

PURCHASE AND SALE AGREEMENT

Between

The City of Camden Redevelopment Agency

And

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is dated as of the Effective Date specified in Section 1.3 below by and between The City of Camden Redevelopment Agency, a public body corporate and politic of the State of New Jersey ("Seller"), and the Buyer designated in Section 1.1 of this Agreement.

RECITALS:

WHEREAS, The City of Camden (“Camden”) is the owner of the Property as more particularly described in Section 1.4 below; and

WHEREAS, the Camden City Council on _____, 2019 approved by ordinance the transfer of the Property from Camden to the Seller; and

WHEREAS, Seller on or about May 8, 2019 conducted a public auction of the Property pursuant to N.J.S.A. 40A:12-13 and the Buyer was the highest bidder at such auction; and

WHEREAS, Seller desires to sell the Property to Buyer and Buyer desires to purchase the Property from Seller on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

ARTICLE 1 - GENERAL INFORMATION

The following general information is used throughout this Agreement:

1.1 Buyer: _____

1.2 Buyer Tax ID: _____

1.3 Effective Date: The date both parties are in possession of a fully executed copy of this Agreement.

1.4 Property: That certain real property including all improvements thereon designated as Lot 1 in Block 405 and Lot 35 in Block 340 on the Official Tax Map of the City of Camden, New Jersey. A legal description of the Property is attached as Exhibit A. [To be provided]. The Property consists of two adjacent, but non-contiguous lots on two (2) separate tax blocks in the Bergen Square neighborhood of Camden, New Jersey. The two lots are separated by 7th Street and are near the intersection of 7th Street and Kaighn Avenue, close to the Interstate 676 off ramp for Atlantic Avenue. The two lots are located directly west of Interstate 676 and are currently vacant and unimproved. The topography is flat with piles of debris. Block 405 Lot 1 consists of 4.36 acres and Block 340 Lot 35 consists of 1.5 acres. The surrounding area is commercial and industrial.

The current zoning for the Property is I-1 which generally allows for light manufacturing and /or wholesale and storage activities and /or heavy commercial usage. All of these uses are subject to conditions listed in the zoning ordinance.

1.5 Purchase Price: _____ Dollars (\$_____).

1.6 Deposit: _____ Dollars (\$_____) [10% of Purchase Price].

1.7 Administrative Fee: Fifty Thousand Dollars (\$50,000.00) to be paid pursuant to the provisions of Section 4.2.

1.8 Inspection Period: One Hundred and Eighty (180) days commencing on the Effective Date or such longer period as agreed to by the Seller in its discretion.

1.9 Closing Date: Thirty (30) days after the expiration of the Inspection Period or such longer period as agreed to by the Seller in its discretion, time being of the essence.

1.10 Place of Closing: Office of Buyer's title company or another location agreed upon by the parties.

1.11 Notices, Seller:

City of Camden Redevelopment Agency
Attn: Olivette Simpson
Interim Executive Director
Camden City Hall
520 Market Street, 13th Floor
Camden, New Jersey 08103
Phone: (856) 757-7600
Fax: _____
Email: _____

with a copy to:

Brown & Connery, LLP
Attn: Mark P. Asselta, Esquire
P.O. Box 539
360 Haddon Avenue
Westmont, New Jersey 08108
Phone: 856-854-8900
Fax: (856) 858-2843
Email: masselta@brownconnery.com

1.12 Notices, Buyer:

Phone: _____
Fax: _____
Email: _____

with a copy to: _____

Phone: _____
Fax: _____
Email: _____

ARTICLE 2 - DEFINITIONS

The terms defined in Article 1 and this Article 2, whenever capitalized, shall have the meanings set forth below and in Article I, whenever such terms are used in this Agreement and all Exhibits hereto, unless the context clearly indicates a different meaning:

2.1 "Agreement". This instrument, together with all exhibits addenda, schedules, and proper amendments thereto.

2.2 "Certificate of Completion." Shall have the meaning set forth in Section 12.19 of this Agreement.

2.3 "Closing". The consummation of the transactions contemplated by this Agreement, including the transfer of the Property to Buyer and receipt of the Purchase Price by Seller.

2.4 "Current Funds". Wire transfer of current federal funds in accordance with wiring instructions to be provided by Seller, or such other forms of immediately available funds as may be acceptable to Seller.

2.5 "Deed". A bargain and sale deed with covenants against grantor's acts, to be delivered to Buyer at Closing.

2.6 "Hazardous Materials". Shall have the meaning set forth in Section 7.4 hereof.

2.7 "Permitted Exceptions". Shall mean: (a) restrictions and easements which do not substantially affect Buyer's intended use of the Property; (b) zoning and other governmental restrictions; (c) the post-closing covenants provided for in Article 11; (d) taxes, assessments and other public charges not due as of the Closing Date and (e) any other title issue to which Buyer does not specifically object in accordance with Section 6.3.

2.8 "Project" shall mean the Facilities to be constructed on the Property by Buyer pursuant to Section 11.1.

2.9 "Title Commitment". The commitment for owner's title insurance policy to be obtained by Buyer in accordance with Section 6.1 hereof.

2.10 "Title Documents". The documents listed in the Title Commitment as exceptions to title to the Property.

ARTICLE 3 - AGREEMENT OF PURCHASE AND SALE

3.1 Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell, transfer and assign to Buyer, and Buyer agrees to purchase and accept from Seller, all of Seller's right, title and interest in and to the Property.

ARTICLE 4 - CONSIDERATION

4.1 Deposit. Within twenty four (24) hours of delivery of a fully executed copy of this Agreement to Buyer Buyer shall pay the Deposit to Buyer's Title Company in Current Funds. The Deposit will be applied to the Purchase Price at Closing. The Deposit will be held in a non-interest bearing account. In the event of a default by either party, the Earnest Money will be disbursed in accordance with Article 10 hereof.

4.2 Administrative Fee. In consideration of its services rendered to date by the Seller and for the services to be rendered by the Seller with regard to this Agreement, in addition to other amounts required to be paid by Buyer pursuant to this Agreement (without any credit due against the Purchase Price), the Buyer shall pay the Seller an Administrative Fee in the amount of Fifty Thousand Dollars (\$50,000.00). Within twenty four hours after delivery of a fully executed copy of this Agreement to Buyer, Buyer shall pay one half of the Administrative Fee or Twenty-Five Thousand Dollars (\$25,000.00) directly to Seller. The remaining one half of the Administrative Fee or Twenty-Five Thousand Dollars (\$25,000.00) shall be paid directly to the Seller at Closing. Buyer shall pay the Administrative Fee with Current Funds.

4.3 Appraisal Reimbursement. Within twenty four hours after delivery of a fully executed copy of this Agreement to Buyer, Buyer shall pay to the Seller directly (without any credit due against the Purchase Price) the amount of \$5,700.00 which represents the cost that the City of Camden incurred for the appraisal obtained to determine the fair market value of the Property. Buyer shall make this payment with Current Funds.

4.4 Payment of Purchase Price. The balance of the Purchase Price, subject to adjustments and prorations as provided herein, shall be paid to Seller at Closing in Current Funds.

ARTICLE 5 - CONDITIONS TO CLOSING

5.1 General Conditions. Seller's obligation to sell the Property to Buyer and Buyer's obligation to purchase the Property from Seller, at the Closing, are subject to and conditioned upon (i) the other party not being in default under this Agreement; and (ii) the delivery by the appropriate party of the items set forth in Section 8.2 on the Closing Date, or the waiver of such conditions in accordance with the terms of this Agreement.

5.2 Transfer From The City of Camden. Seller's obligation to sell the Property to Buyer is subject to and conditioned upon City of Camden transferring the Property to the Seller. In the event that the City of Camden does not transfer the Property to Seller on or before the date of

Closing, either party may terminate this Agreement by written notice to the other party in which case, Buyer shall receive back its Deposit and shall be refunded any part of the Administrative Fee paid and refunded the appraisal reimbursement amount (Section 4.3) and neither party shall have any further obligation to the other.

