect to the Property as Buyer deems necessary or appropriate to determine the feasibility of purchasing the Property. At any time prior to the expiration of the Feasibility Period, Buyer may, in its sole discretion and for any reason or for no reason, terminate this Agreement by written notice to Seller (the "Termination Notice"). If Buyer fails to deliver the Termination Notice to Seller prior to 6:00 p.m. (EST) on the final day of the Feasibility Period, this Agreement shall remain in effect. In the event of termination of this Agreement pursuant to this Section 4.a, that part of the Deposit which has been posted shall be returned to Buyer, after which both Parties shall be relieved of all obligations under this Agreement, except those that expressly survive the expiration or termination of this Agreement. Except to the extent otherwise specifically provided in this Agreement, in the event Buyer fails to terminate this Agreement on or before the last day of the Feasibility Period, as aforesaid, Buyer shall be deemed to have waived and relinquished any and all right to terminate this Agreement based on the quality or condition of the Property as of the last day of the Feasibility Period, title (except in connection with a Title Update pursuant to Section 6.b), environmental matters (except with respect to a change in the environmental condition of the Property causing a failure of condition under Section 8.e), or the feasibility of Buyer's development of the Property.

b. **Right of Entry; Delivery of Documents.** During the Feasibility Period and thereafter unless this Agreement is terminated, Seller shall permit the Buyer, and its employees, agents, designees, consultants, contractors and subcontractors, to enter upon the Property with at least twenty-four (24) hours prior written notice and while thereon make surveys, take measurements, perform test borings or other tests of surface and subsurface conditions, make engineering, geotechnical, environmental and other studies and otherwise inspect the Property in such manner as Buyer deems reasonable or necessary; provided, the aforesaid 24-hour advance notice shall be by Email to an authorized representative of Seller (duly identified by Seller with a working email address) and access to the Property shall not be unreasonably withheld, conditioned or delayed. Without limitation of the foregoing, Seller shall notify Acker (defined below) that Buyer and Buyer's authorized representatives shall be accessing the Property, including portions of the Property covered by the Farming Lease (defined below), and shall facilitate with Acker timely access to those areas of the Property by Buyer and Buyer's authorized representatives. Buyer shall also be authorized to contact land use officials at the state and local level, and the professionals supporting those land use officials, to discuss and investigate Buyer's Intended Use of the Property and status thereof. Seller shall cooperate with Buyer with respect to investigation of the Property and shall provide to Buyer within three (3) business days after the Effective Date, at no cost to Buyer, copies of, or access to, any Documents which are in Seller's possession or within its control and other pertinent information relating to any part of the Property. Any written materials which Seller has provided or which Seller may hereafter provide to Buyer respecting the Property (including the Documents) has been or will be provided for the convenience of Buyer only, and without warranty or representation of any kind and Buyer covenants that Buyer shall not rely on any materials provided by Seller in deciding whether or not to purchase the Property. Buyer acknowledges that the foregoing covenant is a material inducement to Seller to enter into this Agreement and to provide any such materials to Buyer. In the event this Agreement is terminated for any reason, all such materials shall be promptly returned to Seller.

If Buyer exercises its rights under the provisions of this subsection, it shall (i) keep the Property free of any liens or third-party claims resulting therefrom; (ii) indemnify, defend and hold Seller harmless from and against any claim, demand, loss, damage, liability, fee or expense whatsoever (including attorneys' fees), arising from or pertaining to the exercise by Buyer of the rights hereunder, but not to the extent that any such claim, demand, loss, damage, liability, fee or expense is the result of the gross negligence or willful misconduct of Seller or Seller's agents, employees or contractors and further excluding loss, liability, damage, claim, injury or expense, including attorney's fees, arising from or relating to any existing conditions discovered as a result of Buyer's investigations, such as environmental contamination (if any), and (iii) if Closing does not occur for any reason on any part of the Property affected by such entry, restore as nearly as practicable the Property substantially to its condition immediately before such exercise. Prior to entering upon the Property to perform any tests, studies or other investigations, upon Seller's request, Buyer will provide to Seller a certificate of insurance showing that Buyer has liability insurance coverage in an amount of at least One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate, and worker's compensation insurance coverage (to the extent applicable) to cover the activities of Buyer on the Property, with Seller being named as an additional insured under such policies of insurance (as and when authorized under standard underwriting practices).

Buyer acknowledges that some or all of the Property is being leased to Sam Acker ("Acker") for agricultural purposes pursuant a Farming Lease ("Farming Lease"). Seller shall coordinate with Buyer and Acker to facilitate Buyer's timely access to that portion of the Property covered by the Farming Lease so as to allow Buyer to complete its investigation of that area of the Property during the Feasibility Period in a manner which will not unduly interfere with operations or damage any crops and Buyer covenants and agrees to conduct its investigation in such a manner at all times. Notwithstanding the foregoing, Buyer shall indemnify, defend and hold Seller harmless from and against, any and all claims, losses,



damages and the like from, for or by Acker arising from damage to any growing crops and related to any testing, study and investigation conducted by or on behalf of Buyer hereunder.

c. **Signs.** After the First Closing (hereinafter defined), for so long as Buyer has not terminated this Agreement, Buyer shall have the right to place signs on the Property, all in accordance with the Legal Requirements, and in areas approved by the Seller, such approval not to be unreasonably withheld, conditioned or delayed. In connection with Buyer's exercise of its rights hereunder, Buyer shall (i) keep the Property free of any liens or third-party claims resulting therefrom, (ii) clean up any debris from the Property and restore the Property after Buyer's use as nearly as practical substantially to its condition immediately before such exercise if Buyer does not purchase it, and (iii) indemnify, defend and hold Seller harmless from and against any liability or expense for injuries to or death of persons or damage to property arising from Buyer's exercise of its rights hereunder but not to the extent that any such liability or expense is the result of any act or omission of Seller or Seller's agents, employees or contractors.

d. **Survival.** The Buyer's covenants (except those under Section 4.e below), restoration obligations and indemnification provisions of this Section 4 shall survive the termination of this Agreement.

e. **Government Approvals.** Buyer, at Buyer's sole cost and expense, shall promptly commence and thereafter diligently pursue all Government Approvals for Buyer's Intended Use of the Property. For purposes of clarification, Buyer's responsibility to pay all costs and expenses related to any Government Approvals shall apply equally to development of the Property in accordance with the By-Right Project or the Senior Housing Project. In developing the Subdivision Plan and the Development Plans, Buyer shall use commercially reasonable efforts to locate developable and non-developable portions of the Property in such a way as to allocate the same fairly and equitably throughout the Property and not unduly allocate excess developable or non-developable portions of the Property to one or more Parcels. The foregoing is not intended to and shall not restrict Buyer from making any such allocations that are reasonable or necessary for the development of the Property consistent with engineering or other customary development practices, or as may be required in order to secure the Government Approvals or otherwise to comply with applicable Legal Requirements, or to maximize the economic value of the Property for Buyer's Intended Use. The Parties understand and agree that Buyer may pursue the Government Approvals for each Project simultaneously or separately and in a manner as otherwise determined in the sole discretion of the Buyer; provided, however, in any event Buyer shall timely satisfy the initial milestone task set forth on Exhibit D. Buyer agrees to (i) keep Seller reasonably informed as to the progress of Buyer's pursuit of the Government Approvals by only Email and (ii) provide Seller by only Email or a cloud service with copies of the applications and other items described on Exhibit D as well as such other information or documents as Buyer may reasonably request from time to time. The Parties further understand and agree that Buyer prefers to develop the Property pursuant to the Senior Housing Project, but will nevertheless be obligated to pursue Government Approvals and complete Closing under and pursuant to the By-Right Project if the Senior Housing Project is not approved by the Township, as evidenced by an Approved Plan for the Senior Housing Project, by the deadline for the First Closing established hereunder. Without waiver or limitation of the foregoing, Buyer shall pursue the Government Approvals on the following terms:

(i) Buyer shall diligently pursue and use commercially reasonable efforts to obtain the Government Approvals in accordance with the terms of this Agreement as promptly as reasonably possible and shall comply with the milestone schedule for pursuit of the Government Approvals attached hereto and incorporated herein as Exhibit D, each of which shall be strictly construed, time being of the essence.

