

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made as of March 20, 2025, by and between 111 WEST CONGRESS, L.L.C., a West Virginia limited liability company (“**Seller**”) and COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA, a duly organized county under the applicable laws of the State of West Virginia (“**Buyer**”).

RECITALS:

1. Seller owns certain improved real estate and related personal property in Charles Town, West Virginia, as more particularly described in this Agreement.
2. Seller desires to sell and Buyer desires to purchase the aforementioned property from Seller, subject to and in accordance with the terms and provisions of this Agreement.

AGREEMENT:

In consideration of the mutual agreements and undertakings this Agreement describes, Seller and Buyer acknowledge and agree as follows:

1. **Sale of Subject Property.** Seller will sell to Buyer, and Buyer will purchase from Seller, all of the following property (collectively, “**Subject Property**”):

- 1.1 **Real Property.** Fee simple interest in and to that certain parcel of real estate that is commonly known as 330 North George Street, Charles Town, West Virginia and is legally described in **Exhibit A** attached hereto and made a part hereof (“**Land**”), together with the following;

- 1.1.1 **Building and Improvements.** All building structures, improvements and fixtures located on the Land (“**Improvements**”), which Improvements include, without limitation, an office building that contains approximately 45,454 square feet (“**Building**”).

- 1.1.2 **Appurtenant Rights.** all rights, privileges, servitudes, appurtenances thereunto and easements belonging or appertaining (collectively, “**Appurtenant Rights**” and collectively with the Land and the Improvements, the “**Real Property**”).

- 1.2 **Personal Property.** All of the equipment and personal property owned by Seller located at or installed on the Real Property and used solely in the operation of the Real Property, (but specifically excluding equipment or personal property described on **Exhibit D** hereto) to the extent the same are assignable (collectively, “**Personal Property**”).

- 1.3 **Permits.** Seller's interest in and to the licenses, permits, and certificates of occupancy associated with the ownership and operation of the Real Property, to the extent the same are assignable without cost to Seller (“**Permits**”).

2. **Closing.**

2.1 **Closing.** The closing of the purchase and sale of the Subject Property (“**Closing**”) will occur on July 7, 2025 or on such other earlier or later date as Buyer and Seller may agree in writing (the “**Closing Date**”) unless this Agreement is earlier terminated as provided herein.

3. **Purchase Price.** Buyer will pay to Seller, as consideration for the purchase of the Subject Property, the sum (“**Purchase Price**”) of SIX MILLION NINE HUNDRED FIFTY-TWO THOUSAND AND NO/100 DOLLARS (\$6,952,000.00) as the same may be adjusted as provided below. The Purchase Price will be payable as follows:

3.1 **Earnest Money.** Within five (5) Business Days (defined below) after the date of execution and delivery of this Agreement by both Buyer and Seller (“**Effective Date**”), Buyer will deposit in the form of cash (by wire transfer) the sum of One Hundred Forty Thousand and No/100 Dollars (\$140,000.00) (the “**Earnest Money**”) with Conrad Luttrell, LLP (“**Escrow Agent**”).

3.2 **Purchase Price.** At the Closing, the Purchase Price, plus or minus prorations and other adjustments, if any, will be paid by Buyer into the Escrow Agent’s escrow account by wire transfer of immediately available funds and be paid to Seller upon the Closing.

4. **Escrow Provisions Regarding Earnest Money.**

4.1 Escrow Agent will hold the Earnest Money and make delivery of the Earnest Money solely to the party entitled thereto under the terms of this Agreement. Escrow Agent will deposit the Earnest Money in a segregated client funds account at an FDIC insured financial institution.

4.2 Escrow Agent will hold the Earnest Money until the earlier occurrence of (a) the Closing Date, at which time the Earnest Money will be applied against the Purchase Price and payment of expenses hereunder, or (b) the date on which Escrow Agent will be authorized to disburse the Earnest Money as set forth in Section 4.3 below, or (c) Buyer’s termination of the Agreement on or before the Contingency Date as provided in Section 5.7, at which time the Earnest Money will be disbursed in accordance with the terms thereof.

4.3 If the Earnest Money has not been released earlier in accordance with Section 4.2 above, and either party makes a written demand upon Escrow Agent for payment of the Earnest Money or any portion thereof, Escrow Agent will give written notice to the other party of such demand. Escrow Agent will continue to hold such amount until otherwise directed by written instructions from both parties to this Agreement or a final judgment or arbitrator’s decision. If both parties cannot agree on the disposition of the Earnest Money after such written demand, Escrow Agent will have the right at any time to deposit or interplead the Earnest Money with a court of competent jurisdiction in the state in which the Real Property is located. Escrow Agent will give written notice of such deposit to Seller and Buyer. Upon such deposit, Escrow Agent will be relieved and discharged of all further obligations and responsibilities hereunder.

4.4 The parties will deliver to Escrow Agent an executed copy of this Agreement, which will constitute the sole instructions to Escrow Agent. Escrow Agent will execute the signature page for Escrow Agent attached hereto with respect to the provisions of this Section; provided, however, that (a) Escrow Agent’s signature hereon will not be a prerequisite to the binding nature of this Agreement on Buyer and Seller, and this Agreement will become fully effective upon execution by Buyer and Seller, and (b) the signature of Escrow Agent will not be necessary to amend any provision of this Agreement other than this Section. The provisions of this Section will survive termination of this Agreement.

5. **Inspections; Due Diligence; Buyer Termination Rights.**

5.1 **Title and Title Documents.** On or before May 6, 2025, Buyer will obtain (and deliver a copy thereof to Seller) a standard form commitment for title insurance (“**Commitment**”) for the Real Property in an amount equal to the Purchase Price from a title insurance company selected by Buyer in its sole discretion (the “**Title Company**”) for an owner’s title insurance policy (“**Title Policy**”) on the most recent standard American Land Title Association form, together with copies of all recorded instruments identified as exceptions therein (together with the Commitment, referred to herein as the “**Title Documents**”).

5.2 **Survey.** On or before May 6, 2025, Buyer may obtain, at Buyer’s sole cost and expense, a current ALTA survey of the Real Property (the “**Survey**”) made by a reputable registered surveyor of its choosing. A counterpart of the Survey will be delivered by Buyer to Seller prior to the Title Notice Date (defined below).

5.3 **Title Objection and Response Process.** If the Survey discloses survey defects or if the Commitment shows exceptions or other obligations that are not acceptable to Buyer (collectively, the “**Unpermitted Encumbrances**”), then Buyer will notify Seller, in writing, on or before April 15, 2025 (the “**Title Notice Date**”), specifying the Unpermitted Encumbrances. Any encumbrances shown on the Commitment or the Survey to which Buyer has not objected on or prior to the Title Notice Date will be deemed “**Permitted Encumbrances**” from and after the Title Notice Date. Seller will respond to Buyer, in writing within five (5) Business Days after delivery of Buyer’s title objection notice stating which, if any, of the Unpermitted Encumbrances described therein that Seller intends to cure on or before the Closing and the manner in which Seller intends to effect any such cure. Seller’s failure to timely deliver such a response will be deemed to be Seller’s election not to cure any such Unpermitted Encumbrances. Notwithstanding anything herein to the contrary, (a) all mortgages, deeds of trust, deeds to secure debt, assignments of leases and rents, security agreements, financing statements, other financing-related liens and tax liens on the Subject Property (other than the lien of real property taxes not yet due and payable) created by the acts of Seller, will conclusively be deemed to be Unpermitted Encumbrances and will be removed (or insured over in a manner reasonably acceptable to Buyer) at or prior to the Closing (such obligation of Seller to cause the removal or insuring over of such items is herein called “**Seller’s Mandatory Cure Obligation**”), and (b) except for Seller’s Mandatory Cure Obligation and to the extent otherwise agreed by Seller in writing, Seller will have no obligation to correct, cure or remove any Unpermitted Encumbrances. Buyer will determine, on or prior to the Contingency Date, whether Buyer is satisfied with the status of title. If Buyer is not satisfied with the status of title in Buyer’s sole discretion, Buyer may terminate this Agreement by written notice to Seller delivered on or before the Contingency Date. If Seller has not expressly agreed in writing that Seller will remove (or cause the Title Company to endorse over in a manner reasonably acceptable to Buyer) any encumbrances to which Buyer has objected, as provided above, and Buyer has not otherwise terminated this Agreement as permitted above in this Section, such encumbrances (other than Seller’s Mandatory Cure Obligation and other Unpermitted Encumbrances Seller has agreed, in writing, to cause to be removed or insured over) will be deemed “**Permitted Encumbrances**” (and will no longer be Unpermitted Encumbrances) from and after the Contingency Date. In the event of any termination of this Agreement by Buyer under this Section 5.3, all of the Earnest Money will be returned to Buyer.