5.3 Approval of Grow New Jersey Assistance Tax Credits. The Buyer's obligation to complete closing is contingent upon an award of Grow New Jersey Assistance Program tax credits from the New Jersey Economic Development Authority pursuant to the Economic Opportunity Act of 2013, P.L. 2013, c. 161, in an amount, and upon terms, satisfactory to Buyer on or before the date that is One Hundred and Eighty (180) days after the Effective Date. or such longer period as agreed to by the Seller in its discretion (the "Tax Credit Deadline"). In the event that Buyer does not obtain the necessary tax credits by the Tax Credit Deadline Buyer shall have the right to terminate this Agreement by providing written notice to Seller on or before the Tax Credit Deadline in which case Buyer shall receive back its Deposit, the Seller shall retain the portion of the Administrative Fee paid upon execution of the Agreement, the Seller shall retain the appraisal reimbursement (Section 4.3), and neither party shall have any further obligation to the other. In the event that Buyer does not provide a written notice of termination on or before the Tax Credit Deadline Buyer shall be deemed to have waived its right to terminate under this provision.

5.4. Financing for the Project. The Buyer's obligation to complete closing is contingent upon the Buyer's receipt of private financing for the Project, in an amount, and upon terms, satisfactory to Buyer on or before the date that is One Hundred and Eighty (180) days after the Effective Date or such longer period as agreed to by the Seller in its discretion. (the "Financing Deadline"). In the event that Buyer does not obtain the necessary financing by the Financing Deadline Buyer shall have the right to terminate this Agreement by providing written notice to Seller on or before the Financing Deadline in which case Buyer shall receive back its Deposit, the Seller shall retain the portion of the Administrative Fee paid upon execution of the Agreement, Seller shall retain the appraisal reimbursement (Section 4.3), and neither party shall have any further obligation to the other. In the event that Buyer does not provide a written notice of termination on or before the Financing Deadline Buyer shall be deemed to have waived its right to terminate under this provision.

ARTICLE 6 – TITLE, INSPECTIONS AND INSURANCE

6.1 Buyer's Obligation to Order Title. Within five (5) days after the Effective Date, the Buyer, at Buyer's expense, shall order a commitment for owner's title insurance policy with respect to the Property (the "Title Commitment") from a title insurance company licensed to do business in New Jersey, and shall upon receipt deliver a copy of the Title Commitment to the Seller.

6.2 Quality of Title. Title to the Property is to be insurable, by a title insurance company selected by Buyer, subject to the Permitted Exceptions as defined in Section 2.6 and the Buyer's Covenants as set forth in Article 11.

6.3 Inspection.

(a) During the Inspection Period, Buyer may inspect the condition of the Property, the title to the Property and investigate whether Buyer will be able to obtain all permits and approvals including any variances needed for Buyer to complete its project. If such inspections reveal any conditions of the Property unacceptable to Buyer in Buyer's reasonable discretion or that would result in title to the Property not meeting the requirements of Section 6.2, Buyer shall notify Seller in writing prior to the expiration of the Inspection Period of such unacceptable facts or conditions and Seller may, at Seller's option, correct same within thirty (30) days after such notice from Buyer, or by the Closing Date if sooner, although in no event shall Seller be obligated to do so. If Seller does not correct such unacceptable facts or conditions within such period, or notifies the Buyer in writing that Seller does not intend to correct one or more of the facts or conditions within such period, then within ten (10) days thereafter, Buyer may terminate this Agreement by notice in writing to Seller, and in such case the Deposit shall be refunded to Buyer the Seller shall retain the portion of the Administrative Fee paid upon execution of the Agreement, Seller shall retain the appraisal reimbursement Section 4.3, and neither party shall have any further obligation to the other. If Buyer does not give any such notification of unacceptable facts or conditions to Seller in writing prior to the expiration of the Inspection Period, or if Buyer does not terminate this Agreement within the ten (10) day period set forth in Section 6.3 (a), if applicable, the condition of the Property and title to the Property shall be deemed satisfactory to Buyer and Buyer shall be deemed to have waived its right to terminate under this provision.

(b) The Buyer and/or Buyer's agents shall not enter upon the Property except during normal business hours, and, in each event, only after having obtained the permission of the Seller which permission shall not be unreasonably withheld.

(c) Buyer shall be liable for all damage or injury to any person or property resulting from any such inspections, whether occasioned by the acts of Buyer or any of its employees, agents, representatives or contractors, and Buyer shall indemnify, defend and hold harmless Seller from any liability resulting therefrom. This indemnification by Buyer shall survive the Closing or any termination of this Agreement.

(e) Buyer shall promptly deliver to Seller, at no cost or expense to Seller, copies of any and all information, including environmental information, Buyer has obtained or hereafter obtains with respect to the Property. If Buyer shall be in default under this Agreement beyond any applicable cure period, or if this Agreement shall be terminated in accordance with its terms, then Buyer shall promptly deliver to Seller, at no cost or expense to Seller, copies of any and all inspections obtained by Buyer.

6.4 Insurance

(a) Prior to entering onto or performing any inspections or work on the Property, Buyer shall procure and thereafter maintain or require to be maintained insurance on its development project and the Property and shall furnish or shall cause to be furnished to the Seller certificates of insurance, as required by the Seller, insuring Buyer against losses, costs, liabilities, claims, causes of action and damages for bodily injury, property damage and personal injury on the Property or related to the construction thereon, in the types and amounts set forth in Exhibit B. The required insurance shall remain in effect from the Effective Date until the Project is

completed by Buyer.

(b) **Required Coverage.** All such policies shall be written to apply to all bodily injury, property damage, personal injury and other customary covered losses, however occasioned, occurring during the policy term, and shall, to the extent permitted by applicable law, be endorsed to add the Seller, the City of Camden, and all of their elected and appointed officials, agents and employees as an additional insureds.

(c) **Primary Coverage.** This coverage shall be primary to any insurance of the Seller or the City of Camden and shall not be contributing with any other insurance or similar protection available to the Seller or City of Camden whether other available insurance be primary, contributing or excess.

(d) **Proof of Insurance Coverage.** Buyer shall provide the Seller, prior to entering onto or performing any inspections or work on the Property or certificates of insurance evidencing the coverage required pursuant to Item A of Exhibit B.

(e) **Continuation of Coverage.** If any of the coverages set forth in Exhibit B expire during the term of this Agreement, Buyer shall deliver renewal certificates to the Seller at least ten (10) days prior to the expiration date.

(f) **Rating.** All insurance policies required by this Section shall be obtained from insurance companies licensed in the State of New Jersey and rated at least A- in Best's Insurance Guide. All insurance policies required hereunder shall be kept in force for the Term of this Agreement. To the extent permitted by law and to the extent that the Buyer's insurance carrier does not object to such requirements, all insurance policies required by this Section shall contain language to the effect that (i) the policies are primary and noncontributing with any insurance that may be carried by the City or the Seller, (ii) the policies cannot be cancelled or materially changed except after thirty (30) days written notice by the insurer to the Seller, except ten (10) days' notice in the event of non-payment of premium, (iii) the Seller shall not be liable for any premiums or assessments, and (iv) all such insurance shall have deductibility limits, as reasonably requested by and satisfactory to the Seller. Buyer represents that it has reviewed the insurance requirements of this Agreement with Buyer's insurance carrier and Buyer's insurance carrier does not object to any of the requirements based upon current policies and procedures maintained by such insurance carrier.

(g) **Modification of Insurance Requirements.** The Seller shall have the right to make reasonable modifications to the insurance requirements set forth in Section 6.4 and Exhibit B upon consultation with Buyer and upon advanced written notice to Buyer. No such modifications may be more burdensome to Buyer than the requirements set forth in Section 6.4 and Exhibit B.

ARTICLE 7 - NO REPRESENTATIONS OR WARRANTIES BY SELLER

7.1 Environmental Reports. Buyer acknowledges that Seller has provided Buyer with the following report: Preliminary Assessment /Updated Phase I Environmental Site Assessment PI #171844 Former CWS Industries 726 Kaighn Avenue, Environmental Resolutions, Inc., June 2018.

This report only pertains to Block 405, Lot 1. The Seller is not in possession of any environmental reports that pertain to Block 340, Lot 35.

7.2 Disclaimer. BUYER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY IS MADE ON AN "AS IS," "WHERE IS" CONDITION AND BASIS "WITH ALL FAULTS."

BUYER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY; (B) THE WATER, SOIL AND GEOLOGY OF THE PROPERTY, (C) THE INCOME TO BE DERIVED FROM THE PROPERTY, (D) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, (E) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (F) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (G) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO PROPERTY, (H) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (I) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY.

SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS.

BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER.

BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON.

BUYER AGREES, AT THE CLOSING, TO ACCEPT THE PROPERTY AND WAIVE ALL OBJECTIONS OR CLAIMS AGAINST SELLER (INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE PROPERTY.

