

**FINAL COMPREHENSIVE REAL ESTATE PURCHASE AGREEMENT**

This Final Comprehensive Real Estate Purchase Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of December, 2024 (“Effective Date”), by and between State Partners, LLC, a South Dakota limited liability company (“Seller”) and Sioux Falls Development Foundation, Inc. a South Dakota Nonprofit corporation, or its assigns (“Purchaser”).

**WITNESSETH:**

**WHEREAS**, Seller is the owner of the real estate, lying and being in the County of Minnehaha, State of South Dakota, legally described as follows:

**Lot 2 of Franklin Investment Company’s Subdivision No. 1 of Tract 2 of County Auditor’s Subdivision of the Southeast Quarter (SE1/4) of Section 16, Township 101 North, Range 49 West of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota, as shown on the plat recorded in Book 12 of Plats, Page 79; together with the West 33 feet of Fairfax Avenue abutting and adjoining subject property, subject to the dedication of Fairfax Avenue for street purposes; excepting therefore Lot H1, as shown on the Plat recorded in Book 30 of Plats, Page 39; and excepting therefore Lot H2, as shown on the plat recorded in Book 56 of Plats, Page 327; and excepting therefrom Tract A of RC Eagle Addition to the City of Sioux Falls, as shown on the Plat recorded in Book 65 of Plats, Page 13.**

**and**

**Lot 2 of Tract 1 of County Auditor’s Subdivision of the Southeast Quarter (SE1/4) of Section 16, Township 101 North, Range 49 West of the 5<sup>th</sup> P.M., Minnehaha County, South Dakota, as shown on the Plat recorded in Book 12 of Plats, Page 79.**

which real property, with any improvements, fixtures or hereditaments attached hereto and incorporated herein by this reference, free and clear of all encumbrances and restrictions, other than those Permitted Exceptions as described in Exhibit A, situated in Minnehaha County, South Dakota, and consisting of approximately 315,566 square feet, and all improvements located thereon, which interests in the real property and improvements are hereinafter referred to as “Property.”

**WHEREAS**, Purchaser desires to purchase the Property based upon the terms and conditions set forth herein for the purpose of constructing and maintaining an anchor facility and surrounding and supporting mixed-use facilities, enhancing the quality of life and providing significant economic and fiscal impacts for the City of Sioux Falls (the “Project”);

**WHEREAS**, Seller and Purchaser entered into a Real Estate Purchase Agreement (“Purchase Agreement”) dated January 25, 2023, and various subsequent amendments and extensions to such Purchase Agreement; and

**WHEREAS**, Purchaser and Seller agree to enter into this Final Comprehensive Real Estate Purchase Agreement in accordance with the terms below and with the mutual understanding of the following:

- a. In accordance with Section 18, the Earnest Money and Additional Earnest Money have become non-refundable and the Due Diligence Period and Approval Period have expired; and
- b. In accordance with Section 15, the Purchaser has reviewed the Title Commitment and shall take possession of the Property at closing subject to all Permitted Encumbrances.

**NOW, THEREFORE**, in consideration of the foregoing, and in consideration of the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. **Real Property.** Seller hereby agrees to sell, convey, assign, transfer and deliver to Purchaser, and Purchaser hereby agrees to purchase, acquire and take from Seller, the Property.

2. **Land Reservation; Future Development.**

a. **Delivery of Development Plans.** On or before October 31, 2024, Purchaser shall deliver to Seller its current development plans and intended uses for the Property and the real estate surrounding the Property, located within the boundaries of 10<sup>th</sup> Street, Cliff Avenue, and the Big Sioux River in Sioux Falls, South Dakota, identified through a combination of legal descriptions and a parcel map, as shown in the attached Exhibit B, which is hereby incorporated by reference (“Proposed Riverline District”), which real estate is owned by the Purchaser or under contract with the Purchaser (“Current Development Plans”). On or before that date which is ninety (90) days prior to the Closing Date, Purchaser shall present Seller with its updated development plans and intended uses for the Property and the Proposed Riverline District, owned by the Purchaser or under contract at that time, with the Purchaser (“Updated Development Plans”).

b. **Non-Project Parcels.** The Purchaser and Seller hereby agree that in the event there are any portion(s) of the Property that are not required for the construction of the Project, and which are planned to be privately developed by third-parties (“Non-Project Parcel”), Seller may, within thirty (30) days of receiving the Updated Development Plans from Purchaser, either exclude the Non-Project Parcel from this Agreement, if it so elects (“Land Reservation”), or exchange the Non-Project Parcel, in accordance with the Option to Exchange (defined below).

i **Land Reservation.** In the event Seller exercises its Land Reservation on the Non-Project Parcel (“Land Reservation Parcel”), the Purchase Price shall be adjusted commensurate with the amount of square footage excluded from the Property, based on the Price Per Square Foot calculation in Section 3 of this Agreement.

ii **Option to Exchange.** If a Non-Project Parcel is identified in the Updated Development Plans, Purchaser hereby grants to Seller an option to exchange the Non-Project Parcel (“Option to Exchange”) for any portion of the real estate within the Proposed Riverline District (“Proposed Riverline District Parcel”) that, in accordance with the Updated Development Plans, is owned by the Purchaser, or under contract with the Purchaser, and planned to be privately developed by third-parties. In the event Seller exercises this Option to Exchange all or a portion of the Non-Project Parcel for a Proposed Riverline District Parcel, Seller, shall agree to exchange all or a portion of the Non-Project Parcel with an equal or lesser fair market value than the Proposed Riverline District Parcel to Purchaser as payment for the Proposed Riverline District Parcel. In the event the Non-Project Parcel has a lower fair market value than the Proposed Riverline District Parcel, the Purchaser and Seller shall mutually agree to a reasonable supplementary purchase price for the Proposed Riverline District Parcel, to be paid by Seller in cash or readily available funds, which shall, in addition to the exchange of the Non-Project Parcel to Purchaser, constitute the purchase price for the Proposed Riverline District Parcel. In the event the Purchaser and Seller

cannot come to an agreement concerning the supplementary purchase price on the Proposed Riverline District Parcel, the determination shall be made in accordance with an independent MAI appraiser, based on their professional and reasonable determination of fair market value of the real estate involved. The Purchase Price shall be further adjusted commensurate with the amount of the square footage of land exchanged through the Option to Exchange based on the Price Per Square Foot calculation in Section 3 of this Agreement.

iii Separate Agreements. In the event the Seller exercises its Land Reservation or Option to Exchange on any portion of the Property, in accordance with the above, Purchaser and Seller shall enter into a separate agreement(s) detailing how the Property, Non-Project Parcel, Land Reservation Parcel, and Proposed Riverline District Parcel, if any, will develop together to meet the expectations of the Project.