(ii) Seller shall provide reasonable support and cooperation with regard to Buyer's pursuit of the Government Approvals, at no material cost to Seller, which support and cooperation shall include, without limitation, written confirmation of Buyer's authority with respect to application for and pursuit of Government Approvals in connection with either the By-Right Project or the Senior Housing Project, and, if required, complete and timely execution of any applications, co-applications or re-applications/re-submissions and/or letters of support for any Government Approvals for either Project. For purposes of clarification, Seller's obligation to provide reasonable and cooperation hereunder shall apply to both Projects, but shall be provided at the sole discretion and direction of Buyer.

f. In the event Buyer elects to terminate this Agreement pursuant to Section 4.a above, Buyer will provide to Seller (at no cost to Seller) copies of all non-proprietary and/or non-privileged Due Diligence Materials, without representation or warranty. As used herein "Due Diligence Materials" shall be defined as any boundary surveys, topographic surveys, tree surveys, wetland determinations, floodplain surveys, environmental reports, geotechnical soil reports, wildlife studies, archeological studies and any other studies or reports conducted or prepared by or on behalf of Buyer in connection with Buyer's due diligence investigation of the Property. Upon termination of this Agreement after the expiration of the Feasibility Period by Buyer for any reason other than Seller's default, Buyer shall assign and deliver to Seller, at no cost to Seller, to the extent assignable, all Due Diligence Materials together with all other non-proprietary and/or non-privileged work product prepared by or on behalf of Buyer, including without limitation, all plans, surveys, reports and studies relating to the Property, Buyer's Intended Use or the pursuit of any Government Approvals, and any and all other or related approvals, permits, consents and entitlements, including all related applications and agreements and any utility access or reservation agreements, involving, submitted to, or issued by Authority or other Person having jurisdiction (the foregoing, including the Due Diligence Materials, collectively, the "Project Work Product"), without representation or warranty. Without limitation of the foregoing, Buyer shall assign the Project Work Product to Seller in a manner consistent with this Agreement without recourse and in "as-is" condition and Buyer expressly disclaims any express or implied representation or warranty with respect to the accuracy or reliability of the contents of any such Project Work Product, much or all of which shall have been created by third parties. Seller expressly waives and releases any claim of any nature that Seller or any party claiming under or through Seller may have in regard to such Project Work Product that is released or otherwise assigned to Seller, including, without limitation, any and all claims against Buyer or Buyer's affiliates, subsidiaries, predecessors, successors, assigns, directors, officers, employees, members, representatives, and agents (including but not limited to its and their attorneys).

Upon the expiration of the Feasibility Period and provided Buyer does not terminate this Agreement pursuant to Section 4.a above, and as a condition to Seller's continuing obligations hereunder, Buyer shall execute and deliver to Escrow Agent a written assignment (the "Project Work Product Assignment") in recordable form, assigning, conveying or otherwise surrendering to Seller for Seller's benefit, and without representation or warranty, all of Buyer's right, title and interest in and to all Project Work Product, if any, to the extent the Project Work Product is assignable by Buyer and to the extent of Buyer's interest in the Project Work Product, and subject to the terms of the paragraph above, including any such assignment being without recourse, in "as-is" condition and without representation or warranty. The Project Work Product Assignment shall be prepared at Seller's sole cost and expense and shall be subject to review and approval by Buyer, not to be unreasonably withheld or delayed. The executed Project Work Product Assignment shall be retained in the possession of Escrow Agent and shall be released by Escrow Agent to Seller subject to the following sentence upon written notice by Seller sent concurrently to Escrow Agent and Buyer (the "Materials Notice") that this Agreement has been terminated by Buyer for reasons other than a Seller default, and after the expiration of any and all applicable cure periods. Escrow Agent shall release the Project Work Product Assignment to Seller within five (5) business days following receipt of the Materials Notice unless, prior to the expiration of such five (5) business day period, Buyer delivers to Escrow Agent and to Seller written notice of dispute setting forth in detail the full and complete basis for

such dispute (the "Materials Notice Objection"). Absent earlier termination of this Agreement, the Project Work Product Assignment shall be returned to Buyer upon the completion of the Final Closing.

5. **Closing.**

a. Unless Buyer has elected to terminate this Agreement as permitted herein, the Closing on the sale and purchase of the Property and payment of the Purchase Price, all in accordance with the terms and conditions of this Agreement, shall be completed according to the following terms and schedule (the "Takedown Schedule");

1. On or before the first business day which is the earlier of (i) ninety (90) days after recording of the Approved Plan with the Recorder's Office (or the day the Approved Plan may be recorded but for the execution of any Development Agreement and/or the posting of any related financial security by Buyer, or the execution and/or recording of any Planned Community Documents by Buyer) or (ii) three (3) years after expiration of the Feasibility Period under this Agreement, and provided that all Conditions Precedent to Closing (defined below) set forth in Section 8 of this Agreement for the Parcels in question have been satisfied or waived by the applicable Party, Buyer shall pay Twenty-Eight Million Dollars (\$28,000,000) of the Purchase Price to Seller and Seller shall convey those Parcels designated by Buyer in its sole discretion containing approximately seventy-five (75) acres within the Property ("First Closing"). For purposes of clarification, the Approved Plan shall pertain either to the By-Right Project or the Senior Housing Project, as determined in the sole discretion of Buyer.

2. On or before the first business day which is no more than twelve (12) months after completion of the First Closing, and provided that all Conditions Precedent to Closing (defined below) set forth in Section 8 of this Agreement have been satisfied in full or waived by the applicable Party for the Parcels in question, with advance notice of at least five (5) business days, Buyer shall pay Twelve Million Dollars (\$12,000,000) of the Purchase Price to Seller and Seller shall convey those Parcels designated by Buyer in its sole discretion containing approximately twenty-five (25) acres within the Property ("Second Closing"). Buyer agrees that, notwithstanding the foregoing Sections 5.a.1 and 5.a.2, those Parcels acquired by Buyer in the First Closing and the Second Closing (collectively, the "Initial Parcels") shall contain approximately 62.5 acres of the developable land contained in the entire Project as shown on the Approved Plan. In addition, the Parcel created for the Natatorium (the "Natatorium Parcel") shall be included in and shall be part of the Second Closing; provided, however, that the Natatorium Parcel shall not be included in the calculation of the number of acres of developable land acquired in the First Closing or the Second Closing. Notwithstanding anything in this Agreement to the contrary, the Parties understand and agree that Buyer shall be expected and required to purchase one or more entire Parcel at each Closing, and, as such, may have to exceed the aforesaid cap of 62.5 acres of developable land upon completion of the Second Closing in order to do so; provided, if Buyer has to exceed 62.5 acres of developable land in order to purchase one or more entire Parcel, Buyer shall use commercially reasonable efforts not to exceed 65 acres of developable land.

3. On or before the first business day which is no more than twelve (12) months after completion of the Second Closing, and provided that all Conditions Precedent to Closing (defined below) set forth in Section 8 of this Agreement have been satisfied in full or waived by the applicable Party for the Parcels in question, with advance notice of at least five (5) business days, Buyer shall pay Twenty-Four Million Dollars (\$24,000,000) of the Purchase Price to Seller and Seller shall convey to Buyer all remaining Parcels and any other land within the boundaries of the Property as shown on the Approved Plan ("Final Closing").

Buyer shall provide reasonable prior notice to Seller if Buyer intends to advance the Takedown Schedule.

b. Each Closing shall occur at the offices of Buyer or Escrow Agent during normal business hours or at such other location upon which the Parties otherwise agree. At the option of either Party, a Party may forego actual attendance and instead complete a Closing via facsimile and/or electronic transmittal of all closing documents in PDF format with original documents and/or copies subsequently delivered by the next business day upon request for or by either Party, a title insurance company or a lender. Notwithstanding the foregoing, the original deed (or deeds) of conveyance and the original of any other documents, instruments or plans due from Seller hereunder at or before a Closing which are to be recorded in the Recorder's Office, each and all duly executed and in recordable form, shall be provided by Seller to Buyer's closing agent at time and place of the Closing at least one (1) business day prior to the date for the Closing in question.

c. Subject to the adjustments provided for herein, including application of the Deposit Credit toward the Purchase Price as set forth in Section 3.a and such other credits due to Buyer hereunder, if any, Buyer shall pay the portion of Purchase Price due to Seller at each Closing in immediately available federal funds by wire transfer.

d. At each Closing, Seller shall execute, acknowledge, and deliver the Closing Documents set forth on Exhibit B to Buyer or the Escrow Agent, as the case may be. (The Escrow Agent may serve as Buyer's title agent and/or closing agent, as determined in the sole discretion of Buyer.) The provisions of this subsection shall survive each Closing.

e. Each Party shall execute, acknowledge and deliver, after the Effective Date, including at or after each Closing, such further assurances, instruments and documents as the other may reasonably request in order to fulfill the intent of this Agreement and complete the transactions contemplated hereby. The provisions of this subsection shall survive each Closing.

