

## REAL PROPERTY PURCHASE AND SALE AGREEMENT

This Real Property Purchase and Sale Agreement (this “**Agreement**”) is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 2018 (the “**Effective Date**”), by and between 1901 MINOR, LLC, a Delaware limited liability company, and/or its successors and assigns (“**Buyer**”), and THE CITY OF SEATTLE, a Washington municipal corporation (“**Seller**”).

### RECITALS

A. Seller is the owner of:

(i) that certain real property located in Seattle, Washington more particularly described on Exhibit “A” attached hereto and made a part hereof (the “**Land**”), and all buildings, structures and improvements constructed thereon or made thereto (the “**Improvements**”), and any and all rights, titles, powers, privileges, easements, licenses, rights-of-way and interests appurtenant to the Land and the Improvements (the Land, the Improvements and all such rights, titles, powers, privileges, licenses, easements, rights-of-way and interests are referred to herein collectively as the “**Real Property**”);

(ii) All equipment, machinery, systems, fixtures, furniture and other personal property of whatever kind or character and attached to or installed in or located on or used in connection with the Real Property as of the Closing Date (as hereinafter defined) (collectively, the “**Personal Property**”); and

(iii) All other rights, titles, powers, privileges and interests of Seller (whether tangible or intangible) accruing to the benefit of the Real Property and/or Personal Property or any portion thereof, including, without limitation, all (a) approvals, consents, variances, waivers, permits, licenses and other authorizations issued by any local, county, state and/or federal governmental, quasi-governmental and/or regulatory body, agency and/or authority (any of the foregoing, a “**Governmental Authority**”), (b) vested rights, development rights, water rights, sewer rights and drainage rights, (c) utility reservations and agreements, (d) plats, site plans and surveys, (e) soil, geotechnical and environmental audits, studies, reports and assessments, (f) architectural, engineering, mechanical and construction plans, specifications and drawings, (g) architectural, engineering, mechanical, construction and structural studies, reports and assessments and (h) warranties, guaranties, contract rights and other intangible rights (collectively, the “**Intangible Property**”).

The Real Property, the Personal Property and the Intangible Property are referred to herein collectively as the “**Property**”.

B. Buyer desires to purchase from Seller and Seller desires to sell to Buyer the Property on the terms and conditions set forth below.

### AGREEMENT

In consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

## ARTICLE I. PROPERTY

1.1 Property. Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, the obligations of each of them subject to the terms and conditions set forth herein, the Property.

## ARTICLE II. CONSIDERATION

2.1 Consideration. The purchase price for the Property is Thirteen Million Dollars (\$13,000,000) (“**Purchase Price**”), payable all cash at Closing (as hereinafter defined) and subject to adjustment as more particularly set forth in this Agreement.

(a) To the extent that a third-party environmental consultant selected by Buyer (the “**Environmental Consultant**”) determines that the remediation of Hazardous Substances (as hereinafter defined) is required by law in connection with Buyer’s development, construction and use of the Property, the Purchase Price shall be reduced by an amount equal to the Environmental Consultant’s estimated cost to perform such remediation, plus estimated increases in costs of construction and labor in connection with development; provided, however, in no event shall the Purchase Price be reduced by more than Three Hundred Seventy Thousand Dollars (\$370,000) pursuant to this paragraph. Buyer shall supply Seller with a copy of the complete environmental report of Hazardous Substances prepared by Buyer’s Environmental Consultant as provided in Section 4.3 below, but in no event later than fifteen (15) days after its issuance.

(b) Buyer and Seller acknowledge and agree that Buyer may subject Buyer’s proposed project to be constructed on the Property and/or other properties owned by Buyer adjacent to the Property (“**Buyer’s Project**”) to the City of Seattle’s Mandatory Housing Affordability regulations, codified in Seattle Municipal Code Chapters 23.58B and 23.58.C (“**MHA**”). Seller hereby acknowledges and agrees that, if Buyer makes such election, \$2,000,000 of the Purchase Price (the “**MHA Partial Pre-Payment**”) shall constitute a partial prepayment of, and will be credited against, the total amount that would be required to be paid by Buyer under the MHA in connection with Buyer’s Project (the “**MHA Payment**”). Upon Buyer’s written request after Closing, Seller will promptly provide to Buyer written confirmation that, at the time that the MHA Payment would be due and payable, Buyer will receive a credit against the MHA Payment in the amount of the MHA Partial Prepayment (such that Buyer will only be required to pay the balance of the MHA Payment less the MHA Partial Prepayment).

If it has not done so previously, at the time that the MHA Payment is due and payable, Seller shall cause the Purchase Price to be reallocated amongst the applicable City departments such that the applicable City agency or department receives funds in the amount of the MHA Partial Prepayment, and Buyer shall have no liability or responsibility with respect thereto.

The provisions of this Section 2.1(b) shall survive the Closing.

2.2 Escrow Holder. Old Republic Title Insurance Company (“**Escrow Holder**” in its capacity as escrow holder and “**Title Company**” in its capacity as title insurer) has been designated as Escrow Holder hereunder by mutual agreement of Seller and Buyer. As of the Effective Date,

Escrow Holder shall open a closing escrow for the benefit of Buyer and Seller in accordance with the terms of this Agreement.

2.3 Earnest Money. Within two (2) business days after the Effective Date, Buyer shall deposit with Escrow Holder the amount of Two Hundred Fifty Thousand Dollars (\$250,000) (together with accrued interest, the “*Initial Earnest Money*”; and, together with any Extension Earnest Money Deposit (as hereinafter defined) and all accrued interest thereon, collectively, the “*Earnest Money*”) by wire transfer of immediately available funds. The Earnest Money shall be non-refundable except as otherwise expressly set forth in this Agreement. The Earnest Money shall be invested by Escrow Holder in a federally-insured, non-interest-bearing account pending disposition thereof in accordance with this Agreement. The Earnest Money shall be applied to or credited against the Purchase Price at Closing.

Within three (3) business day after Buyer’s deposit of the Initial Earnest Money, Seller shall deliver the Deed (as hereinafter defined) to be held in escrow by Escrow Holder, subject to Section 2.4 below.

2.4 Application and Disbursement of Earnest Money and Deed.

(a) To the extent in Escrow Holder’s possession, Escrow Holder shall deliver the Earnest Money to Seller or to Buyer, as the case may be, under the following conditions:

(i) To Seller following receipt by Escrow Holder of written demand therefor from Seller stating that Buyer has defaulted in the performance of its obligations under this Agreement and specifying the nature of the default and the section of this Agreement which entitles Seller to payment of the Earnest Money, if Buyer shall not have given written notice of objection in accordance with the provisions set forth below. In such instance, the Deed shall be returned to Seller;

(ii) To Buyer following receipt by Escrow Holder of written demand therefor from Buyer stating that Seller has defaulted in the performance of its obligations under this Agreement and specifying the nature of the default and the section of this Agreement which entitles Buyer to the return of the Earnest Money, if Seller shall not have given written notice of objection in accordance with the provisions set forth below. In such instance, the Deed shall be (A) if Buyer does not pursue an action for specific performance, returned to Seller or (B) if Buyer pursues an action for specific performance, retained by Escrow Holder and delivered to Buyer or Seller, as applicable, in accordance with the final, non-appealable determination of a court of competent jurisdiction with respect to such action;

(iii) To Buyer or Seller as directed by joint written instructions of Seller and Buyer, which joint instruction shall also specify to whom the Deed should be delivered;

(iv) To Buyer upon receipt by Escrow Holder of Buyer’s timely notice to terminate this Agreement or upon the automatic termination of this Agreement, as applicable, pursuant to the provisions of Section 3.1(b), Section 5.1, Section 9.3 or Article X. In such instance, the Deed shall be returned to Seller; or

(v) To Buyer or Seller, as applicable, upon receipt by Escrow Holder of Seller's notice to terminate this Agreement pursuant to the provisions of Section 5.2. In such instance, the Deed shall be returned to Seller.