c. Repurchase Option. If the Purchaser or its assign(s) fail to break ground on the Project and diligently continue with construction within five (5) years of Date of Closing (“Development Period”), the Seller shall have the option to repurchase the Property from the Purchaser or its assign(s) (“Repurchase Option”). Such Option may be exercised by Seller by providing written notice to Purchaser or its assign(s) within one hundred twenty (120) days of the termination of the Development Period. If Seller exercises such Option, the transaction shall close within thirty (30) days of Purchaser receiving Seller’s written notice. The Parties shall enter into a Real Estate Purchase Agreement with reasonable, customary, and market terms at the same Purchase Price as referenced in this Agreement (“Repurchase”). At the Closing of the Repurchase, Purchaser or its assign(s) shall convey the Property to Seller by a Warranty Deed. Both parties acknowledge that at the time of Closing, the Property may, or may not, include the structure that exists on the Property when this Amendment was entered into.

d. Intended Use of Property. In the event that Purchaser and the City of Sioux Falls, prior to the Date of Closing, no longer intend to or plan not to develop the Project, or plan to develop the Project on real estate in another location, other than the Property in this Agreement, this Agreement shall become null and void immediately. In the event of such termination of this Agreement, the disposition of the Earnest Money shall be in accordance with Section 18, and as otherwise provided throughout this Agreement. The Parties acknowledge that Purchaser’s use of the Property to develop and maintain the Project is an express condition of this Agreement.

3. Purchase Price and Consideration. Purchaser shall pay to Seller, at Sioux Falls, South Dakota, or such other place as Seller may designate in writing, the purchase price, which shall be based upon a preliminary calculation of \$ 25.35 per square foot (“Price Per Square Foot”). At the Effective Date, the Parties understand that the Property is approximately 315,566 square feet and has a Purchase Price in the amount of Eight Million Dollars (\$8,000,000.00). Notwithstanding the above, the Parties acknowledge that the square footage of the Property is based on an initial estimation by Seller and Purchaser based upon the City of Sioux Falls GIS system. In the event the Purchaser or its assigns perform a survey completed by a registered land surveyor and receive a different amount of square footage to the Property than is currently listed above, Seller agrees that the Price Per Square Foot shall be based upon the new square footage measurement, however, the Purchase Price shall remain Eight Million Dollars (\$8,000,000.00) regardless of any adjustments to the price per square foot above. By way of context, Seller and Purchaser acknowledge that the price per square foot is calculated simply to utilize in the event the Land Reservation or Option to Exchange were to be exercised by Seller. The Purchase Price is to be paid as follows:

a. \$50,000 in earnest money, which shall become non-refundable upon the receipt of Approvals as identified in Section 18 (a) of this Agreement (“Earnest Money”), paid upon the execution of this Agreement, and deposited with First Dakota Title of Sioux Falls (“Title Company”). \$200,000 in

additional Earnest Money, which shall be non-refundable, paid on or before the sooner of October 1, 2024, or the receipt of Approvals as identified in Section 18 (a) of this Agreement (“Additional Earnest Money”).

b. \$7,750,000 in cash on the Date of Closing, or as adjusted in accordance with any Land Reservation or Option to Exchange exercised by Seller, as detailed in Section 2 of this Agreement.

c. The Purchase Price shall be adjusted commensurate with the amount of square footage excluded from this Agreement in the event Seller exercises the Land Reservation or Option to Exchange in accordance with Section 2 of this Agreement.

4. **Closing**. Closing shall be held at the office of First Dakota Title in Sioux Falls, South Dakota (the “Closing”). Closing shall be on July 1, 2025, or some other date as the Purchaser and Seller may mutually agree (the “Closing Date”). The Parties have memorialized certain due diligence items and pre-closing obligations of the Parties and their corresponding completion deadlines in the attached Schedule 1, which is incorporated herein by reference.

5. **Purchaser’s Obligations at Closing**. Purchaser shall deliver to Seller at Closing the funds and documents necessary to carry out the terms and provisions of this Agreement, including, without limitation:

a. **Payment**. The payment of the purchase price due at Closing as described in Section 3 of this Agreement.

b. **Authorization Resolution**. A copy of a company resolution or other authority authorizing its execution and performance of this Agreement.

c. **Closing Statement**. Purchaser’s closing statement which reflects the costs and applicable proration items as set forth in Section 7 of this Agreement.

d. **Additional Documents**. Such other documents as may be agreed upon by Seller and Purchaser to consummate the transaction.

e. **Organizational Documents**. Such instruments and documents relating to the organization, existence, good standing and authority of Purchaser as the Title Company and Seller shall reasonably require.

6. **Seller’s Obligations at Closing**. Seller shall deliver to Purchaser at Closing the documents necessary to carry out the terms and provisions of this Agreement, including, without limitation:

a. **Lien Releases**. Full releases of all mortgages and other financing instruments and other lien encumbrances affecting the Property, duly executed by the holders thereof, acknowledged and in proper form for recording.

b. **Authorization Resolution**. A copy of a company resolution or other authority authorizing its execution and performance of this Agreement.

c. **Warranty Deed**. A Warranty Deed, properly executed and acknowledged by Seller, transferring all of Seller’s right, title and interest in the Property to Purchaser.

d. **Closing Statement**. Seller’s closing statement which reflects the costs and applicable proration items as set forth in Section 7 of this agreement.

e. Additional Documents. Such other documents as may be agreed upon by Seller and Purchaser to consummate the transaction

f. Organizational Documents. Such instruments and documents relating to the organization, existence, good standing and authority of Seller as the Title Company and Purchaser shall reasonably require.

g. FIRPTA Certificate. A certificate of non-foreign status (the “FIRPTA Certificate”), duly executed by Seller.

h. Bill of Sale. A Bill of Sale (the “Bill of Sale”); transferring the personal property, if any

7. **Allocation of Costs**

a. Seller and Purchaser shall each pay all of the costs and fees charged by their respective legal counsel.

b. Purchaser shall be responsible for all platting fees regarding the Property, if any.

c. Purchaser shall pay for the cost of surveys regarding the Property.

d. Purchaser shall pay for the cost of recording the Warranty Deed and the mortgage and any of the financing documents.

e. Seller shall pay for the transfer tax to allow for recording of the Warranty Deed.

f. Seller and Purchaser shall split equally the title insurance fee and closing fees in accordance with terms of this Agreement, unless otherwise stated. Except as may otherwise be provided herein or agreed to by the parties hereto, the cost of any title insurance coverage in excess of the Purchase Price, extended coverage or any endorsements shall be paid by Purchaser.