f. All real estate taxes, and all other public or governmental charges and public or private assessments against the Property which are or may be payable on an annual basis (including without limitation school, local, county, or state assessments, taxes, fees or charges, special district or special zone assessments, taxes, fees or charges, and assessments, fees, charges, liens or encumbrances for sewer, water, drainage or other public improvements whether completed or commenced on or prior to the Effective Date or subsequent thereto), shall be adjusted and prorated between the Parties as of the day prior to Closing based on the most recently available tax bills and shall thereafter be assumed and paid by Buyer, whether or not assessments have been levied as of the date of Closing. Any tax proration based on an estimate shall be subsequently readjusted upon receipt of a tax bill. The obligation to adjust tax prorations shall survive each Closing for a period of one (1) year.

g. The cost of documentary stamps and/or realty transfer taxes payable on each conveyance hereunder shall be split equally at each Closing by and between the Parties.

h. Seller shall be responsible for the following costs and expenses, without any contribution from Buyer: (i) payment in full at the First Closing of any agricultural land, rezoning, recapture, grantor's or roll-back tax due or to become due in connection with the Property or any of the Parcels in question under the Legal Requirements of any Authority (or any similar tax or assessment), and (ii) payment at the applicable Closing of the cost of preparing release documents, if any, and the recording thereof for any lien releases or title-clearing documents required to be obtained by Seller in order to convey title to the Property in accordance with Section 6 (provided that Seller may obtain affirmative title insurance for the benefit of Buyer).

i. Buyer shall be responsible for the following costs and expenses, without any contribution from Seller: (i) payment of the recording fees for the deed(s) conveying each portion of the

Property from Seller to Buyer; (ii) payment of the recording fees in connection with security for any financing obtained by Buyer; and (iii) payment of the cost of obtaining and recording any documents in connection with the Government Approvals (including any approved Subdivision Plan or Development Plan and any Buyer Easements, Development Easements or Planned Community Documents).

j. Each Party shall pay its own attorneys' fees and expenses in connection with the preparation and negotiation of this Agreement, preparation of documents for Closing, and overall preparation for Closing.

k. Without limitation of the foregoing, each Party shall also pay at each Closing such costs and fees which are typically payable or shared by a "seller" (Seller) or "purchaser" (Buyer) in order to complete settlement on comparable real estate in the County.

l. Seller shall be current on all taxes due and owing to the Pennsylvania Department of Revenue or Department of Labor and Industry. Seller shall indemnify, defend and hold Buyer harmless from and against any and all losses, claims, damages and liabilities, including without limitation attorneys' fees and costs of defense, which may be incurred by Buyer in connection the non-payment by Seller of any taxes imposed upon Seller. The provisions of this subsection shall survive all Closings or any tax lien which attaches to the Property on account of any liability to the Commonwealth for unpaid tax liabilities.

## **6. Title.**

a. Title to the Property and each Parcel shall be good, marketable, indefeasible and insurable (at normal title insurance rates) of record and in fact at Closing, free and clear of all liens, encumbrances, encroachments, covenants, conditions, restrictions, easements, limitations and violation notices from any Authority other than the Permitted Exceptions, Government Approvals, Buyer Easements (if any), Development Easements (if any) and Planned Community Documents. Any easements serving the Property shall be an insurable appurtenance to the Property. Seller shall have complied with any written notices of violations of federal, state, county or municipal ordinances, laws, rules or regulations issued by any Authority prior to the date of Closing or any action pending in any court on the date of Closing on account thereof against or affecting the Property or any portion thereof, by the time of Closing. Funds payable by Buyer at Closing may be used by Seller to pay off any existing liens, real property taxes, monetary encumbrances or violation penalties, including accrued interest thereon, and to address Title Objections (hereinafter defined); provided all such monetary encumbrances against the Property shall be paid in full and satisfied at or before Closing.

b. Buyer shall promptly order a commitment for title insurance on the Property (the "Title Commitment") from a title agent licensed to conduct business in Pennsylvania, which title agent may also serve as the Escrow Agent and shall deliver a copy thereof with all recorded exceptions to Seller and Seller's counsel within five (5) days following receipt by email and/or via a cloud service. If Buyer determines as a result of the Title Commitment that there are title requirements, title exceptions and/or other defects encumbering all or part of the Property which are objectionable to Buyer and were not caused by the actions of Buyer (collectively, the "Title Objections" and each a "Title Objection"), Buyer shall notify Seller, in writing, of such Title Objections no later than fifteen (15) days prior to the expiration of the Feasibility Period, providing a copy of the Title Commitment therewith. Upon receipt of the Title Objections, Seller thereupon shall have the right to elect by notice to Buyer, within ten (10) days from receiving such notice from Buyer: (i) to cure all of the Title Objection(s) at Seller's cost and expense (and Seller may promise to use funds available to Seller at Closing in order to do so), or (ii) not to cure all such Title Objection(s). Seller's failure to notify Buyer in writing within the stated time frame shall be deemed Seller's election not to cure. If Seller elects to cure, Seller shall do so prior to the First Closing

(unless the Parties agree in writing that the Title Objection can be cured at a subsequent Closing). If Seller elects not to cure, then Buyer shall be entitled to terminate this Agreement by delivering written notice to Seller prior to the expiration of the Feasibility Period, in which event, upon release and return to Buyer of the Deposit (to the extent delivered), both Parties shall be relieved of all obligations under this Agreement, except those that expressly survive the expiration or termination of this Agreement.

Notwithstanding anything herein to the contrary, Buyer shall not be required to object to any "requirements" under Schedule BI of the Title Commitment that must be satisfied by Seller, or to any monetary liens or real property taxes due and payable under or pursuant to the Title Commitment, and the Parties agree that all of the same shall be considered to be Title Objections, even if not designated as such in any notice of Title Objections from Buyer to Seller, and that Seller shall be required to satisfy or otherwise procure the release of all such items at or before the Closing. Any matter in the Title Commitment which has not been designated by Buyer as a Title Objection, other than any Seller "requirements" under Schedule BI and any monetary liens or taxes as aforesaid, shall be a "Permitted Exception". So, too, any Title Objection which Seller agrees to cure and in fact cures prior to Closing (if not otherwise deleted from the Title Commitment at or before Closing) and any matter in the Title Commitment which has been designated by Buyer as a Title Objection, but which Buyer subsequently has agreed by way of a fully executed amendment to this Agreement to allow to remain of record against the Property, shall also be a "Permitted Exception". The term "Permitted Exceptions" shall also include: (i) the rights of the public in such part of the Property as may lie within the bed or ultimate right-of-way (as of the date hereof) of any currently opened public street or road, and the rights of others in and to any private road or street, opened or proposed, abutting the Property, (ii) easements in favor of public utility companies located wholly within the ultimate right-of-way of any public or private road or street abutting the Property, (iii) easements, restrictions and like matters of record disclosed on any recorded plan, and (iv) subject to Section 6.c below, matters that a survey of the Property would disclose. Finally, if Buyer notifies Seller of any Title Objection other than Seller requirements under Schedule BI and any monetary liens or taxes as aforesaid, and Seller elects (or is deemed to have elected) not to cure the same, but Buyer does not terminate the Agreement prior to the expiration of the Feasibility Period as provided herein, then any such Title Objections shall be "Permitted Exceptions". At any time and from time to time prior to Closing, Buyer shall have the right to cause an update to its initial (and any subsequent) title examination (hereinafter a "Title Update") of the Property. If any Title Update contains any conditions which did not appear in a previous title examination (excluding Government Approvals, Buyer Easements, Development Easements and Planned Community Documents), and were affirmatively created by Seller in violation of this Agreement, Buyer shall have the right to object to such new conditions in writing prior to Closing and Seller shall cure such matters prior to the Closing.

c. During the Feasibility Period, Buyer, at Buyer's sole expense and in its sole discretion, may obtain a survey of the Property (the "Survey") from a surveyor or engineer licensed and registered in Pennsylvania. In the event the Survey reflects easements, encroachments, rights-of-way, roads, lack of access, deficiencies, overlaps, gaps or gores or hiatus between any parcels included within the Property or between the Property and any adjoining streets or roads, or other defects not contained in the Permitted Exceptions to title or other matters which preclude the use of the Property for the purposes set forth in this Agreement, then Buyer shall notify Seller, in writing, of such survey defects no later than fifteen (15) days prior to the end of the Feasibility Period (the "Survey Objections"). Survey Objections shall be considered as defects in title and the Seller shall have the same rights and duties relating to the remedy of such survey defects as are provided in Section 6.b. pertaining to the remedy of title defects. The procedures relating to the raising and curing of Survey Objections shall be the same procedures as are provided in Section 6.b. pertaining to title defects.