5.4 **Due Diligence Materials.** Within five (5) Business Days after the Effective Date Seller will provide Buyer with copies of the due diligence materials listed on Schedule 1 attached hereto (“**Due Diligence Materials**”). Seller will have no obligation to deliver additional materials beyond the items listed on Schedule 1. Notwithstanding anything in this Section 5.4 to the contrary,

Seller will provide Buyer all of the reports and inspections that, to Seller's knowledge (defined below) are within Seller's possession and control regarding the existence of Hazardous Materials at the Subject Property. In addition, if Seller has knowledge of other reports and inspections regarding the existence of Hazardous Materials at the Subject Property that are not within Seller's possession or control, Seller will request that the possessor of those reports and inspections release same to Buyer and will provide Buyer with copies of any such requests.

5.5 **Inspections.** Upon not less than two (2) Business Days' prior written notice to Seller (but subject to this Section 5.5), beginning on the Effective Date and, if this Agreement is not otherwise terminated by Buyer, through the Closing Date, Seller will allow Buyer and its employees, agents, contractors and representatives access, during normal business hours, to access the Real Property, without charge, for the purpose of making such inspections, tests, studies and investigations with respect to the Subject Property as Buyer reasonably deems necessary in connection with Buyer's purchase of the Subject Property (collectively, "**Inspections**"); provided, however, that Buyer will not be entitled to conduct any invasive engineering, soils, environmental or other Inspections with respect to the Subject Property (collectively, "**Invasive Tests**") without Seller's prior written consent, which will not be unreasonably withheld, conditioned or delayed. Seller agrees to respond to Buyer's request for consent to an Invasive Test within five (5) Business Days after delivery to Seller of a written request for such consent accompanied by a reasonably detailed scope of work describing, in part, the number and location of any such tests and the substances being tested for. Seller's failure to timely respond to such a request as provided above will not be a default by Seller under this Agreement but will be deemed to be Seller's approval of the applicable request. Buyer will keep the results of all Inspections confidential, except as the same may be disclosed to Seller or Seller's representatives hereunder or to Buyer's employees, agents, attorneys, accountants, architects and engineers and potential lenders who have a need to know such information (collectively, "**Recipients**") or as disclosure of the same may be mandated by applicable law (but Buyer will give prompt written notice to Seller of any such legally-mandated disclosure). Buyer will cause the Recipients to also keep that information confidential in accordance with the requirements of this Agreement. Buyer will be solely responsible for, and will promptly pay, all costs and expenses of the Inspections, and will indemnify, defend and hold harmless Seller, and its officers, directors, shareholders, members, managers, employees, contractors and agents, and the Subject Property, from and against any and all loss, cost, damage, lien, liability, settlement, cause of action or threat thereof, or expense (including, without limitation, reasonable attorneys' fees and costs) arising from or relating to the following matters pertaining to the activities of Buyer or Buyer's employees, agents, contractors and representatives at the Subject Property under this Section 5.5 (a) third party claims for death, personal injury or property damage, (b) mechanics' or materialmen's liens, (c) violations of applicable law, and (d) Buyer's failure to restore damage to the Subject Property as required under this Section 5.5. Prior to any entry onto the Subject Property, Buyer will provide to Seller a certificate of insurance showing that Buyer (or the contractor or consultant entering the Subject Property on behalf of Buyer) maintains in full force and effect, a policy of commercial general liability insurance (1) covering its activities (including, without limitation, the activities of its employees, independent contractors and agents) in connection with the Inspections; (2) in an amount of not less than Two Million and 00/100ths Dollars (\$2,000,000.00) combined single limit per occurrence from a company of recognized responsibility, authorized to do business in West Virginia with a financial rating of at least a Class A- status, as rated in the most recent edition of Best's Insurance Reports; and (3) naming Seller as an additional insured. Such insurance will insure against any and all claims for bodily injury, including, without limitation, death resulting therefrom, and damage to or destruction of property arising from the Inspections performed by Buyer, by any of its contractors or subcontractors, or by any other person so authorized by Buyer. Buyer will promptly repair and restore any damage to the Subject Property attributable to the conduct of the Inspections, and will promptly return the

Subject Property to substantially the same condition as existed prior to the conduct of the Inspections. All Inspections will be conducted in such a manner so as to minimize interference with the operation of the Subject Property and Seller's activities thereon. At Seller's sole option, any such Inspections will be performed in the presence of a representative of Seller. Should Seller require the presence of a representative at any Inspections, Seller agrees to make the representative available upon three (3) Business Day's advance written notice or waive the requirement of a representative at the Inspection so as not to materially delay Buyer. Upon Seller's written request, Buyer will promptly deliver to Seller copies of the written results of all Inspections. Anything in this Agreement to the contrary notwithstanding, (a) the confidentiality and restoration obligations of Buyer under this Section 5.5 will survive any termination of this Agreement and (b) the indemnification obligations of Buyer under this Section 5.5 will survive Closing and any termination of this Agreement for a period of two (2) years; provided; however, if a claim for indemnification is delivered to Buyer on behalf of Seller during that two (2) year period, then Buyer's indemnification obligations under this Section 5.5 will continue until that claim has been resolved and Buyer's obligations with respect thereto fulfilled.

5.6 **Contingency Date.** The Contingency Date will be 5:00 p.m., Eastern Standard Time, on May 6, 2025 (the "**Contingency Date**").

5.7 **Buyer's Right to Terminate Before Contingency Date.** Anything in this Agreement to the contrary notwithstanding, Buyer may, in its sole and absolute discretion, and for any reason or reasons or for no reason whatsoever, terminate this Agreement by delivering written notice of such termination to Seller at any time on or before the Contingency Date. In the event of any termination under this Section 5.7 on or before the Contingency Date, all of the Earnest Money and all of the interest accrued thereon will be promptly paid to Buyer. Upon any such termination, neither party will have any further rights or obligations under this Agreement (other than Buyer's obligations under Sections 4.4, 5.5, 7.4, 15, 16, 25, 26, 28, 33, 34, 35, 36 and 37 that specifically survive any such termination and Seller's obligations under Sections 4.4, 7.4, 15, 16, 25, 26, 28, 33, 35 and 37 that specifically survive any such termination (collectively, "**Surviving Obligations**"), which obligations will survive any such termination). If Seller does not timely receive written notice of termination from Buyer under this Section 5.7, Buyer will be deemed to have waived its right to terminate this Agreement under this Section 5.7.

6. **Covenants by Seller.** Seller covenants and agrees with Buyer that from the Effective Date until the Closing Date, Seller will conduct its business involving the Subject Property as follows, and during such period will (except as specifically provided to the contrary herein):

6.1 **Conveyances; Easements.** Refrain from conveying the Subject Property or creating on the Real Property, as applicable, any easements affecting the Real Property, without Buyer's prior written consent, which consent will not be unreasonably withheld conditioned or delayed.

6.2 **Contracts.** Refrain from entering into or amending any contracts or other agreements that would bind the Subject Property after Closing without the prior written consent of Buyer, which consent will not be unreasonably withheld, conditioned or delayed.

6.3 **Operation of Subject Property.** Operate, maintain, repair and insure the Subject Property in a manner consistent with the existing operation, maintenance, repair and insurance of the Subject Property.

7. **Representations and Warranties.**

7.1 **By Seller.** For purposes of this Section 5.1, “Seller’s Knowledge” or words of similar import means the actual knowledge of Richard Sunderland, as Executive Vice President, Chief Financial Officer of Seller, Thomas Beckett, as Vice President and General Counsel of Seller or Christopher Lowe, as Vice President of Real Estate of Seller, without any duty of inquiry or investigation. Seller represents and warrants to buyer that the foregoing individuals (together with their respective successors) are the employees of Seller with the primary responsibility for making decisions regarding the Subject Property. Seller represents and warrants to Buyer that:

7.1.1 **Authority.** (a) Seller is a limited liability company duly organized and validly existing and in good standing under the laws of the State of West Virginia; (b) Seller has the requisite power and authority to execute this Agreement, Seller’s Closing Documents (as described in Section 9.1) and the Joint Closing Documents (as described in Section 9.3) (collectively, “**Seller Documents**”) and to perform its obligations under the Seller Documents; (c) the person executing the Seller Documents on Seller’s behalf has the requisite power and authority to do so; and (d) Seller’s execution and delivery of, and performance of its obligations under the Seller Documents will not conflict with or violate any of Seller’s organizational documents, any agreement to which Seller is a party or any judgment, order or decree of any court or arbiter to which Seller is a party.