7.3 Release of Claims. Without limiting the provisions of Section 7.2, Buyer releases Seller from any and all claims (whether known or unknown, and whether contingent or liquidated) arising from or related to (a) any defects, errors or omissions in the design or construction of the Property, whether the same are a result of negligence or otherwise; or (b) other conditions (including environmental conditions) affecting the Property, whether the same are a result of negligence or otherwise. The release set forth in this Section specifically includes any Claims under any Environmental Laws. "Environmental Laws" includes all laws referred to in the definition of Hazardous Materials herein.

7.4 Hazardous Materials. "Hazardous Materials" shall mean any substance which is or contains (1) any "hazardous substance" as now or hereafter defined in '101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. '9601 et seq.) ("CERCLA") or any regulations promulgated under CERCLA; (2) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. '6901 et seq.) ("RCRA") or regulations promulgated under RCRA; (3) any substance regulated by the Industrial Site Recovery Act (N.J.S.A. 13:1K-6, et seq.) ("ISRA"), or any regulations promulgated under ISRA, the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11, et seq.) (the "Spill Act"), or any regulations promulgated under the Spill Act, the Solid Waste Management Act (N.J.S.A. 13:1E-1, et seq.), or any regulations promulgated under the Solid Waste Management Act; (4) any substance regulated by the Toxic Substances Control Act (15 U.S.C. '2601 et seq.); (5) any substance regulated by the Emergency Planning and Community Right to Know Act (42 U.S.C. ' ' 11001 et seq.), the Clean Air Act (42 U.S.C. ' ' 7401 et seq.), the Clean Water Act (33 U.S.C. ' ' 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. ' ' 2601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. ' ' 1801 et seq.), the Occupational Safety and Health Act (29 U.S.C. ' ' 651 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. ' ' 136 et seq.), and the Safe Drinking Water Act (42 U.S.C. ' ' 300f et seq.); New Jersey Hazardous Substances Discharge and Notices Act, N.J.S.A. 13:1K-15.; New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1; (6) lead based paint; (7) gasoline, diesel fuel, or other petroleum hydrocarbons or their constituents; (8) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (9) polychlorinated biphenyls; (10) radon gas; and (11) any additional substances or materials which are now or hereafter classified or considered to be hazardous or toxic under any environmental law, ordinance, rule or regulation, now or hereinafter enacted, or the common law, or any other applicable law relating to the Subject Property.

7.5 Indemnification. Buyer hereby agrees to indemnify and hold harmless Seller from and against any and all loss, costs or damages (including reasonable attorneys' fees) with respect to the breach of any warranty or representation of Buyer herein, or the breach of any of the provisions of this Agreement which survives the Closing, or the existence, use, ownership, occupancy, operation and/or maintenance of the Property following the Closing Date, including without limitation: (a) any obligation undertaken by contracts, agreements in writing, assumed or entered into by Buyer or on behalf of Buyer with respect to the existence, use, ownership, occupancy, 7TH AND KAIGHN PURCHASE AND SALE AGREEMENT (4 18 19)FINAL

operation and/or maintenance of the Property or any portion thereof; and (b) any obligation pertaining to taxes and property-related operating expenses, levies, charges, liens or assessments arising after the Closing Date or assumed hereunder; and (c) any accident, injury, death or other damage whatsoever caused to any person or entity after the Closing Date in or about the Property or a portion thereof or any property connected with or adjacent thereto; and (d) the presence, release, discharge or contamination (irrespective of when occurring) of or by the Property or adjacent properties of any Hazardous Materials. Buyer further agrees, upon notice from Seller, to contest any demand, claim, suit or action against which Buyer has hereinabove agreed to indemnify and hold Seller harmless and to bear all reasonable costs and expenses of such contest and defense, including reasonable attorneys' fees. Buyer's obligations under this Section shall survive the Closing.

7.6 Buyer at its sole cost and expense shall comply with the provisions of the Industrial Site Recovery Act (N.J.S.A. 13:1K-6, et seq.) ("ISRA"), or any regulations promulgated under ISRA, if applicable as necessary to complete a transfer or conveyance of the Property to Buyer pursuant to this Agreement.

THE PROVISIONS OF ARTICLE SEVEN SHALL SURVIVE THE CLOSING.

ARTICLE 8 - CLOSING

8.1 Date and Place of Closing. Subject to the satisfaction or waiver of all conditions to either party's obligation to consummate the purchase and sale of the Property, the Closing shall take place on the Closing Date at the Place of Closing specified in Sections 1.9 and 1.10 above.

8.2 Items to be Delivered at Closing.

(a) By Seller. At or prior to Closing, Seller shall deliver or cause to be delivered to Buyer, each of the following items:

(i) The Deed, suitable for recording, conveying title to the Property to Buyer, subject to the Permitted Exceptions and Buyer's Covenants;

(ii) A copy of Seller's Resolution which authorized the Agreement of Sale and the Sale of the Property to Buyer;

(iii) Any reasonable and customary certificates and affidavits that may be required in the normal course for Seller to convey marketable and insurable title subject to the Permitted Exceptions, in form and substance satisfactory to Seller, duly executed by Seller;

(iv) Possession of the Property.

(b) By Buyer. At or prior to Closing, Buyer shall deliver to Seller, or cause to be delivered to Seller, each of the following items:

(i) The balance of the Purchase Price in Current Funds;

- (ii) Evidence of Buyer's authority to consummate this transaction;
- (iii) Any customary certificates and affidavits that may be required in the normal course for Seller to convey marketable and insurable title subject to the Permitted Exceptions, in form and substance satisfactory to Seller, duly executed by Buyer.

ARTICLE 9 - CLOSING COSTS AND ADJUSTMENTS

9.1 Closing Costs. Buyer shall pay the Seller for all of the Seller's closing costs, including Seller's attorneys' fees (except as provided in Section 12.11 of this Agreement). Buyer shall pay any and all recording fees charged on all documents required to be recorded in connection with the conveyance of the Property to Buyer. Any fees and costs incurred as a result of any title searches, title insurance and/or financing of the Purchase Price or subsequent mortgage of the Property by Buyer shall be paid by Buyer. Any fee charged by a title insurance company for conducting closing shall be paid by Buyer. Seller shall pay the Real Estate Transfer fee, if applicable. Buyer shall pay any Mansion Tax, if applicable.

9.2 Adjustments.

(a) All rents, income, and all other operating expenses (except private utilities) with respect to the Property for the month in which the Closing occurs, and real estate and personal property taxes, governmental water and sewer charges, and other assessments with respect to the Property for the year in which the Closing occurs, shall be adjusted as of the Closing Date.

(b) All unpaid assessments for municipal improvements completed before the Effective Date shall be paid by the Seller. Assessments for municipal improvements completed on or after the Effective Date shall be the responsibility of the Buyer. All prorations of taxes and assessments shall be final at the Closing and shall not be subsequently adjusted.

(c) Private utility charges shall not be prorated under Section (b). Buyer shall be responsible for arranging all utility service in its own name commencing as of 12:01 a.m. on the Closing Date. Seller shall be responsible for all utility charges accrued prior to the Closing Date and Seller shall receive a refund of all utility deposits.

ARTICLE 10 - DEFAULTS AND REMEDIES

10.1 Seller's Default. If, after written demand, Seller fails to consummate this Agreement in accordance with its terms (other than by reason of (i) Buyer's breach of any of its representations or warranties contained in this Agreement; (ii) Buyer's continuing default of any of its covenants hereunder after ten (10) days prior written notice of such default; (iii) a failure of any condition to Seller's obligation to sell the Property to be satisfied; (iv) a termination of this Agreement by Seller or Buyer pursuant to a right to do so expressly provided for in this Agreement, except by reason of a default by either party; or (v) failure by Buyer to deliver the items required under Section 8.2(b), Buyer may, as Buyer's sole and exclusive remedies, terminate this Agreement by written notice to Seller in which event the Deposit shall be refunded to Buyer, any portion of the Administrative Fee actually paid shall be refunded to Buyer, the appraisal reimbursement amount (Section 4.3) shall be refunded to Buyer and Buyer may recover from Seller Buyer's actual and

direct damages (out-of-pocket amounts actually paid by Buyer to third parties, but specifically excluding any internal or overhead costs or expenses of Buyer) for such failure, up to a maximum of Five Thousand and no/100 U.S. Dollars (\$5,000.00). UNDER NO CIRCUMSTANCES MAY BUYER SEEK OR BE ENTITLED TO RECOVER ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, SPECULATIVE OR INDIRECT DAMAGES, ALL OF WHICH BUYER SPECIFICALLY WAIVES, FROM SELLER FOR ANY BREACH BY SELLER OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR OF ANY REPRESENTATION, WARRANTY OR COVENANT OF SELLER HEREUNDER, NOR SHALL BUYER BE ENTITLED TO SEEK OR ENFORCE SPECIFIC PERFORMANCE OF THIS AGREEMENT BY SELLER. BUYER SPECIFICALLY WAIVES THE RIGHT TO FILE ANY LIS PENDENS OR OTHER LIEN AGAINST THE PROPERTY.