(b) Upon the filing of a written demand for the Earnest Money by Seller or Buyer, pursuant to subsections (a)(i) or (a)(ii) above, Escrow Holder shall promptly give notice thereof (including a copy of such demand) to the other party. The other party shall have the right to object to the delivery of the Earnest Money to the demanding party by giving written notice of such objection to Escrow Holder and the demanding party at any time within ten (10) days after such objecting party's receipt of notice from Escrow Holder, but not thereafter. Such notice shall set forth the basis for objecting to the delivery of the Earnest Money to the demanding party. Upon receipt of such notice of objection, Escrow Holder shall promptly give a copy of such notice to the demanding party. If Escrow Holder shall have timely received such notice of objection, then Escrow Holder shall continue to hold the Earnest Money and the Deed until (i) Escrow Holder receives written notice from Seller and Buyer directing the disbursement of the Earnest Money and release of the Deed, in which case Escrow Holder shall then disburse the Earnest Money and release the Deed in accordance with said direction, or (ii) litigation is commenced between Seller or Buyer, in which case Escrow Holder shall either retain the Earnest Money and the Deed or deposit the Earnest Money and the Deed with the court overseeing such litigation, and then disburse the Earnest Money and release the Deed in accordance with the direction of the court overseeing such litigation pursuant to a final non-appealable judgment of such court.

(c) Escrow Holder may rely and act upon any instrument or other writing reasonably believed by Escrow Holder to be genuine and purporting to be signed and presented by any person or persons purporting to have authority to act on behalf of Seller or Buyer, as the case may be, and shall not be liable in connection with the performance of any duties imposed upon Escrow Holder by the provisions of this Agreement, except for Escrow Holder's own gross negligence, willful misconduct or default. Escrow Holder shall have no duties or responsibilities except those set forth herein. Escrow Holder shall not be bound by any modification, cancellation or rescission of this Agreement unless the same is in writing and signed by Buyer and Seller and, if Escrow Holder's duties hereunder are affected, unless Escrow Holder shall have given prior written consent thereto. Escrow Holder shall be reimbursed by Seller and Buyer for any expenses (including reasonable legal fees and disbursements of outside counsel), including all of Escrow Holder's fees and expenses with respect to its role as Escrow Holder under this Agreement, and such liability shall be shared equally between Seller and Buyer, provided that, as between Buyer and Seller, the prevailing party in any dispute over the Earnest Money and/or the Deed shall be entitled to reimbursement of any such expenses paid to Escrow Holder. In the event that Escrow Holder shall be uncertain as to Escrow Holder's duties or rights hereunder, or shall receive instructions from Buyer or Seller that, in Escrow Holder's opinion, are in conflict with any of the provisions hereof, Escrow Holder shall be entitled to hold the Earnest Money and/or the Deed and may decline to take any other action until otherwise directed by a court of competent jurisdiction which direction is final and non-appealable. After delivery of the Earnest Money and the Deed in accordance herewith, Escrow Holder shall have no further liability or obligation of any kind whatsoever.

(d) Escrow Holder shall have the right at any time to resign upon ten (10) business days' prior notice to Seller and Buyer. Seller and Buyer shall jointly select a successor

Escrow Holder and shall notify Escrow Holder of the name and address of such successor Escrow Holder within ten (10) business days after receipt of notice of Escrow Holder of its intent to resign. If Escrow Holder has not received notice of the name and address of such successor Escrow Holder within such period, then Escrow Holder shall have the right to select on behalf of Seller and Buyer a bank, trust or title company with offices located in Washington and with total assets of at least \$5,000,000,000 to act as successor Escrow Holder hereunder. Immediately following such successor being selected pursuant to this Section 2.4(d), Escrow Holder shall have the obligation to deliver the Earnest Money and the Deed to the successor Escrow Holder selected hereunder, provided such successor Escrow Holder shall execute and deliver to Seller and Buyer an assumption agreement whereby it assumes all of Escrow Holder's obligations hereunder. Upon the delivery of all such amounts and such assumption agreement, the successor Escrow Holder shall become Escrow Holder for all purposes hereunder and shall have all of the rights and obligations of Escrow Holder hereunder, and the resigning Escrow Holder shall have no further responsibilities or obligations hereunder.

(e) The provisions of this Section 2.4 shall survive the Closing or termination of this Agreement.

### ARTICLE III. TITLE

3.1 Review of Title. The parties acknowledge that, as of the Effective Date, Buyer has received from the Title Company a preliminary commitment for title insurance for the Property effective January 25, 2018, at 8:00 AM, including copies of all exceptions and encumbrances noted therein (the "**Preliminary Commitment**"). Buyer has accepted the exceptions in the Preliminary Commitment set forth on Exhibit "B" attached hereto and made a part hereof (the "**Permitted Exceptions**").

(a) If Buyer (i) receives any update or continuation of the Preliminary Commitment that includes any additional exceptions to title not shown on Exhibit "B" attached hereto or (ii) obtains an updated survey that includes matters not shown on Exhibit "B" attached hereto, then Buyer shall have twenty (20) days after receipt of such update or continuation (together with copies of such new exception(s)) or updated survey to review the same and notify Seller in writing of any objection(s) to such new exception(s) or to matters shown on the updated survey (a "**Title Objection Letter**"). If Buyer timely objects to any such new exception(s) or survey matters, then Seller shall, within five (5) days after receipt of Buyer's Title Objection Letter, notify Buyer in writing as to whether or not Seller will cause the objectionable exception(s) or survey matters to be cured, satisfied, discharged or otherwise deleted from the Preliminary Commitment on or before Closing (a "**Title Cure Letter**").

(b) If Seller fails to timely deliver a Title Cure Letter, or if Seller does not agree in a timely delivered Title Cure Letter to cause all objectionable exception(s) or survey matters set forth in Buyer's Title Objection Letter to be cured, satisfied, discharged or otherwise deleted from the Preliminary Commitment on or before Closing, then in either case Buyer shall notify Seller in writing within ten (10) days after the latest date on which Seller is to have delivered its Title Cure Letter to Buyer of Buyer's election to either: (i) terminate this Agreement, in which event this Agreement shall terminate, the Earnest Money shall be returned promptly to Buyer and the Deed shall be returned promptly to Seller, and the parties shall be released from all terms and provisions

of this Agreement, except for those that expressly survive its termination; or (ii) waive its objection(s) to the exception(s) and survey matters that Seller did not agree in its Title Cure Letter to cure, satisfy, discharge or otherwise delete from the Preliminary Commitment on or before Closing, in which event such exception(s) and survey matters shall be deemed to be Permitted Exceptions. If Buyer fails to timely deliver written notice of its election to Seller, then it shall be deemed that Buyer has elected to terminate this Agreement under (i) above.

(c) If the time period for delivery of any Title Objection Letter, Title Cure Letter or termination notice extends beyond the Closing Date, then the Closing Date shall be extended to accommodate the time periods outlined above.

(d) Notwithstanding anything to the contrary contained in this Agreement, Seller shall be obligated, on or before Closing, to take the necessary action to cure, satisfy, discharge and otherwise delete from the Preliminary Commitment (and any update or continuation thereof) and/or public record (as applicable) the following matters whether or not objected to in any Title Objection Letter: (i) all requirements of the Preliminary Commitment requiring the execution and delivery of instruments of conveyance, the delivery of formation, organizational and governance documents and the execution and delivery of authorizing consents, resolutions and certificates; (ii) all general exceptions of the Preliminary Commitment relating to the “gap exception”, the “parties-in-possession exception” and the “mechanic’s lien exception”; (iii) any lien recorded against the Property arising from labor, services, materials, supplies and/or equipment performed or provided in connection with any work, services, alterations or improvements performed or made to or upon the Property by or on behalf of Seller; (iv) any deeds of trust, mortgages and related loan documents that encumber the Property; (v) any liens, judgments, tax warrants or other liquidated monetary encumbrances of record or shown on the Preliminary Commitment which affect the Property (other than non-delinquent real property taxes and assessments which are otherwise subject to proration under this Agreement) and which can be satisfied and discharged by payment of a liquidated sum; (vi) any open permits and/or existing code violations affecting the Property; (vii) those matters that Seller expressly agrees to cure, satisfy, discharge or otherwise delete from the Preliminary Commitment in any Title Cure Letter; and (viii) those matters arising by, through or under Seller after the effective date of the Preliminary Commitment. All of the matters referred to in items (i) through (viii) above are referred to herein as the “**Mandatory Cure Items**”. If Seller fails to satisfy any Mandatory Cure Item(s), then (in addition to and not in lieu of any other right or remedy provided to Buyer in this Agreement as a result of a Seller default), at Closing, Buyer shall be entitled to cause proceeds of the Purchase Price to pay or satisfy such Mandatory Cure Item(s).