7.1.2 **Hazardous Materials.**

7.1.2.1 **Definitions.** For purposes of this Agreement, (a) “**Hazardous Materials**” means any of the following, in any amount: (i) any petroleum or petroleum product, asbestos in any form, urea formaldehyde and polychlorinated biphenyls; (ii) any radioactive substance; (iii) any toxic, infectious, reactive, corrosive, ignitable or flammable chemical or chemical compound; and (iv) any chemical, material or substance, whether solid, liquid or gas, defined as or included in the definitions of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” or words of similar import in any existing federal, state or local statute, law, ordinance or regulation, as the same may be interpreted by government offices and agencies, and (b) “**Hazardous Materials Laws**” means any existing federal, state or local statutes, laws, ordinances, or regulations that control, classify, regulate, list or define Hazardous Materials or require remediation of Hazardous Materials contamination.

7.1.2.2 **Representations and Warranties.** To Seller’s Knowledge, except as may have been disclosed in writing to Buyer and except as shown in the environmental report(s) listed on Schedule 1 attached hereto (the “**Reports**”), (a) Seller has not used or permitted the Real Property to be used, and the Real Property has not been, during Seller’s period of ownership, used for generating, transporting, treating, storing, manufacturing, emitting or disposing any reportable quantities of Hazardous Materials, except as permitted by Hazardous Materials Laws; (b) Seller has not received written notice during its period of ownership of any investigation of or report from or by any governmental authority, respecting the Real Property with respect to any actual or alleged violations of Hazardous Materials Laws; (c) during Seller’s period of ownership, there have not been any actions, suits, or proceedings or settlements related to the presence of Hazardous Materials on the Real Property; and (d) to Seller’s Knowledge except as shown on the Reports, the Real Property has not been used for generating, transporting, treating, storing,

manufacturing, emitting or disposing any reportable quantities of Hazardous Materials in violation of Hazardous Materials Laws.

Notwithstanding anything in this Section 7.1.2 to the contrary, Seller has advised Buyer that to Seller's Knowledge and as more particularly described in the Due Diligence Documents, prior to Seller's period of ownership, the Real Property may have been subject to releases of Hazardous Materials.

7.1.3 Proceedings. To Seller's Knowledge, there is no action, litigation, condemnation or any legal proceeding of any kind pending or threatened, against the Real Property, or Seller in connection with the Real Property that would affect the value of the Real Property or the Seller's ability to perform its obligations under this Agreement.

7.1.4 Condemnation. Seller has not received any written notice of any pending, and to Seller's knowledge there are no contemplated, condemnation proceedings affecting all or any part of the Real Property

7.1.5 FIRPTA. Seller is not a "foreign person," "foreign partnership," "foreign trust" or "foreign estate" as those terms are defined in Section 1445 of the Internal Revenue Code.

7.1.6 Leases. There are no parties in possession of any portion of the Real Property pursuant to lease agreements.

7.1.7 Blocked Persons. Seller has not received written notice that Seller is:

(i) listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 Sept. 25, 2001 (the "Order") and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable orders (such lists are collectively referred to as the "Lists");

(ii) a person who has been determined by competent authority to be subject to the prohibitions contained in the Order;

(iii) owned or controlled by, and does not act for or on behalf of, any person or entity on the Lists or any other person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Order.

7.2 By Buyer. Buyer represents and warrants to Seller that:

7.2.1 Authority. (a) Buyer is a county duly organized and validly existing and in good standing under the laws of the State of West Virginia; (b) Buyer has the requisite power and authority to execute this Agreement, Buyer's Closing Documents (as described in Section 8.2) and the Joint Closing Documents (as described in Section 8.3) (collectively, "Buyer Documents") and to perform its obligations under the Buyer Documents; (c) the person executing the Buyer Documents on Buyer's behalf has the requisite power and authority to do so; and (d) Buyer's execution, delivery and performance of its obligations under the Buyer Documents will not conflict with or violate any of Buyer's organizational

documents, any agreement to which Buyer is a party or any judgment, order or decree of any court or arbiter to which Buyer is a party.

7.2.2 Blocked Persons. Buyer has not received written notice that Buyer is:

(i) listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury (“**OFAC**”) pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 Sept. 25, 2001 (the “**Order**”) and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable orders (such lists are collectively referred to as the “**Lists**”);

(ii) a person who has been determined by competent authority to be subject to the prohibitions contained in the Order;

(iii) owned or controlled by, and does not act for or on behalf of, any person or entity on the Lists or any other person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Order.

7.3 Representation and Warranty Becoming Untrue. Seller’s representations and warranties under Section 7.1 and Buyer’s representations and warranties under Section 7.2 will each be true and correct in all material respects as of the Effective Date and the Closing Date with respect to the Real Property. In the event that, between the Effective Date and the Closing Date, Seller becomes aware that any of the representations and warranties of Seller in Section 7.1 is no longer true and correct in any material respect, Seller will promptly notify Buyer thereof in writing. Within thirty (30) days after Seller’s delivery of such initial written notice (such thirty (30)-day period being sometimes herein called the “**Warranty Cure Period**”), Seller will notify Buyer further in writing that either (i) Seller will not cure such then-incorrect representations and warranties, or (ii) Seller will use reasonable efforts (but without being required to expend any funds) to cure any such then-incorrect representations and warranties, and, in the event Seller so elects to try to cure, the Closing will be delayed in accordance with this Section 5.3 while Seller undertakes such efforts. If Seller notifies Buyer that Seller will not attempt to cure or if, after using such reasonable efforts, Seller cannot effect such cure on or before the expiration of the Warranty Cure Period, Buyer will, within ten (10) Business Days following the earlier of the delivery of Seller’s notice that Seller will not cure or the expiration of the Warranty Cure Period, elect either (i) to terminate this Agreement (other than the Surviving Obligations which will survive any such termination), or (ii) to waive any such incorrect representations and warranties of Seller and to proceed hereunder. Failure of Buyer to notify Seller within the aforesaid ten (10)-Business Day period will constitute Buyer’s irrevocable election to waive any such incorrect representations and warranties of Seller and proceed under clause (ii) of the immediately preceding sentence. If Buyer terminates this Agreement as provided in clause (i) above, the Earnest Money will be promptly returned to Buyer. Notwithstanding the foregoing, if the date by which Buyer must either terminate this Agreement or waive an incorrect representation or warranty, as provided above is after the scheduled Closing Date, then the Closing Date will be extended to a date that is two (2) Business Days after the date that Buyer must make such election.

7.4 Survival/Liability Limitations. Seller’s and Buyer’s representations and warranties in Section 7 of this Agreement survive the Closing for one (1) year unless Buyer or Seller delivers to the other a notice of misrepresentation or breach of warranty within such one (1) year period (in which event any claim that is the subject of the notice survives until such time as

the claim is finally resolved). Seller's total liability in connection with any breach or breaches of its representations and warranties in this Agreement or the Seller Documents will be limited to the aggregate amount of \$315,000.00. Seller is not liable to Buyer with respect to the breach by Seller of any particular representation or warranty in this Agreement if, prior to the Closing, Buyer obtains knowledge of a fact or circumstance, the existence of which would constitute a breach of such Seller's representation or warranty under this Agreement and Buyer does not terminate this Agreement under Section 7.3. For purposes of this Agreement, Buyer is deemed to have knowledge of all facts and circumstances described in any document Buyer received in connection with the due diligence described in Section 5 of this Agreement, and the warranties and representations herein contained will be deemed modified to the extent any document delivered to Buyer is inconsistent with the matters covered herein.

8. Closing.

8.1 **Closing Date.** The Closing will occur on or prior to the Closing Date at the office of, or by mail through escrow with, the Escrow Agent or at such other time and place as the parties may mutually agree in writing.

8.2 **Buyer's Closing Conditions Precedent.** Buyer's obligation to consummate the transaction contemplated by this Agreement will be subject to satisfaction or waiver in writing of each of the following conditions ("**Buyer's Closing Conditions Precedent**") in connection with the Subject Property; provided, however that Buyer will have the unilateral right to waive any Buyer's Closing Conditions Precedent, in whole or in part, by written notice to Seller:

(i) The representations in Section 7.1 of Seller hereof will be, in all material respects, true and complete.

(ii) Seller will have performed all of the obligations required to be performed by Seller under this Agreement, as and when required by this Agreement, in all material respects, subject to the notice and cure in Section 11.1.

(iii) The closing of Buyer's purchase of that certain improved parcel of land commonly known as 393 North Lawrence Street, Charles Town, West Virginia is closing simultaneously with the Closing.

8.3 **Seller's Conditions Precedent.** Seller's obligation to consummate the transaction contemplated by this Agreement will be subject to satisfaction or waiver in writing of each of the following conditions ("**Seller's Closing Conditions Precedent**") in connection with the Subject Property but Seller will have the unilateral right to waive, in whole or in part, any Seller's Closing Conditions Precedent by written notice to Buyer:

(i) The representations in Section 7.2 of Buyer hereof will be, in all material respects, true and complete.