8. **Real Property Taxes and Assessments.** Seller shall pay all real estate taxes of record which were assessed in 2023 and 2024, and are due and payable in 2024 and 2025, respectively, and those assessed in prior years. Real estate taxes assessed in 2025 and due and payable in 2026 shall be prorated to the Date of Closing, where Seller shall be responsible for all 2025 taxes attributable to the Property prior to and on the Date of Closing, and Purchaser shall be responsible for all 2025 taxes attributable to the Property after the Date of Closing. If the amount of the real estate taxes payable through the date of closing have not yet been determined by the taxing authority, the parties agree that the Title Company may determine the appropriate proration.

9. **Special Assessments.** Any special assessments levied on the Property for any completed improvements between the execution of this Agreement and the Date of Closing, or subsequent to Closing, shall be the liability of the Seller.

10. **Covenants and Agreements of Seller Pending Closing.** Seller covenants and agrees with Purchaser that between the date of this Agreement and the Closing Date that:

a. Operation in Usual Manner. Seller will not grant or voluntarily permit any lien or encumbrance on any of the Property, will maintain the Property and all records and files relating to the

Property in good working order and in substantially the same manner as before the execution of this Agreement.

b. Access. Seller will provide Purchaser and Purchaser's representatives reasonable access to the Property to allow Purchaser and/or his representatives, at Purchaser's sole cost and expense to complete, (i) a Phase I Environmental Site Assessment of the Property, and if so desired by Purchaser, a Phase II Environmental Site Assessment, (ii) inspections of the Property, (iii) a survey of the Property to determine that there are no encroachments onto or from the Property; and (iv) an appraisal of the Property. Purchaser hereby agrees to indemnify Seller and hold it harmless from and against any losses, costs, damages, assessments, fines and expenses, including reasonable attorneys' and court costs, arising out of or resulting from any visitation of the Property by Purchaser unless such claim is caused by the negligence or misconduct of Seller.

c. Insurance. Seller shall maintain the present insurance on the Property until the date of closing, and the Purchaser is responsible for procuring insurance as of the date of closing. The Seller shall have the option of either repairing or replacing any insured losses between the date of this Agreement and the Closing Date, or in lieu thereof, tendering the insurance proceeds to the Purchaser.

11. **Warranties, Representations and Covenants of Seller.** The Seller represents and warrants to and covenants and agrees with the Purchaser, the following warranties, representations and covenants as of the date of this Agreement:

a. The Property is now, and on the Closing Date shall be, in full compliance with all laws and regulations of applicable federal, state, city and other governmental authorities having jurisdiction over or concerning the use of the Property including, without limitation, all zoning and building restrictions and all laws and regulations with respect to fire and health codes, environmental protection and sanitation and pollution control, and the Seller has received no notice of, and has no knowledge of, any condition which may give rise to any violation of any law, rule, regulation, order or ordinance applicable to the Property. The Seller shall not violate or breach any zoning or building restriction between the date hereof and the Closing Date. Seller hereby represents and warrants that it has complied with all present environmental laws, ordinances, rules or regulations, and that Seller has not permitted the generation, creation, treatment, incorporation, discharge, disposal, escape, release or threat of release, of any contaminants above, on, under, within or from the property and to the best of Seller's knowledge there are no underground storage tanks containing any contaminants located upon the property.

For illustrative purposes only, a partial listing of contaminants includes asbestos containing materials, gasoline, waste oil, lubricating oil, fuel oil, petroleum product distillates, solvents, paints, enamels, paint or enamel thinners, acetone, acids, pesticides, rodenticides, herbicides, fungicides, mercury, cyanide and polychlorinated biphenyls, or any combination of these substances. To the extent that any of the above referenced laws, ordinances, rules and regulations are inconsistent, Seller and Purchaser agree that the interpretation favoring the classification of a substance as harmful to the environment shall be controlling.

b. There are no actions, suits or proceedings, governmental or otherwise, pending or to the best knowledge of the Seller, threatened against or affecting the Property (including, without limitation, condemnation proceedings), and there are no actions, suits or proceedings pending, contemplated or threatened by the Seller in connection with the Property (including, without limitation, tax reduction proceedings); and from and after the date hereof, the Seller shall not commence or allow to be commenced on its behalf any action, suit or proceeding with respect to the Property without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld or delayed.

c. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated, and compliance with the terms of this Agreement shall not conflict with or, with or without notice or passage of time, result in a breach of any of the terms or provisions of, or constitute a default under, any instrument or agreement to which the Seller is a Party or by which the Seller or its property is bound or under any applicable regulation of any governmental agency, or judgment, order or decree of any court having jurisdiction over the Seller or its properties.

d. The Purchaser shall have the right to free and complete access to the Property at all reasonable times, including the right to show any portion of the Property to any representative of prospective contractors or a lending institution upon giving at least 48 hour notice to Seller. The Seller shall give the Purchaser any authorizations which may be required by the Purchaser in order to gain access to any records or other information pertaining to the Property or the use thereof maintained by any governmental or quasi-governmental authority or organization. Purchaser hereby agrees to indemnify Seller and hold it harmless from and against any losses, costs, damages, assessments, fines and expenses, including reasonable attorneys' and court costs, arising out of or resulting from any visitation of the Property by Purchaser unless such claim is caused by the negligence or misconduct of Seller.

e. From and after the date hereof and until the Date of Closing or earlier termination of this Agreement, the Seller shall not sell, assign, create any right, title or interest whatever in or to the Property, or create or permit to exist any lien, encumbrance or charge thereon without promptly discharging the same.

f. The Seller has good, marketable and insurable title to the Property, subject to the Permitted Exceptions and the Seller's title to the Property on the Date of Closing shall be conveyed to the Purchaser.

g. Seller is not a "foreign person" as that term is defined in the Internal Revenue Code of 1986, as amended, and the regulations promulgated pursuant thereto.

h. Neither Seller, nor any person controlling or controlled by Seller, is a country, territory, individual or entity named on a Government List, and the monies used in connection with this Agreement and amounts committed with respect thereto, were not and are not derived from any activities that contravene any applicable anti-money laundering or anti-bribery laws and regulations (including funds being derived from any person, entity, country or territory on a Government List (as defined below) or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7)). For purposes of this paragraph, "Government List" means any of the lists maintained by the United States Departments of Commerce, Treasury, and State relating to denied, banned, blocked, or debarred persons or entities.

i. There are no claims for labor performed, materials furnished or services rendered in connection with constructing, improving or repairing any of the Property, as applicable, caused by Seller and which remain unpaid beyond the date for which payment was due and in respect of which liens may or could be filed against any of the Property.

The above Warranties, Representations, and Covenants made in this section, with the exception of Section 11(f), shall survive the Closing for a period of One (1) year, after which, if not raised in writing before the end of such period, Purchaser shall not have any claim against Seller on account of any claimed breach of any such Warranties, Representations, or Covenants.