7. **Condemnation; Casualty.** If prior to a Closing, all or any material portion of the Property is condemned or taken, or threatened to be condemned or taken, by any Authority, or any portion

of the Property suffers a casualty loss, Seller shall give Buyer immediate notice thereof with a complete description of all relevant information and complete copies of all relevant documentation. Within thirty (30) days of such notice, Buyer may elect: (a) if the taking (or threatened taking) or casualty should occur prior to the First Closing, to terminate this Agreement and receive a full refund of the Deposit after which both Parties shall be relieved of all obligations under this Agreement, except those that expressly survive the expiration or termination of this Agreement; (b) to terminate this Agreement only with respect to the affected Parcel or Parcels and receive a refund of the portion of the Deposit applicable to the affected Parcel or Parcels, with neither Party thereafter having any further obligation to the other hereunder with respect to the affected Parcel(s), except those that expressly survive the expiration or termination of this Agreement, or (c) to close on the purchase of the affected Parcel(s) without reduction in the Purchase Price, but with the right to receive all monies payable as a result of any such taking or casualty, in which case Seller shall promptly execute all documents required by Buyer to assign Seller's rights therein to Buyer at or before the Closing in question. Without limitation, a taking that equals or exceeds five percent (5%) of the acreage of the Property shall constitute a material taking.

8. **Conditions Precedent to Buyer's Obligation to Complete Closing.** Buyer's obligation to complete each Closing contemplated hereunder shall be conditioned upon the satisfaction (or Buyer's written waiver thereof) of each of the conditions precedent set forth in this Section 8 (collectively, the "Conditions Precedent to Closing" and each a "Condition Precedent to Closing") as of the date of each Closing. The Conditions Precedent to Closing for each Closing (and as to the portion of the Property to be conveyed) are as follows:

a. **Ownership.** Seller shall be the sole owner of record of the Property, holding indefeasible fee simple title to the Property and each Parcel.

b. **Title.** Title to the Property and each Parcel shall be as set forth in Section 6.a. In addition, Buyer shall have received, at Buyer's cost, a title policy or marked-up title commitment insuring title to the Property and the Parcel(s) in question, as required under Section 6.a hereof, subject only to the Permitted Exceptions, including such endorsements as shall be reasonably required by Buyer, and otherwise in form and substance acceptable to Buyer.

c. **Seller Default.** This Agreement shall be in full force and effect, and Seller shall not be in default under this Agreement, beyond any applicable notice and cure period, nor shall any event have occurred which, with notice and/or the passage of time, would cause Seller to be in default under this Agreement, and which event remains uncorrected.

d. **Representations.** Each of Seller's representations and warranties as set forth in Section 15 and elsewhere in this Agreement shall be true in all material respects as of the date of Closing and Seller shall so certify at Closing; provided, however, that Buyer has conducted its own independent review and analysis of the Property and any representation or warranty of Seller known by Buyer to be materially untrue or incorrect as of the date of Closing shall not constitute a breach of this Agreement or failure of the condition set forth in this Section 8.d. Seller shall provide to Buyer a certificate at Closing that each such representation and warranty is true in all material respects as of the date of Closing or, if any such representation or warranty is no longer true, stating the basis for such change.

e. **Environmental Conditions.** The environmental condition of the Property, or any part thereof, shall not have materially changed between Buyer's Phase I environmental study and the date of Closing so as to (i) impose any post-Closing liability on Buyer pursuant to any Environmental Law (monetarily or otherwise), (ii) adversely affect the ability of Buyer to develop the Property for Buyer's Intended Purpose or (iii) obtain title insurance for the Property as required under Section 6.a.

f. **Moratorium.** There shall be no general moratorium imposed or announced by any one or more Authority or utility service provider respecting, restricting, reducing, delaying or limiting the issuance of permits or approvals affecting the Property or sanitary sewer, water, natural gas, electricity or telephone connections with respect to the Property.

g. **Property Vacant.** The Property, or the applicable portion thereof, and any building(s) or other improvements thereon or thereto, shall be vacant, free of any tenants, licensees or other occupants, and any personal property of the foregoing.

h. **Government Approvals.** Buyer shall have received all Government Approvals reasonable or necessary for Buyer's Intended Use of the Property, and all such Government Approvals shall be in Final and Unappealable form; provided, however, any failure to obtain any Government Approval due to the failure of Buyer to execute any Development Agreement and/or post any related financial security, or execute and/or record any Planned Community Documents by Buyer shall not constitute a failure of the condition set forth in this Section 8.h.

i. **Assignment of Government Approvals.** The Parties shall have agreed on the form and substance of a written instrument, to be executed as part of each Closing, whereby, to the extent assignable, any and all of Seller's right, title and interest in any Government Approvals which have been issued or otherwise exist in connection with the portion of the Property being conveyed to Buyer shall be exclusively assigned to Buyer for nominal consideration and, as and when necessary, originals of all such Government Approvals shall have been delivered to Buyer at or before Closing.

j. **Development Easements.** If shown on the Approved Plan and necessary for Buyer's Intended Use of the Property, Seller shall have provided Buyer with one or more Development Easements over portions of the Property still owned by Seller, in recordable form at or before the First Closing.

k. **Buyer Easements.** If necessary to access the Property over portions of the Property still owned by Seller, Seller shall have provided Buyer with one or more Buyer Easements in recordable form at or before the First Closing.

l. **Court Approval.** Seller shall have provided Buyer with written proof of Court Approval (as defined in Section 19).

m. **Farming Lease Termination.** Seller shall have provided Buyer with written proof that the Farming Lease has been terminated at or before the First Closing, unless Buyer has otherwise agreed in writing to waive this Condition to Closing at least thirty (30) days prior to the First Closing.

9. **Risk of Loss.** The Property shall be held at the risk of Seller until each Closing thereon has been completed.

10. **Possession.** At Closing, Seller shall deliver exclusive possession and occupancy of the applicable portion of the Property to Buyer, free and clear of any leases, tenancies or other claims of or to possession or occupancy thereof by or for any third parties.

11. **Default.**

a. **Buyer Default.** Notwithstanding anything to the contrary in this Agreement, in the event of Buyer's default under this Agreement by failing to complete a Closing as required hereunder,



Seller's sole and exclusive remedy at law or in equity shall be limited to the right to terminate this Agreement and to retain the Deposit (or so much as is remaining or has not been applied at a Closing at time of default) as liquidated damages. The Parties agree that Seller's damages arising from such a default by Buyer are difficult, if not impossible, to determine, and the amount of the Deposit (or the remaining portion thereof) is the Parties' best estimate of Seller's actual damages arising from such a default. Other than the specific remedy expressly set forth in this Section 11.a, Seller hereby waives any and all right and remedy, at law or in equity, to which Seller may otherwise have been entitled by reason of Buyer's default by failing to complete a Closing hereunder, including any right in equity to seek specific performance of this Agreement by Buyer and any right at law to seek damages from Buyer.

b. **Seller Default.** Notwithstanding anything to the contrary in this Agreement, in the event of Seller's breach under this Agreement by failing to complete a Closing, and subject to Section 11.e. below, Buyer's remedies under this Agreement shall be one of the following: (i) termination of this Agreement and receive from Seller and/or Escrow Agent within five (5) days of termination a return of the full Deposit, or the portion of the Deposit that has not been credited at a Closing at time of Seller's default; or (ii) file suit for specific performance of this Agreement within ninety (90) days of such Closing date.

c. **Other Remedies.** If Seller or Buyer breaches any obligation contained in this Agreement, other than the obligation to complete a Closing on the sale and purchase of the Property in accordance herewith, then the non-breaching Party shall be entitled to exercise all remedies and rights available under law and equity and to recover actual damages arising out of that breach, excluding attorney's fees and court costs. Neither Party shall be entitled to recover consequential, speculative, special or punitive damages in connection with the breach of any obligation under this Agreement. The terms of this Section shall survive any Closing and any termination of this Agreement.

d. **Cure Period.** Notwithstanding the provisions of Subsections 11.a and 11.b and 11.c above, no default by either Party shall result in a termination or limitation of any rights of such Party hereunder unless and until the other Party shall have notified the defaulting Party in writing of said default, and the defaulting Party shall have failed to cure said default within thirty (30) days after the receipt of said written notice; provided, notwithstanding the foregoing, the cure period for failure to complete a Closing hereunder shall be five (5) business days. Notwithstanding the foregoing, the notice and cure provisions shall not apply in the case of Buyer's failure to (i) deliver any Deposit as and when required under Section 3.a or (ii) comply with the milestone schedule set forth on **Exhibit D**.

e. **No Adequate Remedy.** As provided in Section 11.b above, and notwithstanding anything herein to the contrary, it is agreed that in the event Buyer is not in default under this Agreement and Seller breaches this Agreement by conveying all or any portion of the Property to a third party such that specific performance of this Agreement is no longer a remedy available to Buyer, then in such event, Buyer shall be entitled to pursue all remedies available in law or equity as a result of such particular default. If Buyer elects to terminate this Agreement as a result of the foregoing, it is agreed that the provision of this subsection shall survive any such termination

12. **Notices.** Any notice to be given pursuant to this Agreement shall be given in accordance with **Exhibit C**.