(ii) Buyer will have performed all of the obligations required to be performed by Buyer under this Agreement, as and when required by this Agreement, in all material respects, subject to the notice and cure in Section 11.2.

(iii) The Deed (defined below) will convey the Real Property to Buyer free and clear of all encumbrances other than the Permitted Encumbrances.

If Buyer's Closing Conditions Precedent or Seller's Closing Conditions Precedent, as the case may be, have not been satisfied or waived as of the scheduled Closing Date and provided the failure to satisfy or waive any such condition is not attributable to a breach or default of this Agreement by Seller or Buyer, as the case may be, Buyer or Seller, as the case may be, will have the right to terminate this Agreement by written notice to the other delivered on or before the scheduled Closing Date. Upon delivery of such notice, this Agreement will terminate (other than the Surviving Obligations, which obligations will survive any such termination); provided, however, upon such termination both Buyer and Seller will execute a document evidencing such termination. Upon such termination for a Buyer's Closing Condition Precedent, the Earnest Money will be promptly returned to Buyer. Upon such termination for a Seller's Closing Condition Precedent, the Earnest Money will be promptly paid to Seller. Upon any such termination, neither party will have any further rights or obligations (other than the Surviving Obligations which will survive any such termination) regarding this Agreement or the Subject Property.

9. **Closing Deliveries.**

9.1 **Seller's Closing Documents.** At Closing, Seller will deliver:

9.1.1 **Deed.** A Special Warranty Deed ("**Deed**"), in the form attached as **Exhibit B** hereto, conveying the Real Property to Buyer free and clear of all encumbrances other than Permitted Encumbrances.

9.1.2 **Bill of Sale.** A Bill of Sale, in commercially reasonable form substantially similar to that attached hereto as **Exhibit D**, transferring the Personal Property to Buyer.

9.1.3 **Authorization Documents.** Evidence reasonably satisfactory to the Title Company that Seller is duly authorized and has full power and authority to convey title to the Subject Property to Buyer in the conditions required by this Agreement and to perform and consummate the obligations of Seller described herein.

9.1.4 **FIRPTA Certificate.** A certificate containing the information required by Section 1445 (b) (2) of the Internal Revenue Code and its corresponding regulations.

9.1.5 **Title Documents.** An owner's affidavit in substantially the form attached hereto as **Exhibit C** together with such other documents as may be reasonably required by Title Company and otherwise approved by Seller in writing prior to the Contingency Date.

9.1.6 **Miscellaneous.** Such other documents reasonably required to consummate the transaction this Agreement contemplates, in form reasonably acceptable to Seller and Buyer.

9.2 **Buyer's Closing Documents.**

9.2.1 **Purchase Price.** The balance of the Purchase Price (*i.e.*, after taking into account applicable credits for the Earnest Money), plus or minus prorations, by wire transfer or otherwise in immediately available funds.

9.2.2 **Authorization Documents.** Evidence satisfactory to the Title Company that Buyer is duly authorized and has full power and authority to acquire title to the Subject Property and to perform and consummate the obligations of Buyer described herein.

9.2.3 **Miscellaneous.** Such other documents reasonably required to consummate the transaction this Agreement contemplates, in form reasonably acceptable to Seller and Buyer.

9.3 **Joint Closing Documents.**

9.3.1 **Closing Statement.** A closing statement showing the Purchase Price and all prorations, adjustments, credits and debits this Agreement describes.

9.3.2 **Assignment of Shared Parking Lease Agreement.** A fully executed original of the Assignment of Shared Parking Lease Agreement (defined below).

9.3.3 **Real Estate Transfer Declarations.** To the extent applicable, any real estate transfer disclosures required by applicable law.

9.3.4 **Miscellaneous.** Other documents reasonably required to consummate the transaction this Agreement contemplates, in form reasonably acceptable to Seller and Buyer.

10. **Adjustment and Prorations.** For purposes of calculating prorations, Buyer will be deemed to be in title to the Subject Property, and therefore entitled to the income therefrom and responsible for the expenses thereof, for the entire day upon which the Closing occurs. All such prorations will be made on the basis of the actual number of days of the year and month that will have elapsed as of the Closing Date. Real estate taxes and operating expenses (if any) will each be prorated on a cash basis and except as specifically provided otherwise herein, items of income and expense for the period prior to the Closing Date will be for the account of Seller and items of income and expense for the period on and after the Closing Date will be for the account of Buyer. All prorations hereunder will be final.

10.1 **Title Insurance.** Buyer will pay all costs and fees associated with any Title Insurance Policy obtained by Buyer and for all costs and fees of any lender's title insurance policy.

10.2 **Survey Costs.** Buyer will pay all costs of the ALTA Survey described in Section 5.2. Seller will pay all costs associated with preparation of any plat of easement, easement legal description or plat approval required in connection with the Reciprocal Access Easement Agreement.

10.3 **Closing Fee.** Seller and Buyer will each pay one-half of the reasonable and customary closing fees or escrow fees Escrow Agent charges; provided, however, that Seller's share of such fees will not exceed \$1,500.00. Buyer will pay for all costs for any money lender's closing escrows.

10.4 **Transfer Tax.** State and County documentary stamp and transfer taxes payable (if any) in connection with the transfer of the Real Property will be paid by Seller.

10.5 **Recording Costs.** Buyer will pay the cost of recording the Deed and of recording of any documents required by any lender providing financing associated with Buyer's acquisition of the Real Property. Seller will pay the cost of recording any survey reasonably required by the Title Company to describe the Real Property or to correct title defects, as well as any lien releases or other documents required to resolve any Seller Mandatory Cure Obligations or other Unpermitted Exceptions Seller is otherwise obligated to resolve under Section 5.3.

10.6 **Other Costs.** All other costs will be allocated in accordance with the customs prevailing in similar transactions in Jefferson County, West Virginia where the Real Property is located.

10.7 **Real Property Taxes and Assessments.** General ad valorem property taxes and any special assessments that are certified, confirmed, or ratified by the taxing authority (collectively, "Taxes"), in each case payable in the year of Closing, will be pro-rated as of the Closing Date, with due allowance for maximum available discount for early payment. Any Taxes that are due and payable on the Closing Date will be paid at that Closing by Seller if not previously paid. If the Closing will occur before the tax rate or the assessed valuation of the Subject Property is fixed for the year of that Closing, then the apportionment of taxes will be upon the basis of 100% of the most recently ascertainable real estate taxes for the Subject Property, with maximum available discount applied.

Except as otherwise expressly provided otherwise in this Agreement, all prorations provided for herein will be final.

11. **Default/Remedies.**

11.1 **DEFAULT BY SELLER.** IF SELLER DEFAULTS IN THE PERFORMANCE OF ITS OBLIGATION TO CLOSE THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT, AND SELLER FAILS TO CURE THE DEFAULT WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF WRITTEN NOTICE THEREOF FROM BUYER, BUYER WILL BE DAMAGED AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT WILL BE TO ELECT ONE, AND ONLY ONE, OF THE FOLLOWING REMEDIES, AS FOLLOWS: (A) TO TERMINATE THIS AGREEMENT BY WRITTEN NOTICE DELIVERED TO SELLER AND ESCROW AGENT AND TO RECOVER THE EARNEST MONEY AND PAYMENT FROM SELLER FOR BUYER'S REASONABLE OUT-OF-POCKET EXPENSES IN CONNECTION WITH THE INSPECTIONS AND THE NEGOTIATION OF THIS AGREEMENT, NOT TO EXCEED \$50,000.00, OR (B) TO SPECIFICALLY ENFORCE (WHICH ACTION FOR SPECIFIC PERFORMANCE MUST BE FILED AND SERVED UPON SELLER WITHIN ONE HUNDRED TWENTY (120) DAYS AFTER THE EXPIRATION OF THE 10-DAY PERIOD TO CURE DESCRIBED IN THIS SENTENCE, OR SUCH RIGHT WILL BE DEEMED WAIVED) SELLER'S OBLIGATION TO CLOSE THE TRANSACTION, EXECUTE AND DELIVER THE DEED AND OTHER CLOSING DOCUMENTS AND TO CONVEY THE SUBJECT PROPERTY TO BUYER IN ACCORDANCE WITH THIS AGREEMENT.