3.2 Title Insurance. Subject to Buyer fulfilling its obligations hereunder: (a) Seller shall cause Title Company to issue an Extended Coverage Owner’s Policy of title insurance to Buyer at Closing at Title Company’s standard rates, which policy shall be in the amount of the Purchase Price, dated the date of Closing and insure Buyer’s fee simple title to the Property subject to no exceptions other than the Permitted Exceptions (the “**Title Policy**”); and (b) the Title Policy shall contain such endorsements as Buyer may specify and which Title Company is willing to issue. Buyer shall pay: (i) the cost of all such endorsements; (ii) the cost of the premium increase for extended coverage; and (iii) the cost of any new, or update of any existing, survey required for such extended coverage and/or endorsements.

3.3 Conveyance of Property. At Closing, Seller shall convey to Buyer good and marketable fee simple title to the Property by execution and delivery of the Deed.

#### **ARTICLE IV. BUYER INSPECTION AND ENTITLEMENT RIGHTS**

4.1 Intentionally Omitted.

4.2 Books, Records, Leases, Agreements. While this Agreement remains in effect, Seller shall afford Buyer the reasonable opportunity to inspect any and all books, records and documents relating to the Property within the care, custody or control of the directors of Seller's Department of Finance and Administrative Service or Department of Information Technology, including, without limitation, leases and other agreements. Seller has provided to Buyer true, correct and complete copies of all agreements, documents and instruments in such officials' possession or control relating to the Property, including, without limitation, (a) all approvals, consents, variances, waivers, permits, licenses and other authorizations issued by any Governmental Authority relating to the ownership, development, construction, use, operation and/or occupancy of the Property or any portion thereof; (b) all contracts, agreements, leases, licenses and arrangements with respect to the use, occupancy, possession, leasing, management, operation and/or construction of the Property or any portion thereof; (c) all existing title insurance policies, surveys, site plans and plats covering the Property or any portion thereof; (d) all soil, geotechnical and environmental audits, studies, reports and assessments with respect to the Property or any portion thereof; (e) all architectural, engineering, mechanical and construction plans, specifications and drawings with respect to the Property or any portion thereof; (f) all architectural, engineering, mechanical, construction and structural studies, reports and assessments with respect to the Property or any portion thereof; (g) all warranties and guaranties covering the Property or any portion thereof; and (h) all other items comprising the Intangible Property if not covered in (a) through (g) above. All of the items made available to or delivered to Buyer under this Section 4.2 are referred to herein collectively as the "**Property Information**". While this Agreement remains in effect, Seller shall promptly deliver to Buyer updates, modifications and additions to the Property Information, including, without limitation, newly obtained or discovered items that fall within the definition of Property Information.

4.3 Access. While this Agreement remains in effect, Seller hereby authorizes Buyer to enter onto the Property upon three (3) business days' prior notice and to perform any and all tests, inspections and investigations of the Property that Buyer deems necessary or desirable (including, without limitation, surveys; soil, geotechnical and environmental audits, studies, reports and assessments; architectural, engineering, mechanical, construction and structural studies, reports and assessments; and appraisals and valuations), all subject to Buyer's obligations: (a) to indemnify Seller with respect to third party claims against Seller arising out of Buyer's or its contractors' activities on the Property, except to the extent such claims arise out of (i) the negligence or willful misconduct of Seller or any employee, agent, contractor or representative thereof, or (ii) the discovery of any pre-existing condition of the Property by Buyer or any of its contractors; and (b) to restore the Property, if it is damaged in any material respect by Buyer or any of its contractors, to substantially the same condition the Property was in immediately prior to such damage. Buyer shall supply Seller with a complete copy of all third-party reports promptly after Buyer receives a written request therefor from Seller, which reports may be marked "PRIVILEGED" or "CONFIDENTIAL" as set forth below.

Seller agrees that the third-party reports and other information obtained by Seller from and with respect to Buyer and its affiliates, whether obtained before or after the Effective Date (collectively, the “*Confidential Materials*”) shall be maintained in strict confidence and no disclosure, whether through press releases or any other means of publication (oral or written), of such information and documentation will be made or permitted except as may be required by law or in connection with any legal proceeding. This paragraph shall survive the Closing or termination of this Agreement. Buyer acknowledges that Seller is subject to the requirements of Washington’s Public Disclosure Act, RCW 42.56, under which law documents received by the City and agreements entered into by the City are considered public records which the City must promptly make available to the public upon request. However, under Washington State Law some records or portions of records are considered legally exempt from disclosure. A list and description of records identified as exempt by the Public Records Act can be found in RCW 42.56. If Buyer believes that any documents or materials provided to the City under this, or any other agreement that the Parties have entered into are exempt from disclosure, then Buyer may request that Seller notify Buyer before releasing the records. To do so, Buyer shall clearly and specifically label each record as “PRIVILEGED” or “CONFIDENTIAL” at the time the record is provided to Seller and may state the exemption(s) that may apply. If Seller receives a public disclosure request for any records that Buyer has specifically identified, then Seller will notify Buyer in writing of the request and will postpone disclosure. While it is not a legal obligation, Seller, as a courtesy, will allow Buyer up to ten (10) business days to file a court injunction to prevent Seller from releasing the records (reference RCW 42.56.540). If Buyer fails to obtain a Court order within the ten (10) business days, then Seller may release the documents. Seller will NOT assert an exemption on Buyer’s behalf.

#### 4.4 Entitlements.

(a) As of the Effective Date, Buyer has obtained certain approvals, consents, variances, waivers, permits, licenses, landmark determinations and other authorizations from certain Governmental Authorities with respect to Buyer’s Project (collectively, the “*Entitlements*”). Buyer, at its cost and expense, shall have the right at all times while this Agreement remains in effect to execute, submit to, process and pursue with any Governmental Authority all applications, petitions, developer agreements, utility reservations and agreements, site plans and other documents, agreements and/or instruments (any of the foregoing, together with all supporting materials and documents thereto, and any amended, modified, revised or supplemental submittals in connection therewith, are referred to herein collectively as the “*Entitlement Submittals*”) necessary or required to obtain from all Governmental Authorities further Entitlements. Seller has previously executed and delivered to Buyer a City of Seattle Statement of Financial Responsibility/Agent Authorization pursuant to which Buyer has accepted financial responsibility for the approval and permitting process, and such Statement of Financial Responsibility/Agent Authorization remains in full force and effect. Upon any termination of this Agreement in accordance with its terms, Buyer shall withdraw all Entitlement Submittals and Entitlements.

(b) Seller shall cooperate with and assist Buyer in good faith in Buyer’s efforts to prepare, submit, process, pursue and obtain all Entitlement Submittals and Entitlements provided such cooperation and assistance is at no expense to Seller. In that regard, and without in any way limiting the generality of the preceding sentence, Seller covenants and agrees, promptly

upon the request of Buyer (but in no event later than seven (7) business days following such request), to execute and deliver to Buyer all (i) joinders, consents and/or other authorizations necessary for Buyer to submit and process any Entitlement Submittal with any Governmental Authority; and (ii) Entitlement Submittals necessary for Buyer to obtain any Entitlement. The failure of Seller to execute and return to Buyer any joinder, consent, authorization or Entitlement Submittal within the time period required by this Section 4.4(b) shall be a default by Seller under this Agreement.

(c) Buyer shall have the right to modify, amend and/or withdraw any Entitlement Submittal, as well as postpone, delay and/or withdraw any Entitlement Submittal for consideration from any public hearing at which such Entitlement Submittal is being considered, in order to address and resolve any comments, concerns or objections by any Governmental Authority or private organization, group, entity or individual. Seller covenants and agrees: (i) not to withdraw, hinder, delay or object to the execution, delivery, preparation, submission, processing, hearing of, amendment to or modification of any Entitlement Submittal or Entitlement in any way whatsoever (whether directly or indirectly), unless otherwise requested by Buyer to do so in writing; and (ii) not to seek any amendment, modification, rescission, cancellation or termination of any Entitlement Submittal or Entitlement, whether now or hereafter existing, unless otherwise requested by Buyer to do so in writing. This Section 4.4(c) shall survive Closing.