12. **Warranties, Representations and Covenants of Purchaser.** The Purchaser makes the following warranties, representations and covenants, all of which shall survive the closing of this Agreement:

a. Purchaser is duly created, validly existing and in good standing pursuant to the law of the jurisdiction of its organization and is duly qualified to do business and is in good standing in the jurisdictions in which the Property is located.

b. Purchaser is authorized and empowered to enter into this Agreement and perform all of its obligations under this Agreement.

c. Upon the signing and delivery of this Agreement, this Agreement will be legally binding upon Purchaser and enforceable against Purchaser in accordance with all of its provisions.

d. The person signing this Agreement on behalf of Purchaser has been duly authorized to sign and deliver this Agreement on behalf of Purchaser.

e. Purchaser has not committed any act or permitted any action to be taken which would adversely affect its ability to fulfill its material obligations under this Agreement.

f. The execution and delivery of this Agreement, and the performance of Purchaser's obligations under this Agreement, will not violate or breach, or conflict with, the terms, covenants or provisions of any agreement, contract, note, mortgage, indenture or other document of any kind whatsoever to which Purchaser is a party.

g. Upon the closing, except as may be otherwise provided herein, Purchaser shall take the Property in its "AS IS" condition.

h. Except as may be otherwise provided herein, Seller has not made and does not make and has specifically disclaimed any other representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, with respect to the value, nature, quality, quantity or condition of the Property.

i. Purchaser acknowledges that this Agreement is not contingent upon Purchaser obtaining financing or a loan commitment.

j. Purchaser represents that it does not rely on the representations and covenants of Seller regarding the structural integrity, condition, or compliance with fire, building, or other municipal, county, or state regulations of the existing structure on the Property, excepting any representations and covenants of Seller concerning environmental contamination, as the Purchaser intends to demolish and remove the existing structure from the Property in the event the Parties successfully Close the transaction contemplated by this Agreement. The representations and covenants of Seller in Section 11 of this Agreement are to be interpreted and construed with the understanding that both Parties intend for the present structure on the Property to be removed and Seller makes the above representations and covenants with the exception of the present structure on the Property, as identified in Section 11 of this Agreement.

The above Warranties, Representations, and Covenants made in this section shall survive the Closing for a period of One (1) year, after which, if not raised in writing before the end of such period, Seller shall not have any claim against Purchaser on account of any claimed breach of any such Warranties, Representations, or Covenants.

13. **Conditions to Seller's Obligation to Close.** This offer is contingent upon the existence or nonexistence (as applicable) of the following itemized facts or events. The acceptance of this offer constitutes the acceptance of the following itemized facts or events. The acceptance of this offer constitutes the acceptance



of these contingencies to the closing of this Purchase Agreement. Seller's obligations under this Agreement are subject to the following conditions:

a. Representations, Warranties, and Covenants. The representations and warranties of Purchaser contained in this Agreement shall in all material respects be true and correct as of the Closing as if made on and as of the Closing, and Purchaser has performed all obligations and undertakings, and complied in all material respects with all covenants and conditions contained in this Agreement which are to be performed or complied with by Purchaser on or prior to the Closing.

b. No Order or Decree. No order or decree of any court or governmental body shall be in force, and no complaint of a governmental body seeking any such order or decree shall be pending for the purpose of restraining, or enjoining the completion of the transactions anticipated under this Agreement.

c. Approval of Documents. The form and substance of any certificates, instruments, and other documents delivered to Seller under this Agreement shall be satisfactory in all reasonable respects to Seller.

d. Development of the Project. Pursuant to Section 2c of this Agreement, the Purchaser and the City of Sioux Falls must plan to develop and maintain the Project on the Property.

14. Conditions to Purchaser's Obligation to Close. This offer is contingent upon the existence or nonexistence (as applicable) of the following itemized facts or events. The acceptance of this offer constitutes the acceptance of the following itemized facts or events. The acceptance of this offer constitutes the acceptance of these contingencies to the closing of this Purchase Agreement. Purchaser's obligations under this Agreement are subject to the following conditions:

a. Representations, Warranties, and Covenants. The representations and warranties of Seller contained in this Agreement shall in all material respects be true and correct as of the Closing as if made on and as of the Closing, and Seller has performed all obligations and undertakings, and complied in all material respects with all covenants and conditions contained in this Agreement which are to be performed or complied with by Seller on or prior to the Closing.

b. No Order or Decree. No order or decree of any court or governmental body shall be in force, and no complaint of a governmental body seeking any such order or decree shall be pending for the purpose of restraining, or enjoining the completion of the transactions anticipated under this Agreement.

c. Approval of Documents. The form and substance of any certificates, instruments, and other documents delivered to Purchaser under this Agreement shall be satisfactory in all reasonable respects to Purchaser.

d. Satisfaction of Due Diligence Items. Purchaser shall satisfy the Due Diligence completion deadlines, in accordance Section 18 and Schedule 1 of this Agreement.

e. Receipt of City Approval. Purchaser shall obtain all consents, endorsements, and approvals from the City of Sioux Falls to Close on the Property, and any other reasonably necessary authorizations required to complete the transaction contemplated by this Agreement, in accordance with the terms of Section 18.

15. Title Examination. Within fifteen (15) days from the date of Execution of this Agreement, the Seller shall have delivered a preliminary title commitment from Title Company covering the Property to

Purchaser. The preliminary title commitment shall show the status of title to the Property as of the date of the preliminary title commitment. Purchaser shall have twenty (20) days from the receipt of the title commitment to review and give to Seller written notice of any title exception which causes title to not be marketable. If Purchaser disapproves of any exceptions due to such exceptions causing title to be unmarketable, Seller shall have ten (10) business days to provide written notice to Purchaser that it intends to cure such objections or that it refuses or is unable to cure such objections. If Seller refuses or is unable to cure any of Purchaser's objections, then Purchaser shall have an additional seven (7) business days after Seller's refusal to either terminate this Agreement or to waive any further objection. Purchaser's failure to waive such objections after Seller's failure or refusal shall constitute Purchaser's election to terminate this Agreement. If Purchaser elects to waive any further objection to such matter, and such matters, together with all other items for which Purchaser has not objected as provided above, shall be deemed to be "Permitted Exceptions." At Closing, Seller shall provide Purchaser with an ALTA owner's title policy covering the Property ("Title Policy") issued by Title Company in the amount of the Purchase Price allocable to the Property, effective as of the Closing, insuring Purchaser that fee simple title to the Property is vested in Purchaser, subject only to the usual printed exceptions contained in such title insurance policies and to the Permitted Exceptions. In accordance with this Section 15, the Purchaser has reviewed the Title Commitment and shall take possession of the Property at closing subject to all Permitted Encumbrances.