11.2 **DEFAULT BY BUYER.** IF BUYER DEFAULTS IN THE PERFORMANCE OF ITS OBLIGATION TO CLOSE THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT, AND BUYER FAILS TO CURE THE DEFAULT WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF WRITTEN NOTICE THEREOF FROM SELLER, SELLER WILL BE DAMAGED AND SELLER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT WILL BE TO RECOVER THE EARNEST MONEY AS LIQUIDATED DAMAGES. IT IS HEREBY AGREED THAT SELLER'S DAMAGES IN THE EVENT OF A DEFAULT BY BUYER HEREUNDER ARE UNCERTAIN AND DIFFICULT TO ASCERTAIN, AND THAT THE EARNEST MONEY CONSTITUTES A REASONABLE LIQUIDATION OF SUCH DAMAGES AND IS INTENDED NOT AS A PENALTY, BUT AS FULL LIQUIDATED DAMAGES. BUYER COVENANTS NOT TO BRING ANY ACTION OR SUIT CHALLENGING THE AMOUNT OF LIQUIDATED DAMAGES PROVIDED HEREUNDER IN THE EVENT OF SUCH DEFAULT. EXCEPT AS EXPRESSLY PROVIDED IN THIS

SECTION 11.2, SELLER WILL NOT HAVE THE RIGHT TO RECOVER DAMAGES OF ANY KIND OR TO OBTAIN OTHER EQUITABLE RELIEF, INCLUDING, WITHOUT LIMITATION, ANY EQUITABLE ADJUSTMENT TO THE TERMS OF THE SALE OF THE SUBJECT PROPERTY.

12. **Condemnation.** If, prior to the Closing Date, eminent domain proceedings are commenced against all or any material part of the Real Property, Seller will promptly give notice to Buyer of such fact and, at Buyer's option (to be exercised within fifteen (15) days after Seller's notice), this Agreement will terminate. Upon any such termination, neither party will have further obligations under this Agreement (other than the Surviving Obligations, which obligations will survive any such termination), except that Buyer will, at the request of Seller, execute any document reasonably requested by Seller to evidence such termination. If Buyer fails to elect to terminate this Agreement in the manner provided in this Section 12, or the eminent domain proceeding relates to less than a material portion of the Real Property, then there will be no reduction in the Purchase Price, and Seller will assign to Buyer at the Closing Date all of Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date (but after the Contingency Date), Seller will not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without Buyer's prior written consent, which consent will not be unreasonably withheld or delayed; provided, however, that if any action is necessary with respect to such proceeding to avoid any forfeiture or material prejudice, Seller will be entitled to take such action as and to the extent necessary without obtaining Buyer's prior written consent. For purposes of this Section 12, the words "material part" with respect to eminent domain proceedings means that the portion of the Real Property to be so taken is valued in excess of \$345,000.00.

13. **Damage.** If, prior to the Closing Date, all or any material part of the Improvements is materially damaged by fire or other casualty, Seller will promptly give notice to Buyer of such fact. Thereafter, at Buyer's option (to be exercised by Buyer's written notice to Seller given within fifteen (15) days after Seller's initial notice to Buyer), this Agreement will terminate. In the event of any such termination of this Agreement, neither party will have any further obligations under this Agreement (other than the Surviving Obligations, which obligations will survive any such termination), and the Earnest Money will be refunded to Buyer. If Buyer fails to elect to terminate (in the manner provided in this Section 13) despite such damage, or if the Improvements are damaged but not materially, Seller will promptly commence to repair such damage or destruction and to return the Improvements to substantially their condition prior to such damage. If the repair of such damage is completed prior to the Closing Date, then there will be no reduction in the Purchase Price, and Seller will retain the proceeds of all insurance related to such damage. If the repair of such damage is not completed prior to the then-scheduled Closing Date, but Seller is diligently proceeding to repair, then Seller will complete the repair and the Closing Date will be extended for the period of time needed to complete the repair and Seller will be entitled to receive the proceeds of all insurance related to such damage. For purposes of this Section 13, the words "materially damaged" mean damage that would cost \$345,000.00 or more to repair.

14. **Shared Parking Lease Agreement.** Seller has advised Buyer that Seller has entered into a certain Shared Parking License Agreement dated as of February 19, 2025 with the City of Charles Town, West Virginia recorded with the Clerk of Jefferson County, West Virginia in Deed Book 1340, page 478 ("**Shared Parking Lease Agreement**"), pursuant to which Seller, as lessee, has the right to use certain property owned by the City of Charles Town for vehicular parking, subject to and in accordance with the terms and provisions thereof. The Shared Parking Lease Agreement will be a Permitted Encumbrance and will be assigned to Buyer at Closing.

15. **Broker's Commissions.** Seller and Buyer each represent and warrant to the other that in connection with the transaction contemplated hereby, no third-party broker or finder other than CBRE ("**Broker**"), has been engaged or consulted by Seller or Buyer or is entitled to compensation or commission

in connection herewith as a result of acts of Seller or Buyer or their respective agents, employees or representatives. At Closing, Seller will pay Broker a commission in accordance with a separate agreement between Seller and Broker. Seller and Buyer will each indemnify, defend and hold harmless the other, and its respective employees, contractors and agents, from and against any and all loss, cost, damage, liability, settlement, cause of action or threat thereof, or expense (including, without limitation, reasonable attorneys' fees and costs) arising from or relating to claims of any brokers, finders or any like third parties (other than Broker), for any commission or compensation resulting from any acts of the indemnifying party or its agents, employees or representatives in connection herewith. The terms of this Section will survive the Closing and any termination of this Agreement.

16. **Environmental Disclosure.** Seller hereby discloses that the Subject Property contains or contained such hazardous materials (if any) as described in the environmental reports listed on Schedule 1 hereto (the "**Reports**"). Seller has delivered the Reports to Buyer as of the Effective Date and Buyer hereby acknowledges receipt of the Reports. Buyer acknowledges and agrees that the Reports are provided by Seller for informational purposes only and that Seller makes no representations or warranties as to the accuracy or completeness of the Reports. Buyer will conduct its own investigations and studies of the Subject Property as it deems necessary or appropriate in order to determine the presence or absence of hazardous materials on or within the Subject Property. Buyer hereby (a) agrees that Buyer is relying solely on the representations of Seller in this Agreement and Buyer's own investigation, if any, of the Subject Property covering the effect of any hazardous materials that may be on about or within the Subject Property, whether disclosed by such investigations or not (collectively, the "**Hazardous Materials Effect**"), (b) assumes the risk of any and all liabilities, claims, demands, suits, judgments, losses, damages, expenses (including, without limitation, attorney's fees) and other obligations arising out of or incurred in connection with the Hazardous Materials Effect, if any, and (c) except as otherwise expressly provided in this Agreement (including Section 7 regarding Seller's representations and warranties), waives and releases Seller from all liabilities, claims, demands, suits, judgments, losses, damages, and expenses relating to the Hazardous Materials Effect. Notwithstanding the foregoing, Purchaser does not waive and shall not be construed to have waived any right Purchaser otherwise may have in the event of an action by an unrelated third party to seek contribution against or indemnification from Seller for tort claims arising out of Seller's actions that accrued on or before the Closing Date. The terms of this Section will survive the Closing.

17. **Notices.** Any notice or other communication in connection with this Agreement will be in writing and will be sent by nationally recognized overnight courier guaranteed next business day delivery, by email transmission (provided that such notice sent by email is also sent via nationally recognized overnight courier for guaranteed next business day delivery), or by personal delivery, properly addressed as follows:

If to Seller: 111 West Congress, L.L.C.
c/o American Public Education, Inc.
303 West 3rd Avenue
Ranson, WV 25438
Attention: Vice President of Real Estate
E-Mail: realestate@apei.com

With a copy to: American Public University System, Inc.
c/o American Public Education, Inc.
303 West 3rd Avenue
Ranson, WV 25438
Attention: Legal Department
E-Mail: legal@apus.edu

And with a copy to: O'Rourke, Hogan, Fowler and Dwyer, LLC
10 South LaSalle Street, Suite 3700
Chicago, Illinois 60603
Attention: Howard I. Goldblatt
E-Mail: hgoldblatt@ohfdlaw.com

If to Buyer: Jefferson County Commission
124 East Washington Street
Charles Town, WV 25414
Attn: Nathan P. Cochran, Esquire
Jefferson County Prosecuting Attorney's Office
E-Mail: ncochran@jcpawv.org

With a copy to: Jefferson County Commission
124 East Washington Street
Charles Town, WV 2541
Attn: Edwina Benites, County Administrator
E-Mail: ebenites@jeffersoncountywv.org

And with a copy to: Conrad Luttrell, LLP
158 Crimson Circle
Martinsburg, WV 25403
Attn: Kanette Petry, Esquire
E-Mail: petry@conradluttrell.com

All notices will be deemed given one (1) Business Day following deposit if delivered to an overnight courier guaranteeing next day delivery and on the same day if sent by personal delivery or by e-mail transmission (provided that proof of transmission is necessary for notices sent by email) between 8:00 a.m. and 5:00 p.m. (eastern time). Attorneys for each party will be authorized to give notices for each such party. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified.