10.2 Buyer's Default/Pre Closing Breaches . If, after written demand, Buyer fails to consummate this Agreement in accordance with its terms or fails to perform any of its obligations under this Agreement prior to Closing (other than by reason of (i) Seller's breach of any of its representations or warranties contained in this Agreement; (ii) Seller's continuing default of any of its covenants after ten (10) days prior written notice of such default; (iii) a failure of any condition to Buyer's obligation to purchase the Property to be satisfied (unless such condition is waived pursuant to this Agreement); (iv) a termination of this Agreement by Seller or Buyer pursuant to a right to do so expressly provided for in this Agreement; or (v) failure by Seller to deliver the items required under Section 8.2 (a), the Deposit, at Seller's option (for any pre-closing breach) , shall be paid to Seller as liquidated damages or Seller may commence any legal or equitable action to which Seller is entitled, applying the Deposit (for pre-closing breaches) to such action. Seller and Buyer agree that if Seller elects to treat the Deposit as liquidated damages, payment of the Deposit shall not be as a penalty, that actual damages to Seller from Buyer's breach would be difficult to measure because of the uncertainties of the real estate market and fluctuations of property values, and the Deposit is a reasonable estimate of what those damages would be.

In addition, in the case of any pre-closing breaches Buyer shall immediately deliver to Seller all information, data, studies and tests regarding the Property in its possession or control, including, without limitation, studies, tests and other results of the studies and tests, the Survey obtained by Buyer, if any, the Title Commitment, the Title Documents, and all copies or reproductions of any of the foregoing.

10.3 Buyer's Default/Post Closing Breaches. If after the conveyance of the Property or any part thereof to Buyer and before the completion of the Project as certified by Seller:

(a) The Buyer (or permitted successor-in-interest) shall default on or violate any of the covenants set forth in Section 11.1 of this Agreement or shall abandon or substantially suspend construction work, and any such default, violation, abandonment, or suspension shall not be cured, ended, or remedied within three (3) months after written demand by the Seller to do so; or

(b) The Buyer (or successor-in-interest) shall fail to pay real estate taxes , or payments in lieu of taxes if the City has agreed to such payments or assessments when due, or shall place thereon any encumbrance or lien unauthorized by this Agreement, or shall suffer any levy or attachment to be made, or any material men's or mechanic's lien, or any other unauthorized encumbrance or lien to attach, and such taxes or assessments shall not have been paid, or the encumbrance or lien removed

or discharged or provision satisfactory to the Seller made for such payment, removal, or discharge, within sixty (60) days after written demand by Seller so to do; or

(c) There is, in violation of this Agreement by any transfer or attempted transfer of the Property or any part thereof, or any unpermitted change in the ownership of the Buyer, or with respect to the identity of the parties in control of the Buyer or the degree thereof, and such transfer is not void ab initio and shall not be cured within sixty (60) days after written demand by Seller to Buyer;

then, in any such event, the Seller shall provide notice of the default or breach to the holder of any mortgage permitted pursuant to Section 12.18 of this Agreement and an opportunity to cure pursuant to Section 12.18 (d). If the Buyer or holder of any mortgage does not elect to cure within the time permitted in this Agreement, and Buyer remains in default, Buyer shall, at the written demand of the Seller and by quitclaim deed, convey the portion of the Property acquired by Buyer to the Seller, subject to repayment by the Seller to the Buyer pursuant to Section 10.4 herein, and/or the Seller may seek a court order to re-enter and take possession of the Property and terminate (and revert in Seller) the estate conveyed by the Deed to the Buyer, it being the intent of this provision, together with other provisions of this Agreement, that the conveyance of the Property to the Buyer shall be made upon a condition subsequent to the effect that in the event of any default, failure, violation, or other action or inaction by Buyer specified in Section 10.3 (a),(b) or (c) failure on the part of the Buyer to remedy, end, or abrogate such default, failure, violation, or other action or inaction, within the period and in the manner stated in such provisions, shall result in a revesting in the Seller of the title, and of all the rights and interests in and to the Property conveyed by the Deed to Buyer, and such title and all rights and interests of Buyer, and any assigns or successors in interest to and in the Property, shall revert to the Seller: provided that such condition subsequent and any revesting of title as a result thereof in the Seller shall always be subject to and limited by, and shall not defeat, render invalid, or limit in any way, the lien of any mortgage authorized by this Agreement, or any rights or interests provided in this Agreement for the protection of the holders of such mortgages. Notwithstanding the provisions of this Section, in the event the Buyer has made a Permitted Transfer of part of the Property to a sub-Buyer, or a transfer subsequent to the issuance of a Certificate of Completion, the remedies set forth in this paragraph shall apply only to that part of the Property which is owned by the Buyer, and for which a Certificate of Completion has not been issued. In the event of a default by a sub-Buyer, after is assumes the obligation of the Buyer as to part of the Property, the remedies set forth in this paragraph shall apply only to that part of the property transferred to the sub-Buyer.

10.4 Resale of Reacquired Property: Disposition of Proceeds. Upon the revesting in Seller of title to the Property or any part thereof as provided in Section 10.3, the Seller shall use its best efforts to resell the Property or part thereof (subject to such mortgage liens and leasehold interests as permitted in this Agreement), as soon and in such manner as the Seller shall find feasible to a qualified and responsible party or parties (as reasonably determined by the Seller) who will assume the obligation of making or completing the improvements or such other improvements in their stead as shall be satisfactory to the Seller and in accordance with the uses specified for such Property, the proceeds thereof shall be applied:

(i) Mortgagee. First, to any outstanding debt due to the holder of any Mortgage identified pursuant to Section 12.18 of this Agreement (including all outstanding principal, accrued and unpaid interest, late charges, collection expenses and other sums as may be due and payable under the instruments evidencing and/or securing such loan).

(ii) Seller. Second to reimburse the Seller, on its own behalf, or on behalf of the City, for all reasonable costs and expenses incurred by the Seller, including but not limited to costs incurred to third parties for the recapture, management, and resale of the Property or part thereof (but less any income derived by the Seller from the Property or part thereof in connection with such management); all tax assessments, and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by the Seller, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the City assessing official) as would have been payable if the Property were not so exempt; any payments made or necessary to be made to discharge any encumbrances or liens on the Property or part thereof at the time of reversion of title thereto in the Seller or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of Buyer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Project or any part thereof on the Property or part thereof, and any amounts otherwise owing to the Seller by the Buyer and its successor or transferee; and

(iii) Buyer. Third, to reimburse the Buyer its successor or transferee, up to the amount equal to: (a) the sum of the purchase price paid by it for the Property (or allocable to the part thereof) and the cash actually invested by it in making any of the improvements on the Property or part thereof, less (b) any gains or income withdrawn or made by it from this Agreement or the Property; and

(iv) Balance. Any balance remaining after such reimbursement shall be retained by Seller as its property.

THE PROVISIONS OF ARTICLE TEN SHALL SURVIVE THE CLOSING.

ARTICLE 11 - BUYERS COVENANTS

11.1 In accordance with its bid made at the public auction of the Property, Buyer agrees to the following post-closing requirements:

- (a) The Property must be developed for commercial and/or manufacturing use.
- (b) Construction of the facility or facilities that will be located on the Property (the “Facilities”) must commence within two (2) years from the date of conveyance of the Property to the Buyer.
- (c) The project cost for the Facilities must be a minimum of \$10 million.
- (d) The facility or facilities must employ at least thirty (30) people after construction.
- (e) Except for such assignments as are permitted pursuant to Section 12.1, Buyer shall remain the title owner of the Property and shall not re-convey the Property until all of the above

referenced covenants are satisfied in full as evidenced by the issuance of the Certificate of Completion.

- (f) Buyer shall be responsible for obtaining all permits and approvals and any variances needed to complete its proposed Project.

11.2 Seller shall be permitted to include the above referenced covenants and the other covenants set forth in this Article in the Deed to the Property and such covenants shall run with the land.