(d) Nothing contained in this Section 4.4 shall be construed as assurance that Seller, in its regulatory capacity, will grant any Entitlements for the purpose of compliance with the conditions of any permit, approval or license sought or required by Buyer.

## **ARTICLE V. CONDITIONS PRECEDENT TO CLOSING**

5.1 Conditions Precedent to Buyer Obligations. Buyer's obligations under this Agreement are expressly conditioned upon, and subject to satisfaction of, the following conditions precedent:

(a) Performance by Seller. Seller shall have performed in all material respects all covenants, agreements and other obligations required by this Agreement to be performed by it.

(b) Title Policy. Title Company shall be unconditionally committed to issuing the Title Policy (including endorsements) subject only to the Permitted Exceptions, provided Buyer has fulfilled its obligations with respect to the Title Company.

(c) Representations and Warranties True. The representations and warranties of Seller contained herein shall be true, correct and complete in all material respects.

(d) Satisfaction of Contingency and Condition. All Entitlements obtained by Buyer shall be in full force and effect as of the Closing Date.

(e) Condemnation. There shall have been no actual, nor shall there be any threatened or pending, condemnation or similar type of proceeding which affects the Property.

(f) Condition of Property. There shall not have been any material adverse change to the Property since the Effective Date, and neither Seller nor any other party shall have

taken any actions (including adoption of new codes or requests for regulatory limitations on the Property or Buyer's Project) that could impair, delay or increase the cost of Buyer's Project.

The conditions precedent set forth in Sections 5.1(a) and (f) above are intended solely for the benefit of Buyer. If there is a failure of a condition precedent set forth above as of the Closing Date, then Buyer shall have the right (in addition to and not in lieu of any other right or remedy Buyer may have as the result of such failure under Section 12.2 below) in its sole and absolute discretion to: (i) terminate this Agreement by delivering a written notice of termination to Seller on or before the Closing Date, whereupon this Agreement shall terminate, the Earnest Money shall be returned promptly to Buyer and the Deed shall be returned promptly to Seller (unless Buyer is pursuing the remedy of specific performance pursuant to Section 12.2 below) and the parties shall be released from all terms and provisions of this Agreement, except from those that expressly survive its termination; (ii) waive the condition precedent by delivering a written waiver of the same to Seller on or before the Closing Date and close on and consummate the transaction contemplated by this Agreement on the Closing Date; or (iii) extend the Closing Date for a reasonable period of time (not to exceed ninety (90) days) by delivering a written extension notice to Seller on the Closing Date to allow Seller an opportunity to cure such failure (which extension right shall be exclusive of, and in addition to, Buyer's right to extend the Closing Date pursuant to Section 8.1 below). Should Buyer elect to extend the Closing Date under clause (iii) above and Seller either fails or refuses to cure such failure within the cure period given by Buyer, then Buyer shall then have the right to elect either clause (i) or (ii) above by delivering written notice of such election to Seller within five (5) business days after the expiration of the cure period given by Buyer.

5.2 Conditions Precedent to Seller Obligations. Seller's obligations under this Agreement are expressly conditioned upon, and subject to satisfaction of, the following conditions precedent:

- (a) Performance by Buyer. Buyer shall have performed in all material respects all covenants, agreements and other obligations required by this Agreement to be performed by it.
- (b) Representations and Warranties True. The representations and warranties of Buyer contained herein shall be true, correct and complete in all material respects.

The conditions precedent set forth in Sections 5.2(a) and (b) above are intended solely for the benefit of Seller. If either of the foregoing conditions precedent are not satisfied as of the Closing Date, then Seller shall have the right at its sole election either to: (i) terminate this Agreement by delivering a written notice of termination to Buyer on or before the Closing Date, whereupon this Agreement shall terminate; or (ii) waive the condition precedent by delivering a written waiver of the same to Buyer on or before the Closing Date and close on and consummate the transaction contemplated by this Agreement on the Closing Date. If Seller elects clause (i) above, then this Agreement shall terminate and (A) Escrow Holder shall promptly return the Earnest Money to Buyer, if Buyer is not then in default under this Agreement, and the Deed shall be returned promptly to Seller or (B) Escrow Holder shall deliver the Earnest Money to Seller, together with the Deed, if Buyer is then in default of this Agreement (and all notice and cure periods have expired) as Seller's sole and exclusive remedy, and the parties shall thereafter be

released from all terms and provisions of this Agreement, except from those that expressly survive its termination.

## ARTICLE VI. SELLER COVENANTS

6.1 Condition of Title. Seller shall not allow any lien, judgment or other liquidated monetary encumbrances to attach to the Property or any part thereof, except the lien for ad valorem taxes that are not due and payable and any liens that result from the activities of Buyer in connection with the Property.

6.2 Property Operations. Seller shall continue to operate the Property in the ordinary course of its business and maintain the Property in the same or better condition than as existing on the Effective Date, but Seller shall not be required to repair material damage to the Property from casualty, except as otherwise provided in this Agreement. In that regard, Seller shall: (a) continue to maintain all of the present services to the Property; (b) comply with all terms, covenants and conditions of all contracts, agreements, leases, licenses and arrangements affecting the Property; (c) make all repairs and replacements to the Property in the ordinary course of business; and (d) maintain in full force and effect all insurance coverages covering the Property as is maintained by Seller as of the Effective Date.

6.3 Other Agreements. Seller shall not: (a) execute any agreement, document or instrument that affects all or any portion of the Property which by its express terms does not terminate prior to the Closing Date; (b) execute any deed, right-of-way, easement, restriction, covenant, right of first refusal to purchase, option to purchase or any other instrument granting any interest in or restricting the use of the Property, in each case without the prior written consent of Buyer (which consent may be withheld or conditioned in the sole and absolute discretion of Buyer); or (c) amend, modify, terminate or waive any provision of any agreement, document, instrument or benefit of the Property to be assigned, transferred or conveyed to Buyer under this Agreement or by which the Property or Buyer shall otherwise be subject to or bound by after the Closing Date, in each case without the prior written consent of Buyer (which consent may be withheld or conditioned in the sole and absolute discretion of Buyer).

6.4 Notices. Seller shall promptly provide Buyer with: (a) written notice of any event or circumstance which causes any of the representations, warranties, covenants, agreements or statements of Seller in this Agreement to become untrue, inaccurate or misleading in any respect; and/or (b) copies of any written notices received by Seller with respect to (i) any actual or alleged violations of any law, rule, regulation, ordinance, code, order or other legal requirements with respect to the Property or any use, occupancy or operation thereof or (ii) any actual or alleged investigation, action or proceeding which affects or involves the Property or Seller's ability to perform its obligations under this Agreement.

## ARTICLE VII: INTENTIONALLY OMITTED.

## ARTICLE VIII. CLOSING AND ESCROW

8.1 Closing. The closing of the transaction contemplated in this Agreement (the "**Closing**") shall take place on September 30, 2018 (as the same may be extended, the "**Closing Date**"); provided, however, that Buyer shall have the right to extend the Closing Date for one (1)

additional period not to exceed six (6) months by delivering a written notice of such extension to Seller not less than thirty (30) days prior to the then-scheduled Closing Date; provided that within one (1) Business Day after the delivery of said written notice, Buyer deposits with Escrow Holder the amount of One Hundred Thousand and No/100 Dollars (\$100,000.00) (together with accrued interest, the “***Extension Earnest Money Deposit***”) by wire transfer of immediately available funds.