18. **Captions.** The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

19. **Entire Agreement; Modification.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein contained, and all prior negotiations, discussions, writings and agreements between the parties with respect to the subject matter herein contained are superseded and of no further force and effect. This Agreement may be amended only by a written instrument executed by Seller and Buyer. No covenant, term or condition of this Agreement will be deemed to have been waived by either party, unless such waiver is in writing signed by the party charged with such waiver.

20. **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

21. **Controlling Law.** This Agreement will be governed by and construed in accordance with the laws of the State of West Virginia. Any litigation between Buyer and Seller arising out of this

Agreement will be commenced in a court of competent jurisdiction in the county in which the Subject Property is located, and both Buyer and Seller waive venue outside such county.

22. **Severability.** The unenforceability or invalidity of any provisions hereof will not render any other provision herein contained unenforceable or invalid.

23. **Time of Essence.** Time is of the essence in the performance of obligations under this Agreement.

24. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which is deemed an original, but all of which together constitute one and the same instrument.

25. **Consequential/Punitive Damages.** Neither party to this Agreement is liable to the other for any consequential, special or punitive damages under this Agreement, including, without limitation, lost profits. The terms of this Section will survive the Closing and any termination of this Agreement.

26. **Attorneys' Fees.** In the event of any litigation between the parties with respect to this Agreement or any document executed pursuant to this Agreement, the non-prevailing party in such action will pay the reasonable attorneys' fees, paralegals' fees and court costs of the prevailing party. The terms of this Section will survive the Closing and any termination of this Agreement.

27. **Electronic Signatures.** Signatures transmitted by electronic mail in so-called "PDF" format to this Agreement or any amendment thereto will be valid and enforceable as original signatures. In addition, electronic signatures to this Agreement, whether digital, via DocuSign or other digital signature program, will be as valid as original manual signatures and will be effective to bind the parties and have the same force and effect as manual signatures.

28. **Waiver of Jury Trial.** EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING AND COUNTERCLAIM BROUGHT BY ANY PARTY HERETO ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT AND WILL SURVIVE THE CLOSING AND ANY TERMINATION OF THIS AGREEMENT.

29. **Calculation of Days.** Unless otherwise specified herein, where the terms of this Agreement require the calculation of days to determine performance hereunder, the days will be calendar days. If the day calculated is not a Business Day, the next Business Day will be the date for performance. "Business Day," for purposes of this Agreement, means any day of the week other than (i) Saturday and Sunday, (ii) a day on which the banking institutions in the State of West Virginia are obligated to be closed to the transaction of normal banking business, or (iii) a day on which the banking institutions in the State of West Virginia are interrupted because of extraordinary events including hurricanes, power outages, and acts of terrorism.

30. **Interpretation.** In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

31. **Assignment.** Neither Seller nor Buyer may assign its rights under this Agreement; provided, however, that Buyer may assign its rights and obligations under this Agreement to a person or entity that controls, is controlled by or is under common control with Buyer, upon at least five (5) Business

Days' prior written notice to Seller; and provided further, however, that in the event of any such assignment, Buyer will remain liable to Seller for all obligations under this Agreement, as a principal and not as a surety.

32. **Non-Solicitation.** Beginning on the Effective Date and, if this Agreement is not otherwise terminated, through the Closing Date, Seller will not solicit or accept any offers for or engage in any discussion concerning the sale of the Subject Property, and Seller will cease all marketing efforts and negotiations with respect to the sale of the Subject Property, other than the transaction contemplated herein.

33. **Limitations.** In no event will the provisions of Sections 11.1 and 11.2 limit the damages recoverable by either party against the other party due to the other party's obligation to indemnify such party in accordance with this Agreement or affect the rights or obligations of the parties to this Agreement under Section 26. This Section will survive Closing or the earlier termination of this Agreement.

34. **No Personal Liability.** Notwithstanding anything in this Agreement or any of the documents executed by Seller pursuant hereto or in connection herewith, the liability of Seller will be limited to Seller's interest in the Real Property (including, without limitation, any net insurance or sales proceeds arising therefrom), and in no event will Buyer be entitled to or seek satisfaction for any such liability from any of Seller's partners, members, affiliates and subsidiaries, and their respective members, stockholders, directors, officers, participants, employees, consultants, brokers and agents. This Section will survive the Closing or earlier termination of this Agreement.

35. **No Reliance on Documents.** Except for Seller's express representations and warranties in this Agreement, Seller makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information delivered or given by Seller or its brokers or agents to Buyer in connection with the transaction contemplated hereby and any such representations and warranties are hereby excluded and disclaimed. Buyer acknowledges and agrees that (a) all materials, data and information delivered or given by Seller to Buyer in connection with the transaction contemplated hereby are provided to Buyer as a convenience only in Buyer's own examination and determination as to whether or not it wishes to purchase the Subject Property and (b) any reliance on or use of such materials, data or information by Buyer will be at the sole risk of Buyer. Neither Seller, nor any affiliate of Seller, nor the person or entity which prepared any report or reports delivered by Seller to Buyer will have any liability to Buyer for any inaccuracy in or omission from any such reports. Buyer will rely exclusively on its own independent investigation and evaluation of every aspect of the Subject Property and on the express representations of Seller contained herein and not on any materials supplied by Seller

36. **AS-IS SALE; DISCLAIMERS.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE DEED, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AS TO THE PHYSICAL, STRUCTURAL OR ENVIRONMENTAL CONDITION OF THE SUBJECT PROPERTY OR ITS COMPLIANCE WITH LAWS.

BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER WILL SELL AND CONVEY TO BUYER AND BUYER WILL ACCEPT THE SUBJECT PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS", EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT AND IN THE DEED. BUYER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE SUBJECT PROPERTY OR RELATING THERETO (INCLUDING SPECIFICALLY, WITHOUT

LIMITATION, OFFERING PACKAGES DISTRIBUTED WITH RESPECT TO THE SUBJECT PROPERTY) MADE OR FURNISHED BY SELLER, THE MANAGERS OF THE SUBJECT PROPERTY, OR ANY REAL ESTATE BROKER OR AGENT REPRESENTING OR PURPORTING TO REPRESENT SELLER, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, UNLESS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

BUYER REPRESENTS TO SELLER THAT BUYER HAS CONDUCTED, OR WILL CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE SUBJECT PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS BUYER DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE CONDITION OF THE SUBJECT PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE SUBJECT PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AS ARE EXPRESSLY SET FORTH IN THIS AGREEMENT. UPON CLOSING, BUYER WILL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INVESTIGATIONS, AND BUYER, UPON CLOSING, WILL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER (AND SELLER'S MEMBERS, MANAGERS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER (AND SELLER'S MEMBERS, MANAGERS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF THE PHYSICAL AND ENVIRONMENTAL CONDITIONS OF THE LAND OR ANY IMPROVEMENTS THEREON, ANY LATENT OR PATENT CONSTRUCTION DEFECTS, VIOLATIONS OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE SUBJECT PROPERTY.

The provisions of Section 35 and Section 36, respectively, will survive Closing or any termination of this Agreement.

37. **Confidentiality: Press Releases.** Except as specifically permitted by this Section 37, neither Seller nor Buyer will release or cause or permit to be released any press notices, or publicity (oral or written) or advertising promotion relating to, or will otherwise announce or disclose or cause or permit to be announced or disclosed, in any manner whatsoever, the terms, conditions or substance of this Agreement, without first obtaining the written consent of the other party. The foregoing will not preclude either party from discussing the substance or any relevant details of this transaction with any of its attorneys, accountants, professional consultants, lenders, partners, investors, or any prospective lender, partner or investor, as the case may be, or prevent either party from complying with laws, rules, regulations and court orders, including, without limitation, governmental regulatory, disclosure, tax and reporting requirements. In addition to any other remedies available to a party, each party shall have the right to seek equitable relief, including, without limitation, injunctive relief or specific performance, against the other party in order to enforce the provisions of this Section 37. The provisions of this Section 37 will survive the Closing, delivery of the Deed and any termination of this Agreement. Notwithstanding anything herein to the contrary, Seller and Buyer shall each have the right to issue a press release concerning the transaction set forth herein after Closing, provided the other party has approved such press release, which approval shall not be unreasonably withheld or delayed, and further

provided that in no event shall any such press release or public disclosure specify the Purchase Price or terms and conditions of this Agreement.