16. **No Assumption of Liabilities.** The parties hereto agree that Purchaser is assuming absolutely no liabilities of Seller, or any liability under any contract with regard to the Property being acquired hereunder except those specifically set forth in this Agreement and approved by Purchaser in writing.

17. **Condemnation/Casualty.**

a. **Right to Terminate.** If, after the Effective Date, (a) any portion of the Property is taken by condemnation or eminent domain (or is the subject of a pending taking which has not yet been consummated), or (b) any portion of the Property is damaged or destroyed (excluding routine wear and tear), Seller shall notify Purchaser in writing of such fact immediately after obtaining knowledge thereof and shall advise Purchaser in such notice of such damage or destruction. If the Property is the subject of damage or a condemnation that occurs after the Effective Date, Purchaser shall have the right to terminate this Agreement by giving written notice to Seller not later than ten (10) business days after the giving of Seller's notice, and the Closing Date shall be extended, if necessary, to provide sufficient time for Purchaser to make such election. The failure by Purchaser to so elect in writing to terminate this Agreement within such ten (10) business day period shall be deemed an election not to terminate this Agreement. If this Agreement is terminated pursuant to this Section 17(a), the earnest money deposit shall be returned to Purchaser and, thereafter, Seller and Purchaser shall not have any further liability hereunder other than obligations which by the express terms of this Agreement, survive the termination of this Agreement

b. **Allocation of Proceeds and Awards.** If a condemnation or casualty occurs after the Effective Date and this Agreement is not terminated as permitted pursuant to the terms of Section 17(a), then this Agreement shall remain in full force and effect, Purchaser shall acquire the remainder of the Property upon the terms and conditions set forth herein, and at the Closing:

i. if the condemnation awards or insurance proceeds on account of such condemnation or damage, as the case may be, have been paid to Seller prior to Closing, Purchaser shall receive a credit at Closing equal to (i) the amount of any such award or proceeds, plus (ii) if damage has occurred and such damage is an insured casualty, an amount equal to Seller's deductible with respect to such casualty, less (iii) an amount equal to all out-of-pocket costs and expenses (including attorneys' fees) actually incurred by Seller in obtaining payment of any award or proceeds (as applicable), any portion of the award or proceeds (as applicable) payable for the loss of rents of the Property for the period prior to Closing and all costs

reasonably incurred by Seller prior to Closing for the repair or restoration of the Property (collectively “Seller’s Costs”); and

ii. to the extent that such award or proceeds have not been paid to Seller prior to Closing, (i) if damage has occurred and such damage is an insured casualty, Purchaser shall receive a credit at Closing equal to Seller’s deductible with respect to such casualty, less an amount equal to Seller’s Costs applicable thereto, and (ii) Seller shall assign to Purchaser at the Closing the rights of Seller to, and Purchaser shall be entitled to receive and retain, such awards or proceeds; and

iii. if the damage was an uninsured casualty, and Seller elects to give Purchaser a credit at Closing for the costs of restoration or repair as agreed to by Purchaser and Seller within the ten (10) business day period in which Purchaser may terminate this Agreement pursuant to Section 17(a), Purchaser shall receive a credit at Closing equal to such agreed amount of the costs of repair or restoration.

18. **Due Diligence Period; Approval Period.** Purchaser shall have the right and option for a period of time after the date of Execution of this Agreement until 5 p.m. on June 30, 2023 (the “Due Diligence Period”) to enter upon the Property to conduct physical inspections of the Property and undertake such other due diligence and related activities as Purchaser shall deem appropriate, including, without limitation, financial analysis, market studies, environmental tests, soil tests and engineering studies. The Parties have memorialized certain due diligence items and their corresponding completion deadlines in the attached Schedule 1, which is incorporated herein by reference. Prior to or on the day a completion deadline expires, Purchaser will provide written notice to the Seller as to the status of each due diligence item included within that completion deadline category. Purchaser may, upon written notice to the Seller, waive the performance of any of the Due Diligence items in Schedule 1, with exception to the Purchaser’s receipt of City Approval as described below, and Purchaser’s obligations to deliver the Current and Updated Development Plans to Seller in accordance with Section 2 of this Agreement. In the event the Purchaser does not meet a deadline, as identified in Schedule 1, then Seller may give notice to the Purchaser of Purchaser’s failure to provide written notice certifying the satisfaction of the completion deadline item. Purchaser shall have fifteen (15) days after receipt of such notice to satisfy the completion deadline item and to provide Seller written notice thereof (“Cure Period”). Any failure by Purchaser to perform in accordance with the above and as provided in Schedule 1, prior to the termination of the Cure Period, shall be deemed to be an event of default, the occurrence of which shall cause the Earnest Money to become nonrefundable. In addition, Seller shall have the right, in its sole discretion, to terminate this Agreement immediately, where the Agreement shall become null and void. Seller shall provide to Purchaser and its representatives, the records, environmental reports, surveys and other studies, if any, pertaining to the Property, at reasonable times upon the request of Purchaser. Any and all inspections, tests, audits and other investigations performed by Purchaser or its agents and representatives shall be at Purchaser’s sole cost and expense. Purchaser agrees to indemnify and hold Seller harmless from and against any and all claims, liens (including, without limitation, mechanic’s or materialmen’s liens or claims of liens), demands, liabilities, losses, damages, costs and expenses including, reasonable attorneys’ fees, resulting from any damage caused to the Property which arises from any activity of Purchaser or any of its agents and representatives pursuant to this Section 18. The provisions of this Section 18 shall survive the Closing or earlier termination of this Agreement. In the event that Purchaser is not satisfied in its sole and exclusive discretion with the results of its diligence for any reason whatsoever, Purchaser may terminate this Agreement by giving written notice to Seller prior to the expiration of the Due Diligence Period and shall thereupon receive a refund of the Earnest Money. In the event Purchaser fails to perform its necessary due diligence on the Property prior to the expiration of the Due Diligence Period, Seller may immediately terminate this Agreement upon written notice to Purchaser. If Purchaser exercises its termination rights under the Due Diligence Period, Seller shall direct the Title Company to promptly return any Earnest Money to Purchaser, and neither party shall have any further liability hereunder except for the obligations which are intended to expressly survive the termination hereof. If Purchaser fails to exercise its option to terminate the Agreement

and does not provide a written notice of termination to the Seller prior to the expiration of the Due Diligence Period, the Earnest Money (\$50,000) shall become non-refundable and the Parties shall be obligated to Close, except where this Agreement is terminated in accordance with the Approval Period, or as otherwise stated throughout this Agreement.