8.2 Delivery by Seller. On or prior to the Closing Date, Seller shall deposit with Escrow Holder the following:

(a) a duly executed and acknowledged bargain and sale deed conveying the Property, subject only to the Permitted Exceptions, in the form attached hereto and made a part hereof as Exhibit “C”, ready for recordation on the Closing Date, together with a duly executed real estate excise tax affidavit and a non-foreign certificate;

(b) a duly executed and acknowledged absolute bill of sale for the Personal Property, if any, in usual and customary form;

(c) a duly executed and acknowledged assignment of rights and benefits for the Intangible Property, if any, in usual and customary form;

(d) any documents required to eliminate of record any existing encumbrances on the Property (other than Permitted Exceptions) and any customary resolutions, consents, affidavits or certifications required by the Title Company to issue the Title Policy, including, without limitation, a title affidavit;

(e) such other instruments or documents as may be required pursuant to the provisions hereof or as mutually agreed by Seller and Buyer to be necessary to fully consummate the transaction contemplated hereby; and

(f) a counterpart to the closing statement described in Section 8.6 below.

8.3 Delivery by Buyer. On or prior to the Closing Date, Buyer shall deposit with Escrow Holder the following:

(a) by certified or cashier’s check or wire transfer, the Purchase Price, less the Earnest Money and all interest earned thereon and other credits against the Purchase Price (including, without limitation, as set forth in Section 2.1 above), and as otherwise adjusted and prorated as provided in this Agreement;

(b) any customary resolutions, consents, affidavits or certifications required by Title Company to issue the Title Policy;

(c) such other instruments or documents as may be required pursuant to the provisions hereof or as mutually agreed by Seller and Buyer to be necessary to fully consummate the transaction contemplated hereby; and

(d) a counterpart to the closing statement described in Section 8.6 below.

8.4 Prorations. All outstanding real estate and personal property taxes and assessments (collectively, the “*taxes*”), together with any interest, late payment charges and other penalties thereon, for any tax years prior to the year of Closing shall be paid in full by Seller. Seller shall pay personal property taxes due and payable in the year of Closing, subject to proration and reimbursement as hereinafter provided. Real property taxes and assessments due and payable in the year of Closing shall be prorated as of the Closing Date. Personal property taxes due and payable for any years after the year of Closing shall be assumed and paid in full by Buyer when due and payable and, if any such personal property taxes are required to be prepaid by Seller at Closing, then Buyer shall reimburse Seller for the same at Closing. If the Closing occurs on a date when the current year’s taxes are not fixed, then taxes will be prorated based upon the prior year’s taxes. In addition, certified, confirmed or ratified liens for governmental improvements as of the Closing Date shall be paid in full by Seller, and pending liens for governmental improvements as of the day preceding the Closing Date shall be assumed by Buyer; provided, however, to the extent any certified, confirmed or ratified liens are payable in installments, then: (a) installments due for the year of Closing shall be prorated as provided herein; (b) installments due for periods prior to the year of Closing shall be paid in full by Seller; and (c) all installments due after the year of Closing shall be assumed and paid in full by Buyer after Closing as such installments become due and payable. Any tax proration based upon the prior year’s taxes may at the request of either party be subsequently readjusted upon receipt of the actual tax bill covering the Property. The agreement to readjust taxes set forth in this Section 8.4 shall survive Closing for a period of twelve (12) months.

All water, sewer, electric or other utility charges and other expenses related to the operation or maintenance of the Property (other than insurance premiums) shall be prorated as of the Closing Date.

8.5 Closing Costs and Expenses. Buyer and Seller shall each pay their own attorneys’ fees and expenses to perform their obligations hereunder. In addition:

- (a) Seller shall pay:
  - (i) All real estate excise taxes and other transfer taxes applicable to the transfer of the Property;
  - (ii) The premium for an owner’s standard coverage Title Policy;
  - (iii) One-half of the fees for Escrow Holder;
  - (iv) All fees, costs and expenses (including recording fees) to cure, satisfy, discharge and otherwise delete all Mandatory Cure Items from the Preliminary Commitment (and any update or continuation thereof) and/or public record (as applicable); and
  - (v) All costs and other expenses incurred by Seller in connection with the transaction.
- (b) Buyer shall pay:

- (i) The additional premium attributable to any extended coverage Title Policy (in excess of the premium for standard coverage) and/or endorsements requested by Buyer, and the cost of any survey required in connection with the same;
- (ii) One-half of the fees for Escrow Holder;
- (iii) All recording fees associated with the bargain and sale deed; and
- (iv) All costs and expenses of Buyer's consultants and investigations.

8.6 Closing Statement. The prorations shall be made on the basis of a written closing statement submitted by Escrow Holder to Buyer and Seller prior to the Closing Date and which is approved by Buyer and Seller on or prior to the Closing Date. The closing statement shall also set forth the Purchase Price and other charges and credits related to the transaction contemplated herein. In the event any prorations or apportionments made hereunder shall prove to be incorrect for any reason, then either party shall be entitled to an adjustment to correct the same. Any item which cannot be prorated because of the unavailability of information shall be tentatively prorated on the basis of the best data then available and re-prorated between Buyer and Seller when the information is available. Notwithstanding the foregoing, any adjustments or re-prorations shall be made, if at all, within twelve (12) months after the Closing Date.

## **ARTICLE IX. REPRESENTATIONS AND WARRANTIES**

9.1 Seller's Representations. Seller represents and warrants to Buyer as of the Effective Date and as of the Closing Date:

(a) Litigation. There is no litigation or proceeding pending or, to the current actual knowledge of Seller's Director of Finance and Administrative Services and/or other knowledgeable employees of Seller (collectively, "*Seller's Knowledge Parties*"), threatened which affects or involves the Property, or which affects or involves Seller's ability to perform its obligations under this Agreement, or which would enjoin or restrict the transaction contemplated by this Agreement.

(b) Compliance. Seller's Knowledge Parties have no knowledge that the Property, including the operation and use thereof, does not comply in any material respect with applicable laws.

(c) No Prior Options, Sales or Assignments. Seller has not granted any options nor obligated itself in any manner whatsoever to sell the Property or any portion thereof to any party other than Buyer.

(d) Special Assessments. Seller's Knowledge Parties have no knowledge of contemplated public improvements to the Property or the area surrounding the Property which would result in the assessment of special improvement assessments against the Property.

(e) Condemnation. Seller has not been notified of, and does not know of, any planned or threatened condemnation or similar proceedings with respect to the Property or any part thereof.

(f) Authority. Seller is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Washington. Seller has full power, authority and legal right to execute, deliver and perform this Agreement and all other agreements, documents and instruments to be executed, delivered and/or performed by Seller under this Agreement. Seller has duly authorized the execution, delivery and performance of this Agreement and all other agreements, documents and instruments to be executed, delivered and/or performed by Seller under this Agreement. Seller has authorized the person executing this Agreement to execute this Agreement and all other agreements, documents and instruments to be executed, delivered and/or performed by Seller under this Agreement. This Agreement and all other agreements, documents and instruments to be executed, delivered and/or performed by Seller under this Agreement are or when executed will be binding on and enforceable against Seller in accordance with their terms, except as enforceability may be limited by the operation of bankruptcy, insolvency, reorganization and similar laws affecting creditors' rights generally. Seller has obtained all authorizations or approvals necessary for Seller to enter into and perform its obligations under this Agreement and all other agreements, documents and instruments to be executed, delivered and/or performed by Seller under this Agreement.

(g) Bankruptcy. None of the following has occurred with respect to the Property or Seller: (i) appointment of a receiver, liquidator or trustee; (ii) institution of any proceeding for dissolution of liquidation; (iii) filing of any petition for bankruptcy, or action toward reorganization; or (iv) notice of default, trustee's sale, foreclosure or forfeiture.

(h) Taxes. All taxes and assessments and other governmental or quasi-governmental levies of any kind which are due for payment and the non-payment of which would in any way affect the Property or any part thereof or Buyer's title thereto or in any way impose any liability on Buyer have been paid or shall be paid by Seller prior to or on the Closing Date, together with all interest and penalties thereon.

(i) Liens. There are no unpaid bills, claims or liens pending or contemplated by mechanics, material suppliers, surveyors or others, recorded or unrecorded, in connection with the Property.

(j) Property Information. To the best information and belief of Seller's Knowledge Parties, the Property Information is complete, accurate, true and correct and does not fail to state any fact without which the Property Information would be misleading.