11.3 The Buyer shall design, implement, complete and operate the above described project in compliance with this Agreement and all other applicable governmental laws, ordinances, governmental approvals, rules, regulations and requirements applicable thereto.

THE PROVISIONS OF ARTICLE ELEVEN SHALL SURVIVE THE CLOSING.

ARTICLE 12 - MISCELLANEOUS PROVISIONS

12.1 Assignment. Buyer may not assign Buyer's rights under this Agreement without Seller's prior written consent, which consent may be withheld in Seller's discretion for any reason or for no reason whatsoever. Notwithstanding the foregoing, Buyer may assign its rights to an entity that is controlled by Buyer, so long as such entity expressly assumes by written instrument approved by Seller all of Buyer's obligations arising under this Agreement. In the case of any assignment permitted under this Section, Buyer shall remain jointly liable with any permitted assignee for all obligations required under this agreement including but not limited to the post closing covenants provided for in Article Eleven. Seller may, in Seller's sole discretion, convey title to the Property and assign Seller's rights or obligations under this Agreement, to any person or entity designated by Seller so long as such designee agrees to perform Seller's obligations under this Agreement. The restrictions as to assignments set forth in this Section shall terminate upon the issuance of the Certificate of Completion as set forth in Section 11.1(e).

12.2 Condemnation and Casualty.

(a) Condemnation. In the event that all or any "substantial portion" of the Property shall be taken in condemnation or by conveyance in lieu thereof or under the right of eminent domain after the Effective Date and before the Closing Date, either Seller or Buyer may, at its option, terminate this Agreement by written notice thereof to the other party within thirty (30) days after Seller notifies Buyer of the condemnation, in which event Buyer shall receive an immediate refund of the Deposit and the part of the Administrative Fee already paid and neither party shall have any further obligation to the other under this Agreement. In the event both Seller or Buyer fail to timely deliver written notice of termination as described above, they shall be deemed to have elected to proceed to close the transaction contemplated herein pursuant to the terms hereof, in which event Seller shall deliver to Buyer at the Closing any proceeds actually received by Seller

attributable to the Property from such condemnation or eminent domain proceeding or conveyance in lieu thereof or assign to Buyer Seller's rights to such proceeds and there shall be no reduction in the Purchase Price. If the taking does not involve a "substantial portion" of the Property, as herein defined, then Buyer shall be obligated to close the transaction contemplated herein according to the terms hereof, notwithstanding such taking, and Seller shall deliver to Buyer at Closing any and all awards or consideration attributable to such taking, and there shall be no reduction in the Purchase Price.

(b) Casualty. In the event that all or any "substantial portion" of the Property shall be damaged or destroyed by fire or other casualty after the Effective Date and before the Closing Date, either Seller or Buyer may, at its option, terminate this Agreement by written notice thereof to the other party within thirty (30) days after Seller notifies Buyer of the casualty and the availability and amount of insurance proceeds, in which event Buyer shall receive an immediate refund of the Deposit and the part of the Administrative Fee already paid and neither party shall have any further obligation to the other under this Agreement. In the event neither Seller nor Buyer terminate this Agreement as described above, they shall be deemed to have elected to proceed to close the transaction contemplated herein pursuant to the terms hereof, in which event Seller shall deliver to Buyer at the Closing any insurance proceeds actually received by Seller attributable to the Property from such casualty, or assign to Buyer all of Seller's right, title and interest in any claim under any applicable insurance policies in respect of such casualty, together with an amount equal to the deductible(s), if any, applicable to such loss under the insurance policy(ies), and there shall be no reduction in the Purchase Price. If the casualty loss does not involve a "substantial portion" of the Property, as defined herein, then Buyer shall be obligated to close the transaction contemplated herein according to the terms hereof, notwithstanding such casualty loss, and Seller shall, at Seller's election, either (i) repair the damages caused by such casualty loss prior to Closing, at Seller's expense or (ii) deliver to Buyer at the Closing any insurance proceeds actually received by Seller attributable to the Property from such casualty, or (iii) assign to Buyer all of Seller's right, title, and interest in any claim under any applicable insurance policies in respect of such casualty, together with an amount equal to the deductible(s), if any, applicable to such loss under the insurance policy(ies), and there shall be no reduction in the Purchase Price.

(c) Substantial Portion Defined. For the purposes of this Section 12.2, a taking of or casualty loss to a "substantial portion" of the Property shall be deemed to include any taking or casualty loss which is equal to or greater than (a) 20% of the value of the Property as established by the Purchase Price or (b) any taking of a portion of the Property which has a material adverse effect on Buyer's use of the remainder of the Property and shall not include any taking or casualty loss of less than such amount.

(d) Risk of Loss. Subject to the foregoing provisions of this Section 12.2, risk of loss until Closing shall otherwise be borne by Seller.

(e) Emergency Repairs. In the event the Property is damaged prior to Closing and such damage creates any emergency requiring immediate repair in order to prevent further damage to the Property, Seller shall be entitled to immediately commence such repairs, and the contractor and method of repair to be used shall be determined by Seller. Both parties agree to cooperate to accomplish such repair in a timely manner. Casualty proceeds, if any, paid as a result of damage requiring immediate repair shall be used in paying the cost of such repairs.

12.3 Notices. Any notice, approval, waiver, objection or other communication (for convenience, referred herein as a "notice") required or permitted to be given hereunder or given in regard to this Agreement by one party to the other shall be in writing and the same shall be given and be deemed to have been delivered, served and given (a) if delivered in person or (b) if mailed, (except where actual receipt is specified in this Agreement) three (3) days after deposit in the United States mail, postage prepaid, by certified mail, return receipt requested, addressed to the party at the address specified in Sections 1.11 and 1.12 above. Any party may change its address for notices by notice theretofore given in accordance with this Section 12.3 and shall be deemed effective only when actually received by the other party.

12.4 Entire Agreement. This Agreement and the exhibits attached hereto constitute the entire agreement between Seller and Buyer, and there are no other covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them concerning the Property other than those herein set forth. No subsequent alteration, amendment, change, deletion or addition to this Agreement shall be binding upon Seller or Buyer unless in writing and signed by both Seller and Buyer.

12.5 Headings. The headings, captions, numbering system, etc. are inserted only as a matter of convenience and may under no circumstances be considered in interpreting the provisions of this Agreement.

12.6 Binding Effect. All of the provisions of this Agreement are hereby made binding upon the personal representatives, heirs, successors, and assigns of both parties hereto. Where required for proper interpretation, words in the singular shall include the plural; the masculine gender shall include the neuter and the feminine, and vice versa. The terms "heirs, executors, administrators and assigns" shall include "successors, legal representatives and assigns."

12.7 Time of Essence. Time is of the essence in each and every provision of this Agreement.

12.8 Unenforceable or Inapplicable Provisions. If any provision hereof is for any reason unenforceable or inapplicable, the other provisions hereof will remain in full force and effect in the same manner as if such unenforceable or inapplicable provision had never been contained herein, unless such unenforceable provision materially affects any material covenants set forth herein.

12.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original, and all of which are identical.

12.10 Applicable Law. This Agreement shall be construed under and in accordance with the laws of the State of New Jersey without regard to principles of conflicts of laws.

12.11 Attorneys' Fees. In the event any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party or parties shall be entitled to recover and the court is specifically empowered to award reasonable attorneys' fees, sales and use taxes, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to

appellate, bankruptcy and post-judgment proceedings), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges billed by the attorney to the prevailing party.

12.12 Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed at the Closing, Seller and Buyer agree to perform such other acts, and to execute and deliver such other instruments and documents as either Seller or Buyer, or their respective counsel, may reasonably require in order to effect the intents and purposes of this Agreement.

12.13 Time Periods. Unless otherwise expressly provided herein, all periods for delivery or review and the like shall be determined on a "calendar" day basis. If any date for performance, approval, delivery or Closing falls on a Saturday, Sunday or legal holiday (state or federal) in the State of New Jersey, the time therefore shall be extended to the next business day.

12.14 Interpretation. The parties acknowledge that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or in any amendments or exhibits thereto.

12.15 Provisions to Survive Closing. Any and all of the provisions of this Agreement which require or provide for the performance or liability of either party hereto following the Closing, including but not limited to Sections and/or Articles that include language that expressly provides for the survival after Closing, shall survive the Closing and the delivery of the Deed to Buyer.