38. **Removal of Excluded Personal Property.** Seller will repair any damage to the Subject Property caused by the removal of the personal property excluded from the Personal Property and described on **Exhibit D** hereto and restore the Subject Property to a substantially similar condition to the condition existing prior to such removal, reasonable wear and tear.

39. **Schedule and Exhibits.** The following schedule and exhibits are made a part hereof, with the same force and effect as if specifically set forth herein:

Schedule I	-	Due Diligence Materials
Exhibit A	-	Legal Description
Exhibit B	-	Form of Special Warranty Deed
Exhibit C	-	Form of Owner's Affidavit
Exhibit D	-	Schedule of Excluded Personal Property
Exhibit E	-	Form of Bill of Sale

[Signature Pages Follow]

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the day and year first above written.

SELLER:

111 WEST CONGRESS, L.L.C., a West Virginia limited liability company

By: American Public University System, Inc., a West Virginia corporation

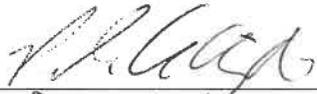
Its: Member

By: 
Name: Nuno Fernandes
Its: President

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the day and year first above written.

BUYER:

COUNTY COMMISSION OF JEFFERSON
COUNTY WEST VIRGINIA, a duly organized
county under the laws of the State of West Virginia

By: 
Name: PASHA M. MAJIDI
Title: PRESIDENT

ACKNOWLEDGMENT OF ESCROW AGENT:

Escrow Agent executes this Agreement for the sole purpose of acknowledging the escrow provisions contained herein. Escrow Agent's signature is not required to create a binding and bilateral (between Seller and Buyer) agreement nor to amend this Agreement.

CONRAD LUTRELL, LLP

By: _____
Name: _____
Title: _____
Date: _____

SCHEDULE 1

List of Due Diligence Materials

- 330 Floorplans
- 330 Operating Costs
- 330 N George - Easement Plat
- 330 N George - Lined Parking Schematic
- 330 Site plans
- 8281 Boundary Plat Survey 10.2021
- 2024/2023 Tax Bills
- Parking Lease Agreement
- Warranty Documents
 - o Window Warranty from HPG Windows and Doors
 - o Limited Warranty Agreement for 20 Year Weathertightness Limited Warranty
- Phase I Environmental Site Assessment for 300, 330 and 332 N. George Street, Charles Town, WV 25414 Prepared by Nutshell Enterprises, Ltd., Dated May 27, 2009.

Exhibit A-1

Legal Description

Being all of those two parcels of real estate, lying on the west side of North George Street in the City of Charles Town, and described as follows:

Parcel One:

Beginning at the intersection of the northern limit of the Winchester Potomac Railroad Company and the western limit of North George Street the Point being shown on the "Site Plan of Gateway Center", dated June 2007 which is prepared by Dewberry as Point 226, thence with the northern limit of Winchester Potomac Railroad Company initially that has a curve with a length of 212.44, a radius of 1412.39, a tangent of 106.42, a chord bearing NW 85-59-04, a chord length of 212.24 and a delta of 8-37-05 to Point 230, thence NW 81-40-31 155.57' to Point 239 situate in the eastern boundary line of WPM Prop, LLC, thence leaving the Winchester Potomac Railroad Company and with WPM, NE 01-00-00 37.46' to Point 202, thence NE 24-45-00 52.00' to Point 203, thence leaving WPM NE 69-35-34 52.51', to Point 335, thence NE 42-11-11 39.63' to Point (undesignated), thence NE 55-56-11 29.50' to the common boundary with Grove to a Point (undesignated), thence with Grove SE 13-42-42 36.33' to Point 356, thence NE 69-35-34 117.41' to Point 1004, thence NW 20-24-26 1.00' to Point 1005, thence NE 69-35-34 49.59' to the western limit of North George Street being Point 1006, thence with North George Street SE 20-24-26 224.20' to the point of beginning.

AND BEING the same two parcels conveyed to 111 West Congress, L.L.C. by deed dated June 29, 2009, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia in Deed Book 1066 at page 247. Reference is hereby made to said deed and other instruments referenced therein for further information regarding the subject two parcels of real estate conveyed.

Parcel Two:

Beginning at the intersection of the southern limit of the Winchester Potomac Railroad Company and the western limit of North George Street, the point being shown on the "Site Plan of Gateway Center" dated June, 2007, which is prepared by Dewberry as Point 1008, thence with the southern limit of Winchester Potomac Railroad Company by a curve having a length of 51.26', a radius of 1447.39, a tangent of 25.63, a chord bearing SE 89-46-42, a chord distance of 51.25 and a delta of 2-01-44 to Point 1007, thence leaving the Railroad Company and with the Asbury United Methodist Church SE 20-35-06 111.63' to Point 1227, thence NE 69-44-54 47.50' to Point 1226, a Number 6 rebar found to the western limit of George Street, thence with the western limit of George Street NW 20-20-01 93.70' to the point of beginning.

AND BEING the same two parcels conveyed to 111 West Congress, L.L.C. by deed dated June 29, 2009, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia in Deed Book 1066 at page 247. Reference is hereby made to said deed and other instruments referenced therein for further information regarding the subject two parcels of real estate conveyed.

Parcel 3

That certain public right-of-way of Iron Bridge Road (AKA Old Bridge Road) and/or First Avenue vacated by that certain Ordinance Vacating, Abandoning, and Annulling that Portion of Iron Bridge Road (AKA Old Bridge Road) and/or First Avenue Not Used for Street Purposes in the City of Charles Town, Jefferson County, West Virginia and Authorizing the City Manager to Execute Such Quitclaim Deeds and Other

Documents Needed to Implement this Abandonment recorded in the office of the Clerk of the County Commission of Jefferson County, West Virginia in Deed Book 1340, at page 475.

Street Address: 330 George Street, Charles Town, WV
Tax Parcel No(s): 19-03-002A-0006-0000; and 03 2A 0012 0000

Exhibit A-2

General Depiction of Property



Exhibit B

Form of Special Warranty Deed

THIS INSTRUMENT PREPARED BY:

O'Rourke, Hogan, Fowler & Dwyer, LLC
10 S. LaSalle St., Suite 3700
Chicago, Illinois 60603

RECORDER'S STAMP

SPECIAL WARRANTY DEED

111 WEST CONGRESS, L.L.C., a West Virginia limited liability company, whose address is c/o American Public Education, Inc., 303 West 3rd Avenue, Ranson, West Virginia 25438 ("Grantor"), for and in consideration of the sum of Ten and 00/100 Dollars and other good and valuable consideration in hand paid by _____, whose address is _____ ("Grantee"), receipt of which is hereby acknowledged, hereby GRANTS, BARGAINS, SELLS, REMISES, RELEASES, ALIENS and CONVEYS to Grantee the real property situated in the City of Charles Town, County of Jefferson, State of West Virginia and described in Exhibit A attached hereto and made a part hereof, together with all of Grantor's right, title and interest, if any, in and to all rights-of-way, easement rights, access rights, privileges, hereditaments and appurtenances appertaining to such real property (the "Property").

And the Grantor, for itself, and its successors and assigns, does covenant, promise and agree, to and with the Grantee, its successors and assigns, that during the period that Grantor has owned title to the Property, it has not done or suffered to be done anything whereby the Property hereby granted are, or may be, in any manner encumbered or charged, except as set forth on Exhibit B attached hereto and made a part hereof; and that the Grantor will warrant and forever defend the Property against all persons lawfully claiming by, through or under the Grantor, but not otherwise.

PROPERTY ADDRESS: The Property is part of property commonly known as 330 North George Street, Charles Town, West Virginia.

TO HAVE AND TO HOLD the Property unto Grantee, its successors and assigns, forever.

DECLARATION OF CONSIDERATION OR VALUE: The Grantors hereby declare that the total consideration paid for the property transferred by this Deed is SIX MILLION NINE HUNDRED FIFTY-TWO THOUSAND AND NO/100 DOLLARS (\$6,952,000.00). This transaction is exempt from transfer tax.

Exhibit A
Legal Description

Exhibit B

Permitted Encumbrances

9. The undersigned is familiar with the management and operation of the Property, including the existence of any tenancies, leases, parties in possession and other occupancies, and payment of taxes and assessments in connection herewith.
10. Company's enjoyment of the Property has been peaceful and undisturbed and the title to the Property has never been disputed or questioned to the undersigned's knowledge, nor does the undersigned know of any facts by reason of which title to or possession of the Property might be disputed or questioned, or by reason of which any claim to the Property or any portion thereof might be adversely asserted.
11. The undersigned has received no written notice of any violation of any covenants, conditions or restrictions, if any, affecting the Property.
12. There are no defects, liens, encumbrances, adverse claims or other matters arising from the acts of Company first appearing in the public records or attaching subsequent to _____, but prior to the date the proposed insured acquires for value of record the estate interest thereon covered by the above commitment.