(k) Title to Property. Seller is the owner of the Real Property in fee simple and, at Closing, Seller shall convey to Buyer good and marketable fee simple title to the Real Property subject only to the Permitted Exceptions.

(l) Title to Personal Property. Seller is the owner of the Personal Property and Intangible Property and, at Closing, Seller shall convey to Buyer good and marketable title to the Personal Property and Intangible Property free and clear of any claims, liens, security interests and encumbrances.

(m) Occupancy. No person or entity other than Seller has any right or lawful claim to use, occupy or possess the Property or any portion thereof; and, at Closing, Seller shall

deliver sole and exclusive possession of the Property to Buyer free and clear of all tenants, occupants and others having or claiming any right to use, occupy or possess the Property or any portion thereof.

(n) Service Contract. A true, correct and complete list of all construction, maintenance, management, leasing, equipment and other service contracts that affect the Property is set forth on Exhibit “D” attached hereto and made a part hereof (collectively, “**Service Contracts**”). Seller shall not without the prior written consent of Buyer: (i) amend or modify any Service Contract or (ii) enter into any new construction, maintenance, management, leasing, equipment or other service contract that affects the Property which by its express terms does not terminate prior to the Closing Date (any such new construction, maintenance, management, leasing, equipment or other service contract executed by Seller in accordance with this Agreement shall be deemed to be and included in the definition of “Service Contracts”). Buyer shall not assume any of the Service Contracts at or after Closing, and Seller shall terminate (and pay any fee or penalty associated therewith) all Service Contracts at Closing.

(o) Environmental. To the best knowledge and belief of Seller’s Knowledge Parties, there are Hazardous Substances currently located in, on or under the Property in a manner or quantity that may violate Environmental Law (as defined below). There is one underground storage tank located in, on or under the Property. There is no pending or threatened investigation or remedial action by any Governmental Authority regarding the release of Hazardous Substances or the violation of Environmental Law at the Property. As used herein, the term “**Hazardous Substances**” shall mean any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant or contaminant under any federal, state or local law, rule, regulation or ordinance governing any substance that could cause actual or suspected harm to human health or the environment (“**Environmental Law**”). The term “Hazardous Substances” specifically includes, without limitation, petroleum, petroleum by-products and asbestos.

The representations and warranties by Seller in this Section 9.1 shall survive the Closing Date for one (1) year; provided, however, that the representations and warranties by Seller in subsections (f) and (o) shall survive the Closing Date or termination of this Agreement indefinitely.

9.2 Buyer’s Representations. Buyer represents and warrants to Seller as of the Closing Date:

(a) that this Agreement and all documents to be executed by Buyer at Closing shall have been duly authorized, executed and delivered by Buyer and shall be binding on and enforceable against Buyer in accordance with their terms, except as enforceability may be limited by the operation of bankruptcy, insolvency, reorganization and similar laws affecting creditors’ rights generally.

(b) that, except as otherwise expressly provided in this Agreement and in the documents to be delivered by Seller to Buyer at Closing pursuant to Section 8.2, the Property is being conveyed by Seller to Buyer AS-IS, WHERE-IS, WITH-ALL-FAULTS, AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO ITS CONDITION, ENVIRONMENTAL OR OTHERWISE, OR ITS SUITABILITY OR SUFFICIENCY FOR BUYER’S INTENDED USES AND PURPOSES. Buyer acknowledges

that adverse physical, economic or other conditions (including, but not limited to, adverse environmental soils and ground-water conditions), either latent or patent, may exist on the Property. Except as otherwise expressly provided in this Agreement and in the documents to be delivered by Seller to Buyer at Closing pursuant to Section 8.2, Buyer releases Seller and its past, present and future officials, employees and agents, from any and all claims, demands, penalties, fees, damages, losses, expenses (including, but not limited to, regulatory agencies, attorneys, contractors and consultants' fees and costs), and liabilities arising out of, or in any way connected with, the condition of the Property, including, but not limited to, any alleged or actual past, present or future presence, release or threatened release of any Hazardous Substance in, on, under or emanating from the Property, or any portion thereof or improvement thereon, from any cause whatsoever; provided, however that the foregoing release shall not apply to any release or threatened release caused by the act or omission of Seller or any of its officials, employees or agents. This release touches and concerns the Property and is intended to run with the land and bind Buyer and Buyer's heirs, successors and assigns, and inure to the benefit of Seller and its successors and assigns.

Buyer's release shall include both claims by Buyer against Seller and cross-claims against Seller by Buyer based upon claims made against Buyer by any and all third parties (but shall not prohibit Buyer from impleading Seller with respect to third-party claims).

This Section 9.2 shall survive the Closing Date indefinitely.

9.3 General Provision Regarding Warranties and Representation. If, after the Effective Date and prior to Closing, any change in condition or event occurs (which change in condition or event is not caused by or consented to by Buyer) which renders any representation or warranty made by Seller in this Agreement to be untrue or inaccurate in any material respect, then Seller shall, within five (5) days after learning of such change in condition or event, advise Buyer of the same in writing; whereupon, Buyer shall have the option, exercisable within five (5) business days after receipt of such written notice, to either: (a) terminate this Agreement by delivering a written notice of termination to Seller, whereupon this Agreement shall terminate, the Earnest Money shall be returned promptly to Buyer, the Deed shall be returned promptly to Seller (unless Buyer is pursuing the remedy of specific performance pursuant to Section 12.2 below) and the parties shall be released from all terms and provisions of this Agreement, except from those that expressly survive its termination; or (b) waive such change in representation or warranty caused by such event by delivering a written waiver of the same to Seller and close on and consummate the transaction contemplated by this Agreement on the Closing Date, in which event Buyer shall be deemed to have waived all rights, claims and causes of action against Seller related thereto. Notwithstanding the foregoing, nothing contained herein shall be deemed a waiver of or limitation on any right or remedy of Buyer under Section 12.2 of this Agreement if the change in condition or event causing such representation or warranty made by Seller in this Agreement to become untrue or inaccurate is also a default by Seller under this Agreement.

## **ARTICLE X. LOSS BY CONDEMNATION OR CASUALTY**

In the event that all or any material portion of the Property becomes the subject of a taking or condemnation under the provisions of eminent domain law or suffers a casualty after the Effective Date but prior to the Closing Date, Buyer may either (a) terminate this Agreement, in

which case the Earnest Money shall be returned promptly to Buyer, the Deed shall be returned promptly to Seller and the parties shall have no further rights or obligations hereunder, except from those that expressly survive its termination or (b) elect to proceed with the Closing, in which case Seller shall turn over or assign to Buyer all condemnation and/or insurance proceeds (and provide Buyer with a credit against the Purchase Price in the amount of any deductible payable under any insurance policy). Buyer shall make such election within thirty (30) days after receiving written notice from Seller of the occurrence of such event, including the factual circumstances and anticipated condemnation and/or casualty proceeds (with the Closing Date to be extended as necessary to provide Buyer with the full benefit of such thirty (30) day period).

## **ARTICLE XI. POSSESSION**

Vacant possession of the Property shall be delivered to Buyer on the Closing Date.

## **ARTICLE XII. DEFAULT; REMEDIES**

12.1 Default by Buyer. If Buyer fails to consummate the transaction contemplated by this Agreement on the Closing Date in breach of this Agreement, then Seller's sole and exclusive remedy shall be to retain the Earnest Money as liquidated damages (in which event the Earnest Money shall be promptly delivered by Escrow Holder to Seller) and the Deed shall be returned promptly by Escrow Holder to Seller. Buyer expressly agrees that the Earnest Money represents a reasonable estimation of the damages in the event of Buyer's default, that actual damages may be difficult to ascertain and that this provision does not constitute a penalty. The foregoing limitation on the liability of Buyer shall not be applicable with respect to Buyer's obligations to be performed or enforced after Closing.