13. **Reserved.**

14. **Brokers.** Each Party represents and warrants to the other that it has not used the services of any real estate agent, broker or finder with respect to the transactions contemplated hereby *except* for the Seller's Broker, Berkshire Hathaway/Fox & Roach – Edward Ritti. Seller shall be solely responsible

for any and all commissions payable to such Broker in accordance with a separate agreement between Seller and Broker. Each Party agrees to indemnify and hold harmless the other against and from any inaccuracy in such Party's representation under this Section. This indemnification shall survive each Closing and the expiration or termination of this Agreement.

15. **Representations and Warranties.**

a. **Mutual Representations.** To induce each other to enter into this Agreement, each Party hereby represents and warrants to the other, both as of the Effective Date and at time of each Closing, that (i) it has been duly authorized and empowered to enter into this Agreement and to perform fully its obligations hereunder, (ii) such obligations constitute the valid and binding obligations of such Party, enforceable in accordance with their terms, (iii) except as otherwise set forth in Section 19 of this Agreement as to Seller, no further consents of any other person, entity, public body or court are required in connection with this Agreement and the performance of all obligations hereunder, and (iv) except as otherwise set forth in Section 19 of this Agreement as to Seller, the person signing this Agreement on behalf of such Party has the full right and authority to do so and, as a result, to bind that Party to the terms hereof.

b. **Seller's Warranties and Representations.** To induce Buyer to enter into this Agreement, Seller represents and warrants to Buyer, both as of the Effective Date and at time of each Closing, in each case with respect to all or such part of the Property being conveyed at such Closing:

(i) **Condemnation, Rezoning or Reclassification.** Seller has received no written notice of any (A) condemnation proceeding or, excepting proceedings instituted by Seller for Court Approval of this Agreement, other litigation relating to or otherwise affecting the Property or any litigation affecting Seller which might limit or impair Seller's power, authority or right to execute and deliver this Agreement, comply with the terms of this Agreement, or complete the transactions contemplated by this Agreement, or (B) except as may be contemplated by this Agreement, reclassification of all or part of the Property for local zoning purposes, or (C) reassessment or reclassification of all or part of the Property for state or local real property taxation purposes. Notwithstanding the foregoing, Seller has heard that the Township has engaged in discussions regarding a possible zoning change or amendment to the zoning ordinance relating to the zoning classification of the Property. Seller has conducted no investigation and has no knowledge as to the truth, accuracy or status of any such matters.

(ii) **Violations.** (A) Seller has received no written notice from any federal, state, county or local Authority of any notice, suit or judgment relating to any violation at the Property; or (B) any condition existing with respect to the Property that violates any Legal Requirements regarding zoning, building, fire, air-pollution, or health law, or requiring any improvement, alteration, addition, correction or other work on or about the Property, whether related to the Property or to the activities of any owner or occupant thereof.

(iii) **Environmental Condition.** Except as may be otherwise disclosed in a Document provided to Buyer by Seller or otherwise known to Buyer, to the best knowledge of Seller, the Property, including the land, surface water, ground water, and any improvements, is free of "contamination" in violation of Legal Requirements from (A) any "hazardous waste," any "hazardous substance," "toxic substances," "toxic wastes," "pollutants" and "toxic pollutants" and any "oil, petroleum products, and their by-products," as such terms are defined by the Legal Requirements applicable to any portion of the Property, as the same may be amended from time to time, and including any regulations promulgated thereunder, and (B) any substance the presence of which on the Property is regulated or prohibited by any Legal Requirements (collectively, "Hazardous Substances").

"Contamination" means the presence of Hazardous Substances at the Property or arising from the Property that may require remediation or cleanup under applicable Legal Requirements. Seller has not used any Hazardous Substances on, from or affecting the Property in any manner that violates any applicable Legal Requirements, and to the best of Seller's knowledge, without investigation, no current or prior owner or user of the Property has used such substances on, from, or affecting the Property in any manner which violates any applicable Legal Requirements. Except as may be otherwise disclosed in a Document provided to Buyer by Seller or otherwise known to Buyer, to Seller's actual knowledge, without investigation, there are not now, nor have there ever been on or in the Property any underground storage tanks or surface impoundments, asbestos-containing materials, or any material spills of polychlorinated biphenyls, including those used in hydraulic oils, electric transformers or other equipment.

(iv) **Litigation.** Seller has not been served in any litigation, arbitration or proceeding before any court or administrative agency that relates to or affects any part of the Property, Seller's interest therein, Seller's performance hereunder, or Buyer's Intended Use of the Property, or which will result in a lien, charge, encumbrance or judgment against any part of or any interest in the Property.

(v) **Utilities.** Seller has received no written notice of any pending moratorium on, or other impediment to, immediate public sewer and water availability which is applicable to any portion of the Property.

(vi) **Organization.** The "Seller" in this Agreement is a government unit duly organized and operating in good standing under and pursuant to the Pennsylvania Public School Code and other applicable Legal Requirements.

(vii) **Title.** The title to the Property and each Parcel is subject to no tenancy or other right of use or occupancy which will remain in effect at or after Closing. Seller is the owner of record of the Property, holding same in fee simple.

(viii) **Restrictions; Historic Designations.** Except as otherwise set forth herein, to Seller's actual knowledge, without investigation, there are no unrecorded restrictions existing relating to the development of the Property as contemplated hereunder. One or more structures located on the Property (the "Historic Structures") (A) appear on the Township Historic Resources Inventory List and the Township Historic Resource Map and Inventory, (B) are designated as a county historic resource, and/or (C) are included or eligible for inclusion in the National Register of Historic Places or other similar federal, state, county or local list or survey, and are subject to the application of federal, state, county and/or local laws, ordinances, restrictions or regulations relating thereto which may impose maintenance obligations or affect, restrict or prohibit certain activity, including alteration or demolition, with respect to such Historic Structures.

(ix) **No Breach.** The execution and delivery of this Agreement by Seller, the execution and delivery of every other document and instrument delivered pursuant hereto by or on behalf of Seller, and the consummation of the transactions contemplated hereby does not and will not (A) constitute or result in the breach of or default under any oral or written agreement to which Seller is a party or which affects the Property; (B) constitute or result in a violation of any order, decree, or injunction with respect to which the Seller and/or the Property is bound; and/or (C) cause or entitle any party to have a right to accelerate or declare a default under any oral or written agreement to which Seller is a party or which affects the Property.

(x) **No Assessments.** As of the Effective Date, no notice of assessment for public improvements has been served on Seller with respect to the Property which remains unpaid (exclusive of improvements which may be required in order to complete the proposed development of the Property, which shall be Buyer's sole responsibility following Closing). All installments of any assessments pending as of the Effective Date will be paid by Seller at or prior to Closing.

(xi) **No Contracts.** Seller has not entered into any other contracts, agreements or understandings -- whether verbal, oral or written -- for the sale or transfer of all or any portion of the Property that have not been terminated. Between the Effective Date of this Agreement and Closing hereunder, no part of or interest in the Property will be alienated, encumbered or transferred except as contemplated by this Agreement, nor shall the Property be marketed for sale by or for the Seller.

(xii) **Zoning.** The Property is currently zoned as R-R and PIC under the Township Code.