Notwithstanding the above, Purchaser shall have a period of time commencing after the date of Execution of this Agreement until 5 p.m. on November 15, 2024 (“Approval Period”) to:

a. Obtain all consents, endorsements, and approvals from the City of Sioux Falls to Close on the Property, and any other reasonably necessary authorizations required to complete this transaction (“Approvals”);

b. Observe the statutory time allowed to the members of the public to file a petition of public referendum as laid out under South Dakota Codified Law Section 9-20-1 et seq; and

c. In the event a petition of public referendum which satisfies the statutory requirements to place the municipal ordinance on the municipal election ballot is timely submitted, allow for the election to take place and for the results of such election to be tallied and finalized in accordance with municipal election law.

In the event that, after diligent, good faith efforts: (1) Purchaser has not obtained the Approvals, as set out in Section 18 (a) above; or (2) after the Purchaser has obtained the Approvals, and following the Approvals, a timely petition of public referendum is submitted, as identified under South Dakota Codified Law Section 9-20-1 et seq, and the results of such election for the public referendum overturn the Purchaser’s receipt of Approvals, Purchaser may terminate this Agreement by giving written notice to Seller indicating such termination prior to the expiration of the Approval Period. For the avoidance of doubt, once the Purchaser has received the Approvals, Purchaser may only terminate this Agreement in the event that there is an election for the public referendum as noted above, and the results of such election overturn the Purchaser’s receipt of Approvals. In the event the Purchaser terminates this Agreement prior to receipt of Approvals, as provided in accordance with this Agreement, Purchaser shall thereupon receive a refund of the Earnest Money, excluding the Additional Earnest Money, if applicable. If Purchaser exercises its termination rights under this the Approval Period, Seller shall direct the Title Company to promptly dispose of the Earnest Money and Additional Earnest Money, as provided in this Agreement, and neither party shall have any further liability hereunder except for the obligations which are intended to expressly survive the termination hereof. If Purchaser fails to exercise this option to terminate the Agreement prior to the expiration of the Approval Period the Parties shall be obligated to Close, except as stated otherwise throughout his Agreement. In accordance with this Section 18, the Earnest Money and Additional Earnest Money have become non-refundable, and the Due Diligence Period and Approval Period have expired.

19. **Escrow Provisions.** The Earnest Money shall be held by Title Company in escrow, and disposed of only in accordance with the following provisions:

a. The Title Company shall hold, return or deliver the Earnest Money in accordance with the terms of this Agreement.

b. If for any reason the Closing does not occur, the Title Company shall deliver the Earnest Money to Seller or Purchaser only upon receipt of a written demand therefor from such party, subject to the following provisions of this paragraph. If for any reason the Closing does not occur and either party makes a written demand upon the Title Company for payment of the Earnest Money, the Title Company shall give written notice to the other party of such demand. If the Title Company does not receive a written objection from the other party to the proposed payment within five (5) business days after the

giving of such notice, the Title Company is hereby authorized to make such payment. If the Title Company does receive such written objection within such five (5) business day period, the Title Company shall continue to hold the Earnest Money until otherwise directed by written instructions signed by Seller and Purchaser or a final judgment of a court.

c. The parties acknowledge that the Title Company is acting solely at their request and for their convenience, that the Title Company shall not be deemed to be the agent of either of the parties, and that the Title Company shall not be liable to either of the parties for any action or omission on its part taken or made in good faith and not in disregard of this Agreement. Seller and Purchaser shall jointly and severally indemnify and hold the Title Company harmless from and against all Liabilities incurred in connection with the performance of the Title Company's duties hereunder, except with respect to actions or omissions taken or made by the Title Company in bad faith, in disregard of this Agreement or involving negligence on the part of the Title Company.

d. Purchaser shall provide its taxpayer identification number to the Title Company, to the extent requested by the Title Company, concurrently with the Earnest Money.

e. The Title Company has executed this Agreement in the place indicated on the signature page hereof solely to confirm that the Title Company has received and shall hold the earnest money Earnest Money in escrow and shall disburse it pursuant to the provisions of this Section 19.

The provisions of this Section 19 shall survive the termination of this Agreement or the Closing (as applicable).

20. **Event of Default.** For purposes of this Agreement, a default shall result from any of the following:

a. **Representations and Warranties.** Any representation or warranty made by either Seller or Purchaser in this Agreement, or in connection with this Agreement, shall be incorrect or misleading in any material respect when made, and which shall have a material and adverse effect upon the rights of the other party.

b. **Performance.** Seller or Purchaser breaches any provision of this Agreement.

21. **Notice of Defaults and Remedies.**

a. **Notice of Default.** If any party believes the other to be in default hereunder, the non-defaulting party shall provide the other with written notice specifying in reasonable detail the nature of such default. Upon receipt of such notice, the defaulting party shall have until the earlier of (a) Closing Date or (b) ten (10) days after receipt of such notice to cure such material default. If the default has not been cured within such time period, then the party giving such notice may exercise the remedies available to such party pursuant to this Agreement. Notwithstanding the foregoing, neither party shall have any right to cure such party's failure to consummate this transaction, as provided herein, on the Closing Date. If as a result of fault of Purchaser or Seller, as the case may be, Escrow fails to close, Purchaser or Seller, as the case may be, shall be solely responsible for all of Escrow Agent's fees and charges.

b. **Seller's Default.** If Seller fails to perform any of Seller's obligations hereunder, or if any of Seller's representations or warranties set forth herein are determined to be inaccurate or untrue, then Purchaser, at Purchaser's option and as Purchaser's sole and exclusive remedies, shall have the right to either (i) terminate this Agreement by giving written notice to Seller, whereupon any Earnest Money shall be immediately delivered to Purchaser by the Title Company upon receipt of written notice from

Purchaser of such termination, and thereafter neither Purchaser nor Seller shall have any further rights or obligations hereunder except matters which survive termination, or (ii) pursue a damage claim and/or enforce specific performance of the obligations of Seller under this Agreement.

c. **Purchaser's Default.** If Purchaser fails to perform any of Purchaser's obligations hereunder, then Seller, after giving Purchaser written notice of such default and a period of ten (10) days from the date of Purchaser's receipt of such notice to cure such default, and as Seller's sole and exclusive remedy, shall have the right to terminate this Agreement by giving written notice to Purchaser, in which event Seller shall be entitled to any Earnest Money as liquidated damages, and neither Purchaser nor Seller shall have any further rights or obligations under this Agreement except matters that survive termination.

22. **Risk of Loss.** Risk of loss with respect to the Property remains with Seller until the transfer of possession effective as of the Closing, and then transfers to Purchaser.