12.2 Default by Seller. If Seller defaults under any term or provision of this Agreement applicable to Seller, or if Seller breaches any representation, warranty or covenant made by Seller in this Agreement, then Buyer shall have the following remedies for such default and/or breach: (a) to terminate this Agreement by delivering a written notice of termination to Seller, whereupon this Agreement shall terminate, the Earnest Money shall be returned promptly to Buyer, the Deed shall be returned promptly to Seller and Buyer shall have the right to seek a damage claim against Seller for any and all damages permitted by law; (b) to waive the default and/or breach and close the transaction contemplated by this Agreement on the Closing Date, subject to such default and/or breach; or (c) to commence an action for specific performance against Seller to compel Seller to close the transaction contemplated by this Agreement in accordance with the terms and provisions of this Agreement; provided however, if the remedy of specific performance is (i) not awarded by a court of competent jurisdiction or (ii) rendered unavailable, impossible or impractical as a result of (A) any intentional breach by Seller of any term, covenant, condition, representation, warranty or other provision of this Agreement or (B) Seller's conveyance of the Property to a party other than Buyer in violation of the terms of this Agreement, then Buyer shall have the right to terminate this Agreement by delivering a written notice of termination to Seller, whereupon this Agreement shall terminate, the Earnest Money shall be returned promptly to Buyer, the Deed shall be returned promptly by Escrow Holder to Seller and Buyer shall have the right to seek a damage claim against Seller for any and all damages permitted by law.

### ARTICLE XIII. MISCELLANEOUS

13.1 Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if: (a) delivered personally, (b) sent by a nationally recognized overnight delivery service, (c) electronically transmitted with confirmation sent within one (1) business day thereafter by another method specified in this Section 13.1 or (d) mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Buyer at: 1901 Minor, LLC  
2200 Biscayne Boulevard  
Miami, Florida 33137  
Attention: Michael Sheitelman  
Telephone: 305-374-5700  
Facsimile: 786-437-5070  
Email: [msheitelman@crescentheights.com](mailto:msheitelman@crescentheights.com)

With a copy to: Jack C. McCullough  
McCullough Hill Leary, PS  
701 Fifth Avenue, Suite 6600  
Seattle, WA 98104  
Facsimile: 206-812-3389  
Email: [Jack@mhseattle.com](mailto:Jack@mhseattle.com)

Seller at: The City of Seattle  
Finance and Administrative Services  
700 5<sup>th</sup> Avenue Suite 5200  
Seattle, WA 98124-4689  
Facsimile: 206-684-0525  
Attn: Bill Craven  
Email: [bill.craven@seattle.gov](mailto:bill.craven@seattle.gov)

With a copy to: The City of Seattle  
City Attorney's Office  
701 5<sup>th</sup> Avenue Suite 20580  
Seattle, WA 98104-7097  
Facsimile: 206-684-4648  
Attn: Helaine Honig  
Email: [helaine.honig@seattle.gov](mailto:helaine.honig@seattle.gov)

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

13.2 Amendment, Waiver; Successors and Assigns. No modification, termination or amendment of this Agreement may be made except by written agreement executed by both Seller

and Buyer. No failure by Seller or Buyer to insist upon the strict performance of any covenant, agreement or condition of this Agreement or to exercise any right or remedy shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. All the terms, provisions and conditions of this Agreement shall inure to the benefit of and be enforceable by Seller's or Buyer's successors and permitted assigns. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

13.3 Survival. All provisions of this Agreement which involve obligations, duties or rights to be performed after the Closing Date or the recording of the Deed, and all indemnifications, representations and warranties made in or to be made pursuant to this Agreement shall survive the Closing Date and/or the recording of the Deed only to the extent expressly provided herein.

13.4 Captions. The captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement.

13.5 Merger of Prior Agreements; Reliance. This Agreement and any exhibits hereto, constitute the final and complete agreement between the parties with respect to the purchase and sale of the Property and supersede all prior and contemporaneous agreements, letters of intent and understandings between the parties hereto relating to the subject matter of this Agreement. There are no oral or other agreements, including, without limitation, any representations or warranties which modify or affect this Agreement. Seller shall not be bound by, nor liable for, any warranties, representations or statements of fact or opinion made by any other person, partnership, corporation or other entity, including, without limitation, the Title Company, any surveyor or any consultants. Buyer acknowledges to Seller that in entering into this Agreement, Buyer is not relying on any warranties except those expressly set forth herein and in any of the agreements, documents and instruments delivered by Seller at Closing.

13.6 No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Buyer and Seller.

13.7 Time. "**Day**" as used herein means a calendar day and "**business day**" means a day other than a (a) Saturday, (b) Sunday, (c) any day on which banks are closed in Seattle, Washington or (d) the following holidays: the (i) first two (2) days of Passover, (ii) two (2) days of Shavuot, (iii) two (2) days of Rosh Hashanah, (iv) one (1) day of Yom Kippur and (v) first two (2) days and the last two (2) days of Sukkot. Any period of time which would otherwise end on a non-business day shall be extended to the next following business day. Time is of the essence of this Agreement.

13.8 Exhibits. All exhibits attached hereto or referenced herein are incorporated in this Agreement.

13.9 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity,

illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such provisions had not been contained herein.

13.10 Counterparts. This Agreement and the documents to be delivered hereunder may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement. Facsimile or electronic transmission of a counterpart signed by a party shall be sufficient to establish signature by that party.

13.11 Assignment. Seller's rights and obligations under this Agreement are not assignable without the prior written consent of Buyer, which may be withheld in Buyer's sole and absolute discretion. Prior to Closing, Buyer will have the right to assign its rights under this Agreement to one or more entities that are affiliates of Buyer. Until and unless such an assignment of this Agreement is made, none of such entities shall have liability hereunder. Upon such assignment, such entities shall assume all of Buyer's obligations under this Agreement and Buyer shall be released therefrom. "Affiliate" means any person who controls, is controlled by or is under common control with the referenced person.

13.12 Agency Disclosure and Brokerage Provisions. Each of Buyer and Seller warrants and represents to the other that it has not engaged or dealt with any broker, salesman, finder or similar intermediary in connection with the purchase of the Property; and each shall hold harmless, indemnify and defend the other from and against any claim based on any alleged fact inconsistent with such party's warranty and representation contained in this Section 13.12. This Section 13.12 shall survive the Closing or termination of this Agreement.

13.13 Choice of Law / Venue. This Agreement shall be governed by, enforced and construed under the laws of the State of Washington. Venue for all actions, litigation and/or other proceedings arising out of this Agreement shall be exclusively in King County, Washington. The parties hereby knowingly and voluntarily waive the right to a trial by jury of any claim, controversy or disputed matter between them arising under this Agreement.

13.14 1031 Exchange. Either party may consummate the purchase or sale of the Property as part of a so-called like kind exchange (an "Exchange") pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"); provided that: (a) the Closing shall not be delayed or affected by reason of the Exchange nor shall the consummation or accomplishment of an Exchange be a condition precedent or condition subsequent to the exchanging party's obligations under this Agreement; (b) the exchanging party shall effect its Exchange through an assignment of this Agreement, or its rights under this Agreement, to a qualified intermediary; (c) neither party shall be required to take an assignment of the purchase agreement for the relinquished or replacement property or be required to acquire or hold title to any real property for purposes of consummating an Exchange desired by the other party; and (d) the exchanging party shall pay any reasonable additional fees, costs and expenses that would not otherwise have been incurred by the non-exchanging party had the exchanging party not consummated the transaction through an Exchange. Neither party shall, by this agreement or acquiescence to an Exchange desired by the other party, have its rights under this Agreement affected or diminished in any manner or be responsible for compliance with or be deemed to have warranted to the exchanging party that its Exchange in fact complies with Section 1031 of the Code.

13.15. Publicity. Seller and Buyer each hereby covenant and agree that: (a) prior to Closing, neither Seller nor Buyer shall issue any Release (as defined below) with respect to this Agreement or the transaction contemplated by this Agreement without the prior consent of the other party; and (b) after Closing, any Release issued by Seller shall be subject to the review and approval of Buyer (which approval may not be unreasonably withheld, conditioned or delayed). As used herein, the term “**Release**” shall mean any press release or public statement with respect to this Agreement or the transaction contemplated by this Agreement. This Section 13.15 shall survive the Closing or termination of this Agreement.