12.16 WAIVER OF JURY TRIAL. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT WHICH ANY OF THE UNDERSIGNED MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BETWEEN ANY OF THE PARTIES HERETO, INCLUDING, BUT NOT LIMITED TO, WITH RESPECT TO ANY AND ALL CAUSE OR CAUSES OF ACTION, DEFENSES, COUNTERCLAIMS, CROSSCLAIMS, THIRD PARTY CLAIMS, AND INTERVENOR'S CLAIMS, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, EQUITY OR OTHERWISE, REGARDLESS OF THE CAUSE OR CAUSES OF ACTION, DEFENSES OR COUNTERCLAIMS ALLEGED OR THE RELIEF SOUGHT BY ANY PARTY, AND REGARDLESS OF WHETHER SUCH CAUSES OF ACTION, DEFENSES OR COUNTERCLAIMS ARE BASED ON, OR ARISE OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, OUT OF ANY ALLEGED CONDUCT OR COURSE OF CONDUCT, DEALING OR COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR OTHERWISE. ANY PARTY HERETO MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS CONCLUSIVE EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MAY HAVE TO TRIAL BY JURY.

12.17 No Brokerage Commissions. Each party represents to the other that no real estate broker initiated, asserted, negotiated or consummated this Agreement as broker, agent, or otherwise

acting on behalf of either Seller or Buyer. Each party indemnifies the other with respect to any claim made by any person, firm or organization claiming to have been so employed by the indemnifying party.

12.18 Mortgage Financing Rights of Mortgagees.

a. **Limitation Upon Encumbrance of Property.** Prior to the completion of the Project, as certified by the Seller, neither the Buyer nor any successor-in-interest to the Property or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien whether by express agreement or operation of law or suffer any encumbrance or lien to be made on or attach to , except for the purposes of: (i) obtaining funds only to the extent necessary for paying the Purchase Price and/or (ii) obtaining such additional funds necessary for constructing the Project , provided that the amount of all mortgages shall not exceed the Purchase Price paid by the Buyer to the Seller, plus the cost of the improvements made to the Property (or if a single loan is obtained for the acquisition and the improvements, the sum of the Purchase Price and the combined cost of such improvements), contingencies, soft costs, and interest, and/or (iii) securing New Jersey Grow Assistance funding pursuant to New Jersey P.L. 2013, c. 161.(if applicable); and/or (iv) recording leases, or memoranda thereof, between the Buyer and tenants (if applicable). The Buyer (or successor-in-interest) shall notify the Seller in advance of any financing, secured by any mortgage or other similar lien instrument, it proposes to enter into with respect to the Property, or any part thereof, and in any event it shall promptly notify the Seller of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of the Buyer or otherwise. Within no more than ten (10) days following the Buyer's or its Mortgagee's written request, the Seller shall issue an "estoppel" letter confirming the status of this Agreement and including such related representations as the Buyer or such Mortgagee may reasonably request. The Seller shall cooperate with the Buyer in all reasonable respects in order to assist the Buyer to obtain a loan(s) for the acquisition of the Property and the completion of the Improvements.

b. **Mortgagee Not Obligated to Construct.** Notwithstanding any of the provisions of the Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by this Agreement including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof shall not be obligated by the provisions of this Agreement to construct or complete the improvements to the Project or to guarantee such construction or completion, nor shall any covenant or any other provision in the Deed be construed to so obligate such holder; provided, however, that any such holder may construct only those uses or improvements provided or permitted in this Agreement.

c. **Copy of Notice of Default to Mortgagee.** Whenever the Seller shall deliver any notice or demand to the Buyer with respect to any breach or default by the Buyer in its obligations or covenants under this Agreement, the Seller shall at the same time forward a copy of such notice or demand to each holder of any mortgage shown in the records of the Seller.

d. **Mortgagee's Option to Cure Defaults.** After any breach or default by the Buyer of its obligations under this Agreement, the holder of any mortgage permitted pursuant to this Section shall (insofar as the rights of the Seller are concerned) have the right within the time set forth in subsection e. hereof, at its option, to cure or remedy such breach or default (or such breach or

default to the extent that it relates to the part of the Property covered by its mortgage) and to add the cost thereof to the mortgage debt and the lien of its mortgage; provided that if the breach or default is with respect to construction of the improvements to be constructed on the Property, nothing contained herein or in any other provision of this Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the improvements (beyond the extent necessary to conserve or protect Improvements or construction already made) without first having expressly assumed the obligation to the Seller, by written agreement satisfactory to the Seller, to complete, in the manner provided for in this Agreement (which may be amended by the Seller and the holder), the improvements on the Property or the part thereof to which the lien or title of such holder relates. Any such holder who shall properly complete the improvements relating to the Property thereof shall be entitled, upon written request made to the Seller, to a Certificate of Completion and such Certificate shall, if so requested by such holder, mean and provide that any remedies or rights with respect to recapture of or reversion or revesting of title to the Property that the Seller shall have or be entitled to because of failure of the Buyer or any successor-in-interest to the Property, or any part thereof, to cure or remedy any default with respect to the construction of the improvements, or because of any other default in or breach of this Agreement by the Buyer or such successor.

e. Seller's Option to Pay Mortgage Debt or Purchase Property. In any case where, subsequent to default or breach by the Buyer (or Buyer's successor-in-interest) under this Agreement, after all applicable cure periods, the holder of any mortgage on the Property or part thereof:

(1) has, but does not exercise on written notice to the Seller within one hundred twenty (120) days of the date on which it takes title to the Property through foreclosure, the option to construct or complete the improvements relating to the Property or part thereof covered by its mortgage or to which it has obtained title (all time periods for commencement and completion of construction of improvements being reasonably extended to accommodate the exercise of such option and the completion of such improvements); or

(2) undertakes construction or completion of the improvements but does not complete such construction within the period as agreed upon by Seller and such holder (which period shall in any event be at least as long as the period prescribed for such construction or completion in this Agreement, plus a period equal to the time from the date the Seller gave notice of default to the Buyer, to the date on which the holder exercises the option to construct the said improvements), and such failure to complete construction has not been cured within ninety (90) days after written demand by the Seller to do so,

then the Seller may (and every mortgage instrument made prior to issuance of a Certificate of Completion of the applicable improvements with respect to the Property by the Buyer or any successor-in-interest shall so provide) (i) exercise its right, pursuant to Section 10.3 to have title revert to and revest in the Seller (subject to the holder's mortgage), (ii) pay to the holder the net amount of the mortgage debt (including all outstanding principal, accrued and unpaid interest, late charges, collection expenses and other sums as may be due and payable under the instruments evidencing and/or securing such loan) and obtain an assignment of the mortgage and the debt secured thereby, or, (iii) in the event ownership of the Property (or part thereof) has vested in such holder by way of foreclosure or action in lieu thereof, the Seller shall be entitled, at its option, to a conveyance to it of the Property or part thereof (as the case may be) upon payment to such holder of

an amount equal to the sum of: (a) the amount of the mortgage debt (including all outstanding principal, accrued and unpaid interest, late charges, collection expenses and other sums as may be due and payable under the instruments evidencing and/or securing such loan), (b) all reasonable expenses with respect to the foreclosure, (c) the expense, if any (exclusive of general overhead but including real estate taxes, assessments, insurance premiums, maintenance and repair costs and similar expenditures), incurred by such holder in and as a direct result of the subsequent ownership or management of the Property, (d) the costs of any improvements made by such holder, and (e) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence.

f. Seller's Option to Cure Mortgage Default. In the event of a default or breach prior to the completion of the improvements by the Buyer, or any successor-in-interest, in or of any of its obligations under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Property or part thereof, the Seller may at its option cure such default or breach, in which case the Seller shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by this Agreement, operation of law, or otherwise, to reimbursement from the Buyer or its successor-in-interest of all costs and expenses incurred by the Seller in curing such default or breach and to a lien upon the Property (or the part thereof to which the mortgage, encumbrance, or lien relates) for such reimbursement; provided that any such lien shall be subject always to the lien of (including any lien contemplated, because of advances yet to be made, by) any then existing mortgages on the Property authorized by this Agreement.

g. Mortgage and Holder. For the purpose of this Agreement, the term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Property, or any part thereof, as security for a loan. The term "holder" in reference to a mortgage shall include any insurer or guarantor of any obligation or condition secured by such mortgage or deed of trust, including, but not limited to, the Federal Housing Commissioner, the Administrator of Veterans Affairs, and any successor in office of either such official.

h. Limitations of this Section. The agreements and covenants set forth this Section 12.18 shall remain in effect until the issuance of a Certificate of Completion for the Property at which time such agreements and covenants shall cease and terminate).