(xiii) **Intentionally Omitted.**

(xiv) **Fill.** To Seller's actual knowledge, without investigation, no landfill has occurred on the Property and no debris has been buried or placed on the Property.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT AND SUBJECT TO THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SALE OF THE PROPERTY HEREUNDER IS AND WILL BE MADE ON AN "AS IS", "WHERE IS" BASIS, WITHOUT REPRESENTATIONS AND WARRANTIES OF ANY OTHER KIND OR NATURE (OTHER THAN THOSE SET FORTH HEREIN), INCLUDING ANY REPRESENTATION OR WARRANTY CONCERNING TITLE TO THE PROPERTY OR THE PHYSICAL CONDITION OF THE PROPERTY. BUYER ACKNOWLEDGES THAT, DURING THE FEASIBILITY PERIOD, BUYER WILL EXAMINE, REVIEW AND INSPECT ALL MATTERS WHICH IN BUYER'S JUDGMENT BEAR UPON THE PROPERTY AND ITS VALUE AND SUITABILITY FOR BUYER'S PURPOSES. BUYER HAS OR WILL HAVE ADEQUATE OPPORTUNITY TO COMPLETE ALL PHYSICAL AND FINANCIAL EXAMINATIONS RELATING TO THE ACQUISITION OF THE PROPERTY HEREUNDER IT DEEMS NECESSARY, AND WILL ACQUIRE THE SAME SOLELY ON THE BASIS OF AND IN RELIANCE UPON SUCH EXAMINATIONS AND THE TITLE INSURANCE PROTECTION AFFORDED BY THE OWNER'S POLICY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER (EXCEPT AS TO MATTERS SPECIFICALLY SET FORTH IN THIS AGREEMENT).

c. **Survival.** The representations and warranties of Seller set forth herein shall be true as of the Effective Date and the date of each Closing and shall survive each Closing for a period of nine (9) months. Seller shall notify Buyer in writing immediately if any representation becomes untrue or misleading in light of information obtained by Seller after the Effective Date.

16. **Waiver of Jury Trial.** BUYER AND SELLER HEREBY EXPRESSLY COVENANT AND AGREE TO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH THIS AGREEMENT. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN AND IS KNOWINGLY, INTENTIONALLY AND VOLUNTARILY MADE BY BUYER AND SELLER. BUYER AND SELLER HAVE HAD AN OPPORTUNITY TO SEEK LEGAL COUNSEL CONCERNING THIS WAIVER. THIS WAIVER IS INTENDED TO AND DOES ENCOMPASS EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE ACCRUE. BUYER AND SELLER FURTHER CERTIFY AND REPRESENT TO EACH OTHER THAT NO PARTY, REPRESENTATIVE OR AGENT OF BUYER OR SELLER

(INCLUDING, BUT NOT LIMITED TO, THEIR RESPECTIVE COUNSEL) HAS REPRESENTED, EXPRESSLY OR OTHERWISE TO BUYER OR SELLER OR TO ANY AGENT OR REPRESENTATIVE OF BUYER OR SELLER (INCLUDING, BUT NOT LIMITED TO, THEIR RESPECTIVE COUNSEL) THAT THEY WILL NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL. THIS WAIVER SHALL APPLY TO THIS AGREEMENT AND ANY FUTURE AMENDMENTS, SUPPLEMENTS OR MODIFICATIONS OF THIS AGREEMENT. THIS SECTION SHALL SURVIVE CLOSE OR THE EARLIER TERMINATION OF THIS AGREEMENT.

17. **Covenants of Seller.** Upon the Effective Date, Seller shall have the following obligations:

a. Seller shall give Buyer prompt notice of its receipt of written notice or service of (i) any rezoning of the Property, (ii) any taking or condemnation of all or any portion of the Property, (iii) any enforcement action or litigation by any Authority or other party relating to the use, condition or environmental quality of the Property, and (iv) the commencement of any action by any party seeking relief which would result in the imposition of a lien on any part of the Property, including, without limitation, an action to foreclose any mortgage on any part of the Property.

b. Seller shall not mortgage or encumber any part of the Property without the consent of Buyer, not to be unreasonably withheld or delayed, or perform any act which would result in an encumbrance of the Property, other than any existing mortgage in place as of the Effective Date, and provided that any and all such mortgages or other encumbrances shall be removed at or prior to the applicable Closing.

c. Seller shall not, without Buyer's prior written consent, (i) enter into any contracts or other agreements in connection with the Property or any part thereof which Seller cannot terminate at or prior to the First Closing; or (ii) allow occupancy or use of any portion of the Property under any license, lease or other agreement, except for any existing lease, occupancy agreement or license that shall be terminated prior to the First Closing, and provided that all existing leases, occupancy agreements and/or licenses (A) are terminated prior to the First Closing and the Property is delivered vacant, free of any tenants, licensees or other occupants, and (B) subject to Section 4.b, do not unreasonably and materially interfere with Buyer's investigation and/or development of the Property. The Parties understand and agree that Buyer has not agreed to assume any obligations or responsibilities as a landlord or licensor, and is hereby expressly disavowing any such obligations or responsibilities. Except to the extent otherwise expressly permitted in writing by Buyer, as determined in Buyer's sole and absolute discretion, Seller, at Seller's sole cost and expense, and prior to the First Closing, shall be solely responsible for terminating any and all leases, occupancy agreements, licenses and/or other agreements, whether written or oral in nature, and ensuring the removal of all persons and pertinent personal property from the Property.

d. Seller shall maintain the Property until Closing in its current condition (ordinary wear and tear excepted) and shall continue to own and operate the Property until Closing in the same manner as on the Effective Date.

e. Seller shall take commercially reasonable steps to ensure that the environmental condition of the Property will not materially change between the end of the Feasibility Period and the date of Closing so as to adversely affect the ability of Buyer to develop the Property as contemplated hereunder.

18. **Development of Natatorium on Property.** Buyer does hereby agree that the subdivision of the Property shall include a Parcel of approximately 32.5 acres (unless larger acreage is

required pursuant to applicable Legal Requirements) on which Buyer shall develop and construct a Natatorium containing a 50-meter x 25-meter swimming pool (the "Natatorium") at no cost or expense to Seller. The Parcel on which the Natatorium is built shall be offered for dedication to the Township, either as part of Buyer's application for certain Government Approvals or separately. In the event the Township declines to accept dedication of the Natatorium, Buyer shall own and operate the Natatorium, in which case, Buyer shall cooperate with Seller to provide access to the Natatorium to Seller on a preferential but commercially reasonable basis in order to fulfill Seller's needs to accommodate programs now or hereafter offered by Seller as a public school district. Such access shall be provided at a cost at all times equal to the lowest cost offered to any other user of the Natatorium with the understanding that any preference in cost or access afforded to Seller shall not be construed to mean that Buyer is required to operate the Natatorium at a loss, whether to accommodate Seller or otherwise, or is otherwise prohibited from increasing rental or occupancy rates on an annual basis in a commercially reasonable manner. Buyer's obligation to build the Natatorium shall apply both to the By-Right Project and the Senior Housing Project. Notwithstanding anything in this Agreement to the contrary, in the event the Township declines to accept dedication of the Natatorium, after the Natatorium has been opened by Buyer and is fully operational, and Seller and Buyer have entered into an agreement reasonably acceptable to the Parties establishing Seller's access to the Natatorium and the rate payable for such access (the "Natatorium Access Agreement"), Buyer shall be authorized to sell or otherwise transfer the Natatorium to a third party, provided that the third party has agreed to operate the Natatorium and accept assignment of the Natatorium Access Agreement. The covenants contained in this Section 18 shall survive Closing hereunder.

**19. Additional Approval Contingencies.**

a. Buyer and Seller acknowledge and agree that this Agreement is contingent upon the approval ("Board Approval") by Seller's Board of Directors ("Seller's Board"). If Seller's Board does not approve this Agreement, then this Agreement shall terminate immediately thereafter without further action of the parties hereto, the Deposit shall be promptly returned to Buyer, and neither party shall have any further rights or obligations under this Agreement excepting those that expressly survive the expiration or termination of this Agreement. Seller hereby agrees to use commercially reasonable efforts to obtain Board Approval of this Agreement as soon as commercially practicable. Upon reasonable request of Buyer, Seller shall provide Buyer with periodic updates via Email as to the status and timing of Board Approval.

b. Buyer and Seller further acknowledge and agree that the closing on sale of the Property from Seller to Buyer pursuant to this Agreement ("Sale") is contingent upon the approval ("Court Approval") by the Court of Common Pleas of Chester County, Pennsylvania ("Court"), as a private sale of the Property, pursuant to the provisions of Section 707(3) of the Public School Code of 1949, as amended, 24 P.S. Section 7-707(3) (the "School Code"). As soon as practicable following the Effective Date, at Seller's sole cost and expense, Seller shall file a petition with the Court seeking Court Approval of this Agreement pursuant to the School Code, and shall thereafter prosecute such petition with all deliberate speed. Buyer agrees to cooperate with Seller, at no cost to Buyer, in the approval proceedings as requested by Seller. Promptly following receipt of such Court Approval, Seller will notify Buyer of the same in writing. If Court Approval is not obtained, then this Agreement shall terminate, after the Deposit has been returned to Buyer and Buyer has been reimbursed for documented costs and expenses incurred by Buyer subsequent to the date of this Agreement and through the date of termination to apply for or obtain Government Approvals, and thereafter neither party shall have any further rights or obligations under this Agreement excepting those that expressly survive the expiration or termination of this Agreement. Notwithstanding the foregoing, Seller's obligation to reimburse Buyer for costs and expenses under this Section 19.b shall not exceed an aggregate cap of Twenty-Five Thousand Dollars

(\$25,000). Upon reasonable request of Buyer, Seller shall provide Buyer with periodic updates via Email as to the status and timing of Court Approval.

c. Notwithstanding anything contained in this Agreement to the contrary, in no event shall the failure to obtain Board Approval or Court Approval constitute a default by Seller hereunder, provided that any part of the Deposit released to or paid over to Seller or is promptly returned to Buyer.