13.16. Government Listing. Each party represents and warrants that neither such party nor any person controlling such party (a) is included on any Government List (as defined below); (b) has been determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order No. 133224 (September 23, 2001) or in any enabling or implementing legislation or other Presidential Executive Orders in respect thereof; (c) has been previously indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any offense under the criminal laws against terrorism, the criminal laws against money laundering, the Bank Secrecy Act, as amended, the Money Laundering Control Act of 1986, as amended, or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56 (October 26, 2001), as amended; (d) is currently under investigation by any governmental authority for alleged criminal activity; or (e) has a reputation in the community for criminal or unethical behavior. For purposes of this Agreement, the term “**Government List**” means (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control, United States Department of the Treasury (“**OFAC**”), (2) the Denied Persons List and the Entity List maintained by the United States Department of Commerce, (3) the List of Terrorists and List of Disbarred Parties maintained by the United States Department of State, (4) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the lists, laws, rules and regulations maintained by OFAC pursuant to any authorizing statute, Executive Order or regulation, (5) any other similar list maintained by the United States Department of State, the United States Department of Commerce or any other governmental authority or pursuant to any Executive Order of the President of the United States of America and (6) any list or qualification of “Designated Nationals” as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515, as all such Government Lists may be updated from time to time. The provisions of this Section 13.16 shall survive Closing.

13.17 Memorandum of Agreement. This Agreement shall not be recorded. A short form or memorandum of this Agreement in the form attached hereto as Exhibit “E” (“**Memorandum of Agreement**”) shall be executed and acknowledged by the parties simultaneously with the execution and delivery hereof, and the executed and acknowledged Memorandum of Agreement may be recorded by Buyer at Buyer’s cost and expense.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

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

**SELLER:** THE CITY OF SEATTLE,  
a Washington municipal corporation

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

**BUYER:** 1901 MINOR, LLC,  
a Delaware limited liability company

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

Exhibit A

Description of Parcel

Exhibit B

Permitted Exceptions

- 1) Real estate taxes and assessments not delinquent.
- 2) Terms and provisions as contained in an instrument entitled “Ordinance”, executed by the City of Seattle and recorded May 14, 2013 in City of Seattle Official Records under Ordinance Number 124175.
- 3) Any rights, interests or claims which may exist or arise by reason of the facts shown on a ALTA/ACSM Land Title Survey plat prepared by Bush, Roed & Hitchings, Inc., on March 25, 2015, designated Job No. 2013206.02, as follows:
  - a) Measured distances along the Southeasterly and Northwesterly lot lines differ slightly from distances recited on face of plat;
  - b) Encroachment of building across portion of Southeasterly Lot Line onto premises by 0.05’ (+/-); and
  - c) Fence lines along portion of the Southeasterly Lot Line, the Southwesterly Lot Line, and portion of the Northwesterly Lot Line do not represent Lot Lines.

Exhibit C

Form of Deed

After recording, return to:

McCullough Hill, P.S.  
701 Fifth Avenue, Suite 6600  
Seattle, WA 98104  
Attn.: Jack C. McCullough

**BARGAIN AND SALE DEED**

**Reference number of related documents:**

**Grantor:** The City of Seattle

**Grantee:** [\_\_\_\_\_]

Legal Description:

1. Abbreviated Form:
2. Additional legal description is on Page \_\_\_\_ of document.

Assessor's Property Tax Parcel Account Number(s):

The Grantor, The City of Seattle, a Washington municipal corporation, hereby bargains, sells and conveys to [\_\_\_\_\_], a [\_\_\_\_\_] that certain real property located in King County, Washington:

[INSERT LEGAL]

SUBJECT TO the matters set forth in Exhibit B attached hereto and incorporated herein by this reference.

The Grantor, for itself and for its successors in interest, does by these presents expressly limit the covenants of the deed to those herein expressed and exclude all covenants arising or to arise by statutory or other implication and does hereby covenant that against all persons whomsoever lawfully claiming or to claim by, through or under said Grantor and not otherwise, the Grantor will forever warrant and defend the said described real estate.

Further, except as otherwise expressly provided in that certain Real Property Purchase and Sale Agreement dated as of [\_\_\_\_\_], 2018, by and between the Grantor, as seller, and the Grantee, as buyer ([as amended,] the "PSA") and in this Deed, the above-described property is being conveyed by the Grantor to the Grantee AS-IS, WHERE-IS, WITH-ALL-FAULTS, AND

WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO ITS CONDITION, ENVIRONMENTAL OR OTHERWISE, OR ITS SUITABILITY OR SUFFICIENCY FOR BUYER'S INTENDED USES AND PURPOSES. The Grantee acknowledges that adverse physical, economic or other conditions (including, but not limited to, adverse environmental soils and ground-water conditions), either latent or patent, may exist on the above-described property. Except as otherwise expressly provided in the PSA and in this Deed, the Grantee releases the Grantor and its past, present and future officials, employees and agents, from any and all claims, demands, penalties, fees, damages, losses, expenses (including, but not limited to, regulatory agencies, attorneys, contractors and consultants' fees and costs), and liabilities arising out of, or in any way connected with, the condition of the above-described property, including, but not limited to, any alleged or actual past, present or future presence, release or threatened release of any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant or contaminant under any federal, state or local law, rule, regulation or ordinance governing any substance that could cause actual or suspected harm to human health or the environment, specifically including, without limitation, petroleum, petroleum by-products and asbestos, in, on, under or emanating from the above-described property, or any portion thereof or improvement thereon, from any cause whatsoever; provided, however that the foregoing release shall not apply to any release or threatened release caused by the act or omission of the Grantor or any of its officials, employees or agents. This release touches and concerns the above-described property and is intended to run with the land and bind the Grantee and the Grantee's heirs, successors and assigns, and inure to the benefit of the Grantor and its successors and assigns. The Grantee's release shall include both claims by the Grantee against the Grantor and cross-claims against the Grantor by the Grantee based upon claims made against the Grantee by any and all third parties (but shall not prohibit the Grantee from impleading the Grantor with respect to third-party claims).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201[8].

[signatures continue on following page]



Exhibit D  
Service Contracts

Exhibit E

Form Memorandum of Agreement

After recording, return to:

McCullough Hill, P.S.  
701 Fifth Avenue, Suite 6600  
Seattle, WA 98104  
Attn.: Jack C. McCullough

**MEMORANDUM OF AGREEMENT**

THIS MEMORANDUM OF AGREEMENT is made and entered into effect as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between THE CITY OF SEATTLE, a Washington municipal corporation (“*Seller*”), and 1901 MINOR, LLC, a Delaware limited liability company (“*Buyer*”).

1. Pursuant to the terms and conditions set forth in that certain Real Property Purchase and Sale Agreement, dated of even date herewith, by and between Seller and Buyer (as the same may be amended from time to time, the “*Agreement*”), all of which provisions are specifically made a part hereof as fully and completely as if set out in full herein, Seller has agreed to sell and convey to Buyer, and Buyer has agreed to purchase from Seller, *inter alia*, certain real property located in the City of Seattle, County of King, State of Washington (the “*Land*”), as more particularly described on Exhibit “A”, which exhibit is attached hereto and made a part hereof, together with all buildings, structures and improvements constructed thereon or made thereto (the “*Improvements*”), and any and all rights, titles, powers, privileges, easements, licenses, rights-of-way and interests appurtenant to the Land and the Improvements (the Land, the Improvements and all such rights, titles, powers, privileges, licenses, easements, rights-of-way and interests are referred to herein collectively as the “*Real Property*”).

2. The closing date under the Agreement is scheduled to occur no earlier than September 30, 2018 and may not occur until March 31, 2019.

3. This Memorandum of Agreement is prepared for the purposes of recording and to provide record notice of Buyer’s right to purchase the Real Property, and in no way modifies the express and particular provisions of the Agreement.

[SIGNATURE PAGE FOLLOWS]



**BUYER:**

1901 MINOR, LLC, a Delaware limited liability  
company

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

STATE OF FLORIDA        )  
  ) ss  
COUNTY OF DADE        )

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, the undersigned, a Notary Public in and for the State of Florida, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of 1901 MINOR, LLC, the limited liability company on behalf of which the within and foregoing instrument was executed, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this instrument above written.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name)

NOTARY PUBLIC in and for the State of  
Florida, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_.