12.19. Certificate of Completion.

(a) Within thirty (30) days after satisfaction of all of Buyer's covenants set forth in Section 11.1 of this Agreement and so long as Buyer is not in default of any its obligations under this Agreement, the Seller will furnish the Buyer with a certificate certifying that such covenants have been satisfied ("Certificate of Completion"). Such certification by the Seller shall be (and it shall be so provided in the certification) a conclusive determination of satisfaction and termination of the agreements and covenants in this Agreement and in the Deed with respect to the obligations of the Buyer and its successors and assigns to satisfy the covenants in Section 11.1 of this Agreement.

(b) The Certificate of Completion provided pursuant to this section shall be in such form as will enable it to be recorded in the proper office for the recording of deeds and other instruments pertaining to the Property, including the Deed. The Certificate of Completion shall be recorded by the Buyer at its cost promptly after the Buyer's receipt of the certificate. If the Seller shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this section, then the

the Seller shall, within thirty (30) days after written request by the Buyer for issuance of a Certificate of Completion, provide the Buyer with a written statement, indicating in adequate detail in what respect the Buyer has failed to satisfy the covenants set forth in Section 11.1 in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Seller for the Buyer to take or perform in order to obtain a Certificate of Completion.

[SIGNATURE PAGE TO FOLLOW]

SELLER:

The City of Camden Redevelopment Agency

Date Signed by Seller

By: _____
Name: _____
Title: _____

BUYER:

Date Signed by Buyer

By: _____
Name: _____
Title: _____

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY
[TO BE PROVIDED]

EXHIBIT B
INSURANCE REQUIREMENTS

The Buyer shall procure and maintain or cause General Contractor and other members of the Project Team to procure and maintain the following insurance and to comply with the following insurance requirements:

General Conditions about insurance appear immediately below, followed by policy amounts at the end of this Schedule

1.1 The General Contractor shall purchase and maintain, during the duration of the Project, such insurance as will protect it, the Seller, and Buyer from the types of claims which may arise out of or result from the General Contractor's operations under the Construction Contract, whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts or omissions any of them may be liable. **The inclusions, coverage and limits set forth herein are minimum inclusions, coverage, and limits. Nothing contained herein will be construed as limiting the type, quality, or quantity of insurance coverage that the General Contractor should or may maintain. The Buyer is responsible for determining appropriate inclusions, coverage, and limits which may be in excess of the minimum requirements set forth herein.**

1.2 For the insurance required in this Article, a copy of the (i) certificate(s) of insurance and (ii) endorsements, acceptable to the Seller, shall be submitted to the Seller prior to commencement of the Work and a copy of the insurance policies shall promptly be made available to the Seller upon request. Where applicable, such documents shall identify the Seller and Buyer as mortgagee, the Architect and the Engineer as an additional insured. The General Contractor's insurance shall provide at least the following inclusions, coverage, and policy limits as is identified in this Article.

1.3 Workers Compensation Insurance. The General Contractor shall obtain and maintain throughout the duration of the Project workers compensation insurance in accordance with applicable Laws, including coverage for sole proprietorships and officers of corporations who will be involved in the Project, if any.

1.4 Employers Liability Insurance. The General Contractor shall obtain and maintain throughout the duration of the Project employers liability insurance with policy limits of not less than the following: **see the Project Conditions below.**

1.5 Business Automobile Liability Insurance. The General Contractor shall obtain and maintain throughout the duration of the Project business automobile liability coverage using ISO CA 00 01 with coverage for "Any Auto" and with minimum limits of not less than the following: **see the Project Conditions below.** The policy limits may be satisfied by a combination of primary and umbrella or excess liability policies; however, any umbrella or excess liability policies must provide at least the same scope of coverage as is provided by the business automobile liability insurance. If hazardous materials are being transported then the following minimum enhancements are required: Pollution Liability - Broadened Pollution for Covered Autos endorsement using ISO form CA 99 48 (Pollution Liability - Broadened Coverage for Covered Autos) or its equivalent; and the Motor Carrier Act endorsement using ISO form MCS 90.

1.6 Commercial General Liability Insurance. The General Contractor shall obtain and maintain throughout the duration of the Project commercial general liability insurance on an "occurrence" basis **ISO CG 00 01** edition **12/04** or **12/07** or an equivalent form for the commercial general liability insurance with at least the following coverage/enhancements:

- (1) Coverage for Explosion, Collapse, and Underground property damage (X, C, U) and elevators;
- (2) Coverage for Independent Contractors;
- (3) Coverage for Discontinued Operations;
- (4) Broad Form Contractual Liability for liability assumed under all contracts relative to the Project, and shall not have any additional restrictions or modifications to the definition of "Insured Contract" in **ISO CG 00 01** edition **12/04** or **12/07**, also, if any Work will be performed within 50 feet of a railroad, the contractual liability exclusion with respect to such Work shall be removed by adding the ISO endorsement **CG 24 17**, **CG 24 27** or an equivalent endorsement;
- (5) ISO Additional Insured endorsement **CG 20 10 10 01** (Add. Insured - Owners, Lessees, Contractors (B)) with ISO Additional Insured endorsement **CG 20 37 10 01** (Add. Insured - Owners, Lessees, Contractors - Completed Operations) or endorsements that provide substantially equivalent coverages;
- (6) ISO endorsement **CG 04 35** (Employee Benefits Liability Coverage) or an endorsement that provides substantially equivalent coverage;
- (7) Pollution Exclusion shall not have any additional restrictions or modifications to the standard **ISO CG 00 01** editions **12/04** or **12/07**;
- (8) Severability of Interest. The inclusion of any person or entity as an additional insured shall not affect any right which such person or entity would have as a claimant if not so included;
- (9) The Commercial General Liability insurance policy shall be endorsed to have the General Aggregate Limit and the Products - Completed Operations Aggregate Limit apply to the location of this Project; and
- (10) Products - Completed Operations coverage shall be maintained for a minimum period of five (5) years after Substantial Completion of the Work, an additional certificate evidencing continuation of the first year of such coverage shall be submitted with the final Request for Funding.

Without limitation of the foregoing, the Contractor's Commercial General Liability policy shall not include ISO endorsement **2294** or any other endorsement that serves to exclude coverage under products-completed operations for damage caused by the work of the insured's Subcontractor. The policy limits may be satisfied by a combination of primary and umbrella or excess liability policies; however, any umbrella or excess liability policies must provide at least the same scope of coverage as is provided by the commercial general liability insurance. The policy or policies shall provide per occurrence and combined single limits of not less than the following: **see the Project Conditions below.**

1.7 Umbrella Liability. The General Contractor shall obtain and maintain throughout the duration of the Project insurance that shall be excess of commercial general liability, business automobile liability, and employers' liability. Such insurance shall be written on an "occurrence" basis on a form acceptable to the Seller and Buyer and provide a Per Project Aggregate. Such insurance shall include a drop down feature in the event any underlying limits are exhausted. Such insurance shall cover all operations of the General Contractor and shall minimally provide the same coverages, additional insureds, and terms and conditions included in the primary policies with limits of not less than the following: **see the Project Conditions below.**

1.8 Owner's And Contractor's Protective Policy. The General Contractor shall obtain and maintain throughout the duration of the Project a separate prepaid owner's and contractor's protective policy. The policy shall show as the named insured the Seller and Buyer and shall be limited in its protection to their contingent liability for injuries or damages, which may arise from the General Contractor's operations. The policy shall be issued for a term of at least the period of construction plus **one (1) year** and a receipted invoice for its entire premium shall be delivered to the Seller with the other close out documentation. The owner's and contractor's protective policy is neither intended to, nor should it attempt to, insure the Architect's or Engineer's liability for professional errors or omissions. The policy shall provide limits of not less than the following: **see the Project Conditions below.**

1.9 Contractors Pollution Liability Insurance. The General Contractor shall obtain and maintain throughout the duration of the Project separate prepaid contractor's pollution liability insurance covering losses caused by pollution conditions that arise from the operations of the General Contractor for the Project. Such insurance shall apply to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically injured; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. If such insurance is written on a claims-made basis, then continuous coverage or an extended discovery period will be exercised for a period of at least **three (3) years** after final completion and a receipted invoice for its entire first year's premium shall be delivered to the Seller with the other close out documentation. The policy shall provide limits of not less than the following: **see the Project Conditions below.**

1.10 Contractors Professional Liability. The General Contractor shall obtain and maintain throughout the duration of the Project contractors professional liability insurance. If such insurance is written on a claims-made basis, then continuous coverage or an extended discovery period will be exercised for a period of at least **three (3) years** after final completion and a receipted invoice for its entire first year's premium shall be delivered to the Seller with the other close out documentation. The policy shall provide limits of not less than the following: **see the Project Conditions below.**

1.11 Property Insurance. The General Contractor shall obtain and maintain throughout the duration of the Project property insurance with reasonably appropriate policy limits to protect against injury, destruction, and loss of use of the General Contractor's tools and equipment, including but not limited to construction trailers and their contents; temporary scaffolding, whether owned, leased, rented, borrowed or used at the Seller Property. The General Contractor agrees that the Seller and Buyer will not be responsible for any loss or damage to its tools and equipment.