20. **General.**

a. **Entire Agreement.** This Agreement constitutes the final and entire Agreement between the Parties concerning the subject matter hereof and neither Party shall be bound by any terms, covenants, conditions, representations or warranties not expressly contained herein. Buyer acknowledges and agrees that Buyer is not relying on any representation, statement, term or condition of Seller not expressly set forth in this Agreement. This Agreement may not be amended except by a written instrument fully executed by both Parties.

b. **Partial Invalidity.** If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall remain in full force and effect and be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

c. **Time of the Essence.** Time is of the essence of this Agreement and the performance of the terms and conditions hereof. If any time period or date is modified by subsequent written agreement of the parties, time shall be of the essence with respect to such extended or modified time period or date whether or not expressly stated in such writing.

d. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective legal representatives, successors and assigns. Neither this Agreement nor any rights, interests or obligations hereunder shall be assigned or transferred by either Party without the prior written consent of the other Party hereto.

e. **Counterparts / PDFs.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. A facsimile, photocopy or a copy in \*.pdf or other digitized imaged format shall be deemed an original copy for all evidentiary purposes.

f. **Time Periods.** Any and all references in this Agreement to time periods which are specified by reference to a certain number of days refer to calendar days, unless "business days" is otherwise expressly provided. If (a) the last date by which Closing is permitted to occur hereunder, or (b) any date by which a Party is required to provide the other Party with notice hereunder or perform a certain action, occurs on a Saturday or a Sunday or a banking holiday in the jurisdiction where the Property is located, then and in any of such events, such applicable dates shall be deemed to occur, for all purposes of this Agreement, on that calendar day which is the next, succeeding day, which is not a Saturday, Sunday or banking holiday.

g. **No Partnership.** Nothing in this Agreement shall be deemed in any way to create between the Parties any relationship of partnership, joint venture or association, and the Parties disclaim the existence thereof.

h. **Waivers.** No Party shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and no delay or omission by any Party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

i. **Choice of Law.** This Agreement shall be given effect and construed by application of the law of Commonwealth of Pennsylvania without regard to any "choice of law" provisions.

j. **Construction.** The Parties agree that this Agreement has been thoroughly negotiated in good faith and that, if any ambiguity shall arise hereunder, there shall be no presumption that either Party drafted this Agreement or shall have such ambiguity resolved against either Party by virtue of its role in drafting or preparing this Agreement. The words "herein," "hereof," "hereunder" and other similar compounds of the word "here" when used in this Agreement shall refer to the entire Agreement and not to any particular provision or section. Whenever used in this Agreement, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. The section headings and marginal notes used herein are for reference and convenience only and shall not affect the construction or interpretation of this Agreement. Any recitals, background and other introductory material at the beginning of this Agreement, and any Exhibits attached hereto or referenced herein, shall constitute a material part of this Agreement and are incorporated herein by reference. Wherever used in this Agreement: (i) the words "include" or "including" shall be construed as incorporating, also, "but not limited to" or "without limitation"; and (ii) the word "day" means a calendar day unless otherwise specified.

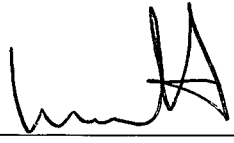
k. **Exhibits.** Each writing or plat or plan referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit is incorporated herein by reference and made a part hereof. The Parties agree that any exhibit not attached hereto as of the Effective Date shall be initialed by the Parties and attached hereto as soon as practicable, but failure to attach an exhibit shall not affect the validity of this Agreement unless there is material disagreement as to the content of such exhibit.

[SIGNATURE PAGES FOLLOW]



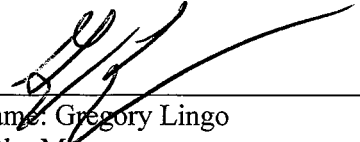
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement under seal as of the Effective Date.

WITNESS/ATTEST:

  
\_\_\_\_\_  
Print Name: Christopher B. Hagen

BUYER:

**ROCKWELL DOWNINGTOWN, LLC,**

By:   
\_\_\_\_\_  
Name: Gregory Lingo  
Title: Manager

Date: 10/23/2024

WITNESS/ATTEST:

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

SELLER:

**DOWNINGTOWN AREA SCHOOL  
DISTRICT**

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

**AGREEMENT OF PURCHASE AND SALE**

**by and between**

**DOWNINGTOWN AREA SCHOOL DISTRICT, as Seller,  
and  
ROCKWELL DOWNINGTOWN, LLC, as Buyer**

**EXHIBIT A**

**Legal Description**

Please See Attached

**Schedule C  
Description and Recital**

**PREMISES "A"**  
**ALL THAT CERTAIN tract of land.**

**SITUATE** in Uwchlan Township, Chester County, Pennsylvania, designated as Parcels No. 1, 2 and 3 on a map of property made for Shared Medical Systems Corporation, by Hopkins and Scott, Inc., Registered Surveyors, Kimberton, PA, dated 2/06/1986, said tract being more fully described as follows, to wit:

**BEGINNING** at an iron pin on the Northern right-of-way of The Pennsylvania Turnpike Commission, a corner of lands of Alvin W. Phipps; thence along lands of Phipps, North 30 degrees 46 minutes 27 seconds West, 348.24 feet to an iron pin in line of lands of S. Warren Supplee; thence along lands of Supplee the two following courses and distances: (1) North 59 degrees 16 minutes 23 seconds East, 1,063.68 feet to an iron pin; and (2) North 29 degrees 28 minutes 31 seconds West, 571.89 feet to an iron pin in line of lands of Jacob C. Dewees; thence along lands of Dewees and various lot and owners, North 70 degrees 30 minutes 05 seconds East, 2,829.75 feet to a point, a corner of lands of William MacLaughlin, having crossed over the center line of Lionville Station Road at a distance of 1,682.50 feet and having crossed over a Transco Pipeline right-of-way (75 feet wide); thence along lands of MacLaughlin and lands of David Betz, North 36 degrees 36 minutes 00 seconds East, 651.75 feet to a concrete monument, a corner of lands of J. Todd Sepella and the township line dividing Uwchlan Township and West Pikeland Township; thence along lands of Sepella and the township line, South 54 degrees 54 minutes 00 seconds East, 964.43 feet to an iron pin, a corner of lands of Elmer Matthews; thence along lands of Matthews the two following courses and distances: (1) South 60 degrees 06 minutes 00 seconds West, 990 feet to an iron pin; and (2) South 31 degrees 39 minutes 00 seconds East, 656.70 feet to an iron pin, a corner of parcel No. 5 on said plan; thence along Parcels No. 5 and 4 the four following courses and distances: (1) South 54 degrees 27 minutes 30 seconds West, 722.70 feet to an iron pin; (2) South 26 degrees 26 minutes 35 seconds East, 681.45 feet to a 36 inch cherry tree; (3) South 70 degrees 25 minutes 55 seconds West, 1,969.20 feet to a 36 inches tree with an iron pin at the base, having crossed over the center line of Lionville Station Road at a distance of 558.10 feet; and (4) South 29 degrees 54 minutes 12 seconds East, 336.44 feet to an iron pin, a corner of lands of S. Warren Supplee and Parcel No. 4 on said plan; thence along lands of Supplee, South 69 degrees 20 minutes 48 seconds West, 82.30 feet to an iron pin on the Northern right-of-way line of The Pennsylvania Turnpike Commission; thence along the said right-of-way line the three following courses and distances (1) North 74 degrees 54 minutes 58 seconds West, 503.79 feet to an iron pin (2) North 43 degrees 28 minutes 13 seconds West, 1,055.43 feet to an iron pin; and (3) South 80 degrees 29 minutes 28 seconds West, 531.64 feet to an iron pin, the first mentioned point and place of beginning.