23. **Assignment.** This Agreement and all the covenants, terms and provisions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. Purchaser may only assign this Agreement to the City of Sioux Falls, or an entity or foundation that is affiliated with or operated by the Purchaser or the City of Sioux Falls. Any assignment of this Agreement, even to a qualifying assignee in accordance with this Section 23, shall be void unless Purchaser has obtained Seller's consent to such assignment, which shall not be unreasonably withheld; provided, however, that any assignment of this Agreement shall include agreement by the assignee that they will be specifically bound by the terms and conditions of this Agreement. Notwithstanding the above, Purchaser may appoint any third party, in its sole discretion, to manage the day-to-day operations of the Project.

24. **Indemnities.**

a. **Seller's Indemnity.** Seller hereby indemnifies, defends, and holds harmless Purchaser against and in respect of any and all liability, loss, or damage Purchaser may suffer as a result of claims, demands, costs, or judgments arising out of Seller's ownership or operation of Property. Seller hereby indemnifies, defends, and holds harmless Purchaser against and in respect of any and all liability, loss, or damage Purchaser may suffer as a result of any breach of, or failure by Seller to perform, any of their representations, warranties, covenants or agreements in this Purchase Agreement or any schedule, certificate, deed, exhibit, or other instrument furnished or to be furnished by Seller under this Purchase Agreement. Indemnification shall include any interest, penalties, and reasonable attorney's fees. The indemnification obligation, as well as the representations and warranties in this Agreement survive Closing.

b. **Purchaser's Indemnity.** Purchaser hereby indemnifies, defends, and holds harmless Seller against and in respect of any and all liability, loss, or damage Seller may suffer as a result of claims, demands, costs, or judgments arising out of Purchaser's ownership or operation of the Property. Purchaser hereby indemnifies, defends, and holds harmless Seller against and in respect of any and all liability, loss, or damage Seller may suffer as a result of any breach of, or failure by Purchaser to perform, any of the representations, warranties, covenants or agreements in this Purchase Agreement or any schedule, certificate, exhibit, or other instrument furnished or to be furnished by Purchaser under this Purchase Agreement. Indemnification shall include any interest, penalties, and reasonable attorney's fees.

26. **Real Estate Commissions; Representation and Indemnity.** Seller and Purchaser acknowledge that the Purchaser is not represented by a real estate broker and Seller shall not be responsible for any real estate commission incurred by Purchaser. Seller and Purchaser also acknowledge that the Seller is represented collectively by Lloyd Real Estate, LLC, d/b/a Lloyd Companies and Ernst Commercial Real Estate, and Seller shall be responsible to pay a real estate commission equal to 2% of the gross sales price

plus applicable sales tax at the Date of Closing. Purchaser acknowledges that one or more members of Seller are licensed real estate brokers in the state of South Dakota.

27. **As is Condition.** Purchaser acknowledges and agrees that it is acquiring the Property “AS IS” without any representation or warranty of Seller, express, implied or statutory, except for Seller’s representations and warranties expressly provided in this Agreement. Except for Seller’s representations and warranties expressly provided in this Agreement, Purchaser is relying solely upon, its own, independent inspection, investigation and analysis of the Property as it deems necessary or appropriate.

28. **Notices.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by certified mail, postage prepaid, return receipt requested, or national overnight courier for next business day delivery, or e-mail transmission (provided that a copy shall be sent by the next business day by means of one of the other delivery methods) and shall be deemed received upon the earlier of (i) if delivered by personal delivery, certified mail, by national overnight courier the date sent as indicated on the return receipt or the receipt of the delivery service and (ii) if delivered by e-mail transmission shall be deemed given at the time transmitted from the location where the transmission originates (if followed by a copy sent by the next business day by means of one of the other delivery methods).

To Seller. If to Seller, to the following address:

State Partners, LLC  
150 E. 4th Pl., Ste. 600  
Sioux Falls, SD 57104

WITH COPY TO:

Hagen, Wilka & Archer, LLP  
600 S. Main Ave., Suite 102  
Sioux Falls, SD 57104

To Purchaser. If to Purchaser, to the following address:

Sioux Falls Development Foundation, Inc.  
200 N. Phillips Avenue, Suite 101  
Sioux Falls, SD 57104

WITH COPY TO:

Davenport, Evans, Hurwitz & Smith, LLP  
206 W 14th St  
Sioux Falls, SD 57104  
Attention: Jonathan Brown  
Direct: (605) 357-1271  
Email: jbrown@dehs.com

Notice of change of address shall be given by written notice in the manner detailed in this Section 28. Rejection, or other refusal to accept, or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Notice may be given either by a party or such party’s attorney.

29. **Time of Essence.** Time is of the essence of this Agreement and every provision of this Agreement.

30. **No Waiver.** No waiver of default by any party shall be implied from any omission by a party to take any action on account of the default if the default persists or is repeated. No express waiver shall affect any default other than the default specified in the express waiver, and then only for the time, and to the extent, stated in the express waiver. One or more waivers of any covenant, term or condition of this Agreement by a party shall not be construed to be a waiver of any subsequent breach of the same covenant, term or condition.

31. **Modification of Agreement.** This Agreement may be amended, modified, or changed only by a written instrument signed by Seller and Purchaser.

32. **Governing Law.** This Agreement, and the transaction contemplated by this Agreement, shall be construed in accordance with and governed by the laws of the State of South Dakota.

33. **OFAC Policy.** Seller and Purchaser represent and warrant to each other that neither Seller nor Purchaser nor any of their respective constituents or affiliates have engaged in any dealings or transactions, directly or indirectly: (a) in contravention of any U.S., international or other money laundering regulations or conventions, including, without limitation, the United States Bank Secrecy Act, the United States Money Laundering Control Act of 1986, The United States International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Trading with the Enemy Act (50 U.S.C. § 1 et seq., as amended), or any foreign asset control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto; or (b) in contravention of Executive Order No. 13224 dated September 24, 2001 issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time to time (“Anti-Terrorism Order”) or on behalf of terrorist or terrorist organizations, including those persons or entities that are included on any relevant lists maintained by the United Nations, North Atlantic Treaty Organization, Organization of Economic Cooperation and Development, Financial Action Task Force, U.S. Office of Foreign Assets Control, U.S. Securities & Exchange Commission, U.S. Federal Bureau of Investigation, U.S. Central Intelligence Agency, U.S. Internal Revenue Service, or any country or organization, all as may be amended from time to time. Seller and Purchaser represent and warrant to each other that neither Seller nor Purchaser nor any of their respective (i) are or will be conducting any business or engaging in any transaction with any person appearing on the U.S. Treasury Department’s Office of Foreign Assets Control list of restrictions and prohibited persons, or (ii) are a person described in section 1 of the Anti-Terrorism Order, and, to the best of Purchaser’s and Seller’s knowledge, neither Seller nor Purchaser nor any of their respective have engaged in any dealings or transactions, or otherwise been associated with any such person. If at any time this representation becomes false, it shall be considered a default under this Agreement and Seller and Purchaser shall have the right to exercise all of the remedies set forth in this Agreement and/or to terminate this Agreement immediately.