1.12 Builders Risk Insurance. The General Contractor shall obtain and maintain throughout the duration of the Project builders risk insurance coverage which shall:

- (1) Be under a completed value form providing All Risk Coverage on a replacement cost basis;
- (2) Provide coverage at least as broad as that provided by **ISO Special Cause of Loss Form CP 10 30**;
- (3) Include the Seller as an insured and as a loss payee;
- (4) Provide coverage for the cost of removing debris, including demolition as may be legally necessary by the operation of applicable Laws;
- (5) Contain an endorsement to provide coverage for collapse, including collapse caused by design error or omission;
- (6) Contain an endorsement stating that "permission is granted to complete and occupy" or an endorsement that provides substantially equivalent coverage;
- (7) Contain an endorsement **as** needed to provide business interruption coverage, covering business income and extra expense, with an agreed amount endorsement of: **see the Project Conditions below**;
- (8) If any off-site storage location listed with the insurer is used, the builders risk insurance shall cover, for full insurable value, all materials and equipment which have been delivered to and are stored at any such off-site storage location and which are intended for use with respect to the Project; and
- (9) Contain an endorsement stating that the insurance company's "rights of subrogation against the Seller, Buyer, and General Contractor, including its Subcontractors and suppliers of any tier, and the Architect and Engineer and their respective sub-consultants of any tier, have been waived even if their negligence causes a covered loss, and regardless of the extent of their insurable interest in the covered property" or an endorsement that provides substantially equivalent coverage.

Upon the occurrence of any loss or damage prior to the acceptance of the improvements by the Seller, the General Contractor shall at the Seller's option, replace and redo the injured Work as provided in the Construction Contract with no additional compensation, except as is payable from the money received under the Builders Risk insurance policy. If required in writing by any party in interest, the Seller as trustee shall, upon the occurrence of a loss, give bond for proper performance of its duties. It shall deposit any money received from insurance in an account separate from all its other funds and shall distribute it in accordance with such agreement as the parties in interest may reach. The trustee shall have power to adjust and settle any loss with the insurers, unless the General Contractor shall object in writing within five (5) business days of the occurrence of the loss.

1.13 Each of the foregoing policies shall:

- (1) Be provided by an insurance company or companies that (i) are admitted to conduct business in the State of New Jersey, (ii) possess a current A.M. Best rating of at least A, or as otherwise approved by the Seller in writing, and (iii) are acceptable to the Seller;
- (2) Contain a requirement and endorsement, as applicable, that any cancellation or any material change adversely affecting the Seller's interest shall not be effective (i) for such period as the laws of the State of New Jersey prescribe, or (ii) until 30 days (except 10 days for nonpayment of premium) after the insurer or the General Contractor gives written notice to the Seller, whichever period is longer. If any such notice is given, the Seller shall have the right to require that a substitute policy be obtained prior to such cancellation with appropriate evidence thereof at the discretion of the Seller;
- (3) Provide primary coverage to the insurance and/or self-insurance maintained by the Seller and that any other insurance or self-insurance that is maintained by the Seller is excess and not contributing insurance with the insurance required herein;
- (4) Without limitation of the General Contractor's indemnification obligations under the Construction Contract, the General Contractor and any Subcontractors and their respective insurers shall waive any and all rights against each of the Seller and Buyer for the recovery of damages to the extent that these damages are covered by the insurance policies required herein and/or maintained by the General Contractor or any Subcontractor. The foregoing waiver, however, shall not be operative if prohibited by statute or applicable Laws; and
- (5) Except for the workers compensation insurance, each of the foregoing policies shall be endorsed to name the Seller and the Buyer as an additional insured. Such policies shall be endorsed to name any other parties the Seller may designate from time to time.

1.14 Any exclusions or conditions which deviate from standard insurance language or forms must be indicated on the Acord Certificate of Insurance. The General Contractor's Acord certificates will evidence all self-insured retention's, deductibles, and or self-insurance greater than \$25,000 for any of the aforesaid coverages. The General Contractor shall be responsible for the payment of premiums and any deductibles or self-insured retention in connection with the insurance coverages required herein, at no additional cost to the Seller or the Buyer.

1.15 If requested by the Seller or Designated Buyer in writing, the General Contractor shall obtain additional insurance, including additional policies, increased limits or coverage. The cost of such additional insurance shall be charged to the Project as a Change Order without markup.

1.16 The General Contractor's failure to provide any proofs of insurance and the Seller's or Buyer's failure to request such documentation shall not be construed as a waiver of the requirements to provide such insurance. The Seller's or Buyer's acceptance of submitted insurance documents does not constitute approval of coverage that is not in compliance with the Construction Contract. The Seller may require the Buyer to withhold payments from the General Contractor until properly executed Acord Certificates of Insurance, with copies of the required endorsements, are received by the Seller. The Seller may require that the Buyer terminate the Construction Contract for

cause for the General Contractor's failure to provide the required proofs of insurance. The General Contractor expressly acknowledges that while the Seller and the Buyer retain the right to review the insurance provided by the General Contractor, the Seller and the Buyer are not obligated to perform such review. In addition, the Seller's or Buyer's exercise of such right is for the Seller's and Buyer's benefit alone and shall confer no rights to the General Contractor or to any third party. The Seller's or Buyer's failure to object to any insurance policies provided to the Seller or Buyer shall not be construed as acceptance or affirmation of the adequacy or applicability thereof. In addition, the General Contractor's compliance with the insurance requirements set forth herein will in no way relieve or limit the General Contractor's obligations or liability arising out of the Work performed under the Construction Contract or related activities (including liability under indemnification provisions or under any other provisions of the Construction Contract or applicable Laws). The required minimum limits set forth herein will not be construed as a limitation of the Seller's and the Buyer's rights under any policy with higher limits, and no policy maintained by the General Contractor will be endorsed to include such a limitation.

1.17 The General Contractor shall cooperate with the Seller and Buyer and their respective insurance carriers with respect to any and all claims arising as a result of the General Contractor's Work. The General Contractor shall notify the Seller and Buyer in writing as soon as possible after it receives notice of any loss, damage, or injury. The General Contractor shall take no action which might operate to bar the Seller and the Buyer from obtaining any protection afforded by any of the General Contractor's insurance policies or which might prejudice the Seller and Buyer in their defense to a claim based on such loss, damage, or injury.

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The above General Conditions do not identify minimum policy limits for the minimum required insurance policies. Such limits are as follows:

Workers compensation insurance in accordance with applicable Laws.

Employers liability insurance with limits of not less than the following:

\$ 1,000,000	Bodily Injury by Accident, for each employee
\$1,000,000	Bodily Injury by Disease, each employee
\$1,000,000	Bodily Injury by Disease, policy limit

Automobile liability insurance with limits of not less than the following: **\$2,000,000** each accident limit.

Commercial general liability insurance with limits (including the limits provided by the Umbrella Liability) of not less than the following:

\$25,000,000	Each Occurrence Limit
\$25,000,000	Personal and Advertising Injury Limit
\$25,000,000	Fire Damage Liability (any one fire)
\$25,000,000	General Aggregate Limit (Other than Products - Completed Operations)
\$25,000,000	Products - Completed Operations

Owner's and contractor's protective policy with limits of not less than the following: \$2,000,000 per occurrence and \$2,000,000 in the aggregate.

Contractors pollution liability insurance with limits of not less than the following: \$5,000,000 per occurrence and \$5,000,000 in the aggregate.

Contractors professional liability insurance with limits of not less than the following: \$5,000,000 per claim and \$5,000,000 in the aggregate.

Builders risk insurance under a completed value form providing All Risk Coverage on a replacement cost basis and as more fully defined in Section 1.1 of the General Conditions. The builders risk insurance shall be endorsed as needed to provide business interruption coverage, covering business income and extra expense, with an agreed amount endorsement of: \$15,000,000.