**CONTAINING** 164.4262 acres.



CLT

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**Schedule C**  
**Description and Recital continued**

**PREMISES "B"**  
**ALL THAT CERTAIN tract of land.**

SITUATE in Uwchlan Township, Chester County, Pennsylvania, designated as parcels No. 4 and 5 on a map of property made for Shared Medical Systems Corporation, by Hopkins and Scott, Inc., Registered Surveyors, Kimberton, Pa., dated 2/06/1986 said tract being more fully described as follows, to wit:

BEGINNING at a point on the Northerly right-of-way line of The Pennsylvania Turnpike Commission and a corner of lands of S. Warren Supplee, thence along lands of Supplee, North 24 degrees 39 minutes 02 seconds West, 62.50 feet to an iron pin, a corner of Parcel No. 1 on said plan; thence along Parcels No. 1 and 2 the four following courses and distances: (1) North 29 degrees 54 minutes 12 seconds West, 336.44 feet to a 36 inch tree with an iron pin at the base; (2) North 70 degrees 25 minutes 55 seconds East, 1,969.20 feet to a 36 inch cherry tree, having crossed over the center line of Lionville Station Road (T-464) at a distance of 1,411.10 feet; (3) North 26 degrees 26 minutes 35 seconds West, 681.45 feet to an iron pin; and (4) North 54 degrees 27 minutes 30 seconds East, 722.70 feet to an iron pin in line of lands of Elmer D. Matthews; thence along lands of Matthews and lands of The Chester County Development Authority the three following courses and distances: (1) South 31 degrees 39 minutes 00 seconds East, 59.07 feet to an iron pin; (2) South 15 degrees 58 minutes 08 seconds West, 314.45 feet to an iron pin; and (3) South 24 degrees 57 minutes 53 seconds East, 2,241.36 feet to an iron pipe on the Northerly side of Lionville Station Road; thence along and crossing said road, South 72 degrees 47 minutes 44 seconds West, 577.70 feet to an iron pin on the Northerly right-of-way line of The Pennsylvania Turnpike Commission; thence along said right-of-way line the two following courses and distances (1) on a line curving to the right, having a radius of 8,494.41 feet and an arc distance of 1,273.26 feet to a point of tangency; and (2) North 74 degrees 54 minutes 58 seconds West, 1,072.26 feet to a point, the first mentioned point and place of beginning.

CONTAINING 76.623 ACRES

Tax ID / Parcel No. 33-1-25, 33-1-26, 33-1-27, 33-1-28, 33-1-28.1

BEING the same premises which Shared Medical Systems Corporation, a Delaware Corporation, by Deed dated 12/20/1991 and recorded 12/30/1991 in Chester County in Record Book 2724 Page 191 conveyed unto COMTECK Management Ltd., a Bermuda Corporation, in fee.



10691695  
Page 8 of 9  
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**AGREEMENT OF PURCHASE AND SALE**

by and between

**DOWNINGTOWN AREA SCHOOL DISTRICT, as Seller,  
and  
ROCKWELL DOWNINGTOWN, LLC, as Buyer**

**EXHIBIT B**

**Closing Documents to be Delivered to Buyer**

- a. A "special warranty" deed (the "Deed"), in recordable form, duly executed by Seller, conveying good and marketable title to a portion of the Property as provided for in this Agreement and such signed certificates, instruments, documents and affidavits as required by the Commonwealth of Pennsylvania in connection with the recording of the Deed;
- b. A Foreign Investment in Real Property Tax Act ("FIRPTA") certification in conformance with the requirements of FIRPTA;
- c. All consents which may be required from any third person or entity in connection with the sale of the Property;
- d. A title affidavit as to those items or facts within Seller's actual knowledge in form typically required by title insurance companies or agents doing business in southeastern Pennsylvania;
- e. If applicable, lien releases, affidavits and other documents satisfactory to counsel for Buyer, indemnifying Buyer from all liability and expense, including attorneys' fees, that Buyer may incur in connection with unfilled mechanics' liens for any work completed or materials furnished at or about any part of the Property prior to Closing;
- f. Affidavit or certificate of representations and warranties of Seller per the Agreement;
- g. Any necessary affidavits to satisfy federal and/or state tax reporting requirements;
- h. Executed copies of all resolutions and other authorizations evidencing the authority of the persons executing the Agreement and the closing documents to bind Seller, all certified as true and correct by an authorized signatory of Seller;
- i. Such documents as may be reasonable or necessary, and without representation or warranty, to assign and transfer to Buyer the applicable Government Approvals in the possession, or under the control, of Seller and the originals of any such Government Approvals relating to the Property and/or a Parcel;
- j. A duly executed copy of the final closing statement as prepared by Escrow Agent and approved by Seller;
- k. If Buyer determines it is applicable, and in Buyer's discretion, a quit claim assignment and bill of sale, without representation or warranty, executed by Seller with respect to such

personal property rights/interests and such tangible appurtenant property-related rights as pertain to the Property or any of the Property and as are intended to be conveyed with or as a part thereof; and

1. Such other documents or instruments reasonably acceptable to Seller as may be required by other provisions of this Agreement or reasonably required by Buyer or Buyer's title company to effectuate Closing on sale and purchase of all or part of the Property hereunder.

**AGREEMENT OF PURCHASE AND SALE**

by and between

**DOWNINGTOWN AREA SCHOOL DISTRICT, as Seller,  
and  
ROCKWELL DOWNINGTOWN, LLC, as Buyer**

**EXHIBIT C  
Notices**

Except as otherwise expressly provided for in the Agreement, any notice to be given to any Party hereto in connection with this Agreement shall be in writing and shall be deemed received (a) on the date delivered if hand delivered by receipted hand delivery, (b) three (3) days after postmark if sent postage prepaid by certified or registered mail, return receipt requested, (c) on the next business day after deposit with a reputable overnight delivery service (e.g., FedEx, UPS, etc.) or (d) on the date delivered if by electronic mail ("Email"), provided, that any emailed notice purporting to either terminate this Agreement or provide notice of an asserted failure, breach or default by the other party must be followed by a hard copy thereof given within two (2) business days thereafter that is delivered in accordance with one of the preceding subsections (a)-(c), unless receipt of such hard copy is expressly waived by a reply email from the recipient party in response to such notice email. Notices to the Parties shall be sent to their addresses set forth below. Notices may be furnished by legal counsel (in-house or outside counsel) for either Party. Either Party, by written notice to the other, may change its address to which notices are to be sent.

**Buyer's Address:**

ROCKWELL DOWNINGTOWN, LLC  
1075 Eagle Road  
Wayne PA 19087  
Attn: Greg Lingo  
Email: [greg@rockwelldevelopmentgroup.com](mailto:greg@rockwelldevelopmentgroup.com)

**With copies to:**

Christopher B. Hogan, Esquire  
1075 Eagle Road  
Wayne PA 19087  
Email: [chogan@rockwellcustom.com](mailto:chogan@rockwellcustom.com)

**Seller's Address:**

DOWNINGTOWN AREA SCHOOL DISTRICT  
540 Trestle Place  
Downingtown, PA 19335  
Attn: Robert J. O'Donnell, Ed.D., Superintendent  
Email: [rodonnell@dasd.com](mailto:rodonnell@dasd.com)

**With copies to:**

DOWNINGTOWN AREA SCHOOL DISTRICT  
540 Trestle Place  
Downingtown, PA 19335  
Attn: David Matyas, Business Manager  
Email: [dmatyas@dasd.com](mailto:dmatyas@dasd.com)

And:

Lamb McErlane, PC  
24 East Market Street, P.O. Box 565  
West Chester, PA 19381

Attn: Roger N. Huggins, Esquire  
Email: [rhuggins@lambmcerlane.com](mailto:rhuggins@lambmcerlane.com)



## **AGREEMENT OF PURCHASE AND SALE**

by and between

**DOWNINGTOWN AREA SCHOOL DISTRICT, as Seller,**

**and**

**ROCKWELL DOWNINGTOWN, LLC, as Buyer**

### **EXHIBIT D**

#### **Milestone Schedule**

##### **Task**

##### **Timing**

Complete application with supporting plan and the payment of all associated fees for the By-Right Project submitted to Township

45 days following Feasibility Period

Sketch plan and proposed zoning text amendment for Senior Housing Project submitted to Township

4 months following Feasibility Period

Complete application and the payment of all associated fees for preliminary approval of plan supporting the Senior Housing Project submitted to Township

12 months following Feasibility Period

If Buyer determines that the Township is not in favor of the Senior Housing Project, submission of complete applications and the payment of all associated fees for additional Government Approvals required for By-Right Project

12 months following Feasibility Period

Submit complete applications and pay all associated fees for all other Government Approvals required for approval of the Projects

15 months following Feasibility Period

Deadline for First Closing on an Approved Plan for either By-Right Project or Senior Housing Project as determined in Buyer's sole discretion

36 months after Feasibility Period