34. **Patriot Act Disclosure.** Seller and Purchaser hereby certify to the other that (i) it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order of the United States Treasury Department as a terrorist, “Specially Designated National or Blocked Person” or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation.



35. **Exclusivity and Stand-Still.** Seller hereby covenants and agrees with Purchaser that, so long as this Agreement remains in effect, Seller will not sell, assign, rent, lease, convey (absolutely or as security), grant a security interest in or otherwise encumber or dispose of, the Property (or any interest or estate therein), except in the ordinary course of business or those items having existed contemporaneously with the execution of this Agreement, without the prior written consent of Purchaser, which may be withheld in Purchaser's sole discretion; and Purchaser shall not directly or indirectly offer, solicit or receive offers, or promote the Property for sale in any manner or medium until such time as this Agreement shall have been terminated.

36. **Entire Agreement.** This Agreement contains the entire understanding between the parties relating to the transactions contemplated by this Agreement and all prior or contemporaneous agreements, understandings, representations, and statements, oral, or written, are merged into this Agreement and shall be of no further force or effect.

37. **Mutual Cooperation.** Purchaser and Seller will, in good faith, mutually cooperate with one another to the extent reasonably necessary to facilitate the consummation of the transactions described in this Agreement. From time to time after the Closing, Purchaser and Seller will execute, deliver and acknowledge such further documents or instruments, and perform such further acts or deeds, as may be reasonably necessary to consummate the transactions described in this Agreement and carry out the purposes and intent of this Agreement.

38. **Interpretation and Severability.** The provisions of this Agreement will be applied and interpreted in a manner consistent with each other so as to carry out the purposes and intent of the parties. If, for any reason, any provision of this Agreement is determined to be unenforceable or invalid, that provision (or such part thereof as may be unenforceable or invalid) will be deemed severed from this Agreement, and the remaining provisions of this Agreement will be carried out with the same force and effect as if that provision (or such part thereof) had not been a part of this Agreement.

39. **Counterparts.** This Agreement may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

40. **Facsimile or Electronic Signatures.** Any signature to this Agreement through facsimile or electronic means shall have the same legal validity and enforceability as a manually executed signature to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act or any similar state law based on the Uniform Electronic Transactions Act, and the parties hereby waive any objection to the contrary.

41. **1031 Exchange.** Purchaser and Seller shall cooperate in any exchange for the Property which either Purchaser or Seller wishes to make under Section 1031 of the Internal Revenue Code, provided, however, that in so cooperating, (i) the non exchanging party shall not be required to take title to any other property, (ii) the Closing shall not be delayed or extended thereby, (iii) the non exchanging party shall not be required to assume any liabilities as a result of the exchange that are in addition to those which would exist if the transaction were effectuated as a sale and not as an exchange, (iv) the exchanging party shall submit all documents or instruments which non exchanging party is required to sign to acknowledge that exchanging party is completing an exchange to non exchanging party for the non exchanging party's review no later than ten (10) days prior to the Closing Date, and (v) the exchanging party shall pay all of the non exchanging party's expenses arising from the exchange and shall indemnify, defend, protect and hold the non exchanging party harmless from and against any and all claims, liabilities, losses, costs, damages, or expenses (including, without limitation, attorneys' fees) incurred by the non-exchanging party and arising out of or relating to the non exchanging party's participation in the exchange.

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

**SELLER:**

STATE PARTNERS, LLC,  
a South Dakota limited liability company

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

**PURCHASER:**

SIOUX FALLS DEVELOPMENT  
FOUNDATION, INC.,  
a South Dakota Nonprofit corporation

By \_\_\_\_\_  
Its President

**ESCROW AGENT'S ACKNOWLEDGEMENT AND RECEIPT**

The undersigned agrees to act as "Escrow Agent" in accordance with the terms of this Agreement and acknowledges receipt of the Earnest Money under the Agreement.

ESCROW AGENT:

First Dakota Title

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

Name: Nancy J. Hughes

Title: President of Operations

Date: \_\_\_\_\_

**Exhibit A**

**Permitted Exceptions**

*As they appear on the Title Commitment from the Title Company.*

**Exhibit B**

**Proposed Riverline District**

**SCHEDULE 1**

**Due Diligence and Pre-Closing Obligations**

<b>Due Diligence Item:</b>	<b>Completion Date:</b>
<b>Completion of Title Examination in accordance with Section 15</b>	<b>Within sixty (60) days of January 25, 2023</b>
<b>Purchaser review Zoning regulations and determination of any needed variances requested and initiate any necessary filings</b>	<b>Within sixty (60) days of January 25, 2023</b>
<b>Soil Tests performed, reviewed, and approved by Purchaser</b>	<b>Within one hundred twenty (120) days of January 25, 2023</b>
<b>Phase 1 Environmental Study performed, reviewed, and approved by Purchaser</b>	<b>Within one hundred twenty (120) days of January 25, 2023</b>
<b>Survey performed and approved by Purchaser</b>	<b>Within one hundred twenty (120) days of January 25, 2023</b>
<b>Performance of engineering feasibility tests and review and approval by Purchaser</b>	<b>Promptly as available</b>
<b>Performance of financial feasibility tests and review and approval by Purchaser</b>	<b>Promptly as available</b>
<b>Purchaser to obtain all consents, endorsements, and approvals from the City of Sioux Falls to close on the Property, and any other reasonably necessary authorizations required to complete this transaction, including the statutory time allowed to the members of the public to file a petition of public referendum as laid out under South Dakota Codified Law Section 9-20-1 et seq., and the time required to hold and resolve an election in accordance with the same, if applicable.</b>	<b>5:00 p.m. on November 15, 2024</b>
<b>Purchaser shall deliver Current Development Plans to Seller</b>	<b>On or before October 31, 2024.</b>
<b>Purchaser shall provide Updated Development Plans to Seller</b>	<b>On or before ninety (90) days prior to Closing Date</b>
<b>Seller's exercise of Land Reservation (1st ¶, Section 2)</b>	<b>Within thirty (30) days after Purchaser provides Updated Development Plans to Seller</b>
<b>Seller's exercise of Option to Exchange (1st ¶, Section 2)</b>	<b>Within thirty (30) days after Purchaser provides Updated Development Plans to Seller</b>

<b>Any necessary 1031 documents provided to other party for execution (Section 41)</b>	<b>Prior to ten (10) days before the Closing Date</b>
<b>Purchaser's right to terminate Agreement in the event of Condemnation or Casualty to Property (Section 17)</b>	<b>Within ten (10) days after Seller provides notice of such Condemnation or Casualty</b>