This Affidavit is given to induce _____ Title Insurance Company to issue its policies of title insurance including endorsements knowing that it will be relying upon the accuracy of same. The Owner agrees to indemnify and hold harmless _____ from any loss, claim, costs or expenses, including reasonable attorneys' fees, arising because of title insurance protection provided a purchaser or lender in reliance in whole or in part on the completeness and correctness of the representations or attestations made herein.

For purposes of this Owner's Affidavit, "actual knowledge of the undersigned" or words of similar import means the actual knowledge of Richard Sunderland, as Executive Vice President, Chief Financial Officer of the undersigned, Thomas Beckett, as Vice President and General Counsel of the undersigned or Christopher Lowe, as Vice President of Real Estate of the undersigned, without any duty of inquiry or investigation.

 By: _____
 Name: _____
 Its: _____

Subscribed and sworn to before me this _____ of _____, 202__.

 Notary Public
 My Commission Expires:

EXHIBIT "A"

Tax Parcel Nos.:

Parcel No. _____

Commonly known as:

EXHIBIT "B"

EXHIBIT D

EXCLUDED PERSONAL PROPERTY

1. Intellectual property (including, without limitation, trademarks, patents and rights associated with the name “American Public University System” and of any of its parents, affiliates and subsidiaries).
2. Branded materials and other personal property branded with the name “American Public University System” or of any of its parents, affiliates or subsidiaries.
3. Computer and other IT equipment, including, without limitation, laptops, PC’s, Mac’s, peripherals, telephone handsets, head-end network gear and software (peripherals, such as wireless access points, and televisions and other audio-visual equipment will remain as Personal Property).
4. Artwork.
5. Office and cleaning equipment and supplies, including, without limitation, copiers.
6. Water coolers, coffee makers, and other small kitchen appliances and food and beverages for Seller’s employees and visitors (major appliances, such as refrigerators and dishwashers will remain as Personal Property).

EXHIBIT E

FORM OF BILL OF SALE

Bill of Sale

THIS BILL OF SALE (“**Agreement**”) is made as of _____, 2025 (“**Effective Date**”), by 111 West Congress, L.L.C., a West Virginia limited liability company (“**Seller**”) in favor of the County Commission of Jefferson County, West Virginia, a duly organized county under the applicable laws of the State of West Virginia (“**Buyer**”).

RECITALS:

A. Contemporaneously with the execution and delivery of this Agreement, Seller has sold and conveyed to Buyer, all of its right, title and interest in and to that certain real property, and any improvements situated thereon owned by Seller, more particularly described on Exhibit “A” attached hereto (“**Property**”) pursuant to a Purchase and Sale Agreement dated as of March __, 2025, by and between Seller and Buyer (as amended, the “**Purchase Agreement**”). Terms that are capitalized but not defined in this Agreement that are defined in the Purchase Agreement will have the same meaning in this Agreement as in the Purchase Agreement.

B. In connection with the conveyance of the Property, Seller and Buyer intend and agree that Seller will assign and transfer to Buyer, Seller’s rights to the Personal Property, subject to and in accordance with the terms and provisions of this Agreement.

AGREEMENT:

In consideration of the foregoing recitals and other good and valuable consideration, Seller and Buyer agree as follows:

1. Conveyance. Seller hereby transfers to Buyer and its successors and assigns, all of Seller’s right, title and interest (if any) in and to the Personal Property without representation or warranty, except as specifically set forth in this Agreement.

Seller’s Warranties. Seller has not previously conveyed the Personal Property (other than by granting a security interest in the Personal Property as security for a financing that will be paid in full at or before Closing) and that Seller has the right to sell and convey the Personal Property to Buyer. Except as expressly set forth herein or in the Purchase Agreement, Seller makes no warranties or representations as to the interests being transferred hereunder. *AMONG OTHER THINGS, ALL WARRANTIES OF QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED.*

Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of West Virginia.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the Effective Date.

SELLER:

111 West Congress, L.L.C., a West Virginia limited liability company

By: AMERICAN PUBLIC UNIVERSITY
SYSTEM, INC., a West Virginia corporation

Its: Member

By: _____

Name: _____

Its: _____

EXHIBIT A
(Legal Description)

4935-0821-3287, v. 3

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made as of November 7, 2024, by and between AMERICAN PUBLIC UNIVERSITY SYSTEM, INC., a West Virginia corporation (“**Seller**”) and COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA, a duly organized county under the applicable laws of the State of West Virginia (“**Buyer**”).

RECITALS:

1. Seller owns certain improved real estate and related personal property in Charles Town, West Virginia, as more particularly described in this Agreement.
2. Seller desires to sell and Buyer desires to purchase the aforementioned property from Seller, subject to and in accordance with the terms and provisions of this Agreement.

AGREEMENT:

In consideration of the mutual agreements and undertakings this Agreement describes, Seller and Buyer acknowledge and agree as follows:

1. **Sale of Subject Property.** Seller will sell to Buyer, and Buyer will purchase from Seller, all of the following property (collectively, “**Subject Property**”):

1.1 **Real Property.** Fee simple interest in and to that certain parcel of real estate that is commonly known as 393 North Lawrence Street, Charles Town, West Virginia and is legally described in **Exhibit A** attached hereto and made a part hereof (“**Land**”), together with the following;

1.1.1 **Building and Improvements.** All building structures, improvements and fixtures located on the Land (“**Improvements**”), which Improvements include, without limitation, an office building that contains approximately 105,000 square feet (“**Building**”) and that certain solar power array that provides power to the Building, including, without limitation, any solar panels, cabling and wiring, transformers, batteries and other equipment that are part of the solar power system for the Building associated with that solar array (collectively, “**Solar Array**”).

1.1.2 **Appurtenant Rights.** all rights, privileges, servitudes, appurtenances thereunto and easements belonging or appertaining (collectively, “**Appurtenant Rights**”) and collectively with the Land and the Improvements, the “**Real Property**”).

1.2 **Personal Property.** All of the equipment and personal property owned by Seller located at or installed on the Real Property and used solely in the operation of the Real Property, (but specifically excluding equipment or personal property described on **Exhibit D** hereto) to the extent the same are assignable (collectively, “**Personal Property**”).

1.3 **Permits.** Seller's interest in and to the licenses, permits, and certificates of occupancy associated with the ownership and operation of the Real Property, including, without limitation the Solar Array, to the extent the same are assignable without cost to Seller (“**Permits**”).

2. **Closing.**

2.1 **Closing.** The closing of the purchase and sale of the Subject Property ("**Closing**") will occur on the sixtieth (60th) day after the Contingency Date (defined below) or on such other earlier or later date as Buyer and Seller may agree in writing (the "**Closing Date**") unless this Agreement is earlier terminated as provided herein.

3. **Purchase Price.** Buyer will pay to Seller, as consideration for the purchase of the Subject Property, the sum ("**Purchase Price**") of SIXTEEN MILLION SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$16,600,000.00) as the same may be adjusted as provided below. The Purchase Price will be payable as follows:

3.1 **Earnest Money.** Within five (5) Business Days (defined below) after the date of execution and delivery of this Agreement by both Buyer and Seller ("**Effective Date**"), Buyer will deposit in the form of cash (by wire transfer) the sum of Three Hundred Forty-Five Thousand and No/100 Dollars (\$345,000.00) (the "**Earnest Money**") with Conrad Luttrell, LLP ("**Escrow Agent**").

3.2 **Purchase Price.** At the Closing, the Purchase Price, plus or minus proration and other adjustments, if any, will be paid by Buyer into the Escrow Agent's escrow account by wire transfer of immediately available funds and be paid to Seller upon the Closing.

4. **Escrow Provisions Regarding Earnest Money.**

4.1 Escrow Agent will hold the Earnest Money and make delivery of the Earnest Money solely to the party entitled thereto under the terms of this Agreement. Escrow Agent will deposit the Earnest Money in a segregated client funds account at an FDIC insured financial institution.

4.2 Escrow Agent will hold the Earnest Money until the earlier occurrence of (a) the Closing Date, at which time the Earnest Money will be applied against the Purchase Price and payment of expenses hereunder, or (b) the date on which Escrow Agent will be authorized to disburse the Earnest Money as set forth in Section 4.3 below, or (c) Buyer's termination of the Agreement on or before the Contingency Date as provided in Section 5.7, at which time the Earnest Money will be disbursed in accordance with the terms thereof.

4.3 If the Earnest Money has not been released earlier in accordance with Section 4.2 above, and either party makes a written demand upon Escrow Agent for payment of the Earnest Money or any portion thereof, Escrow Agent will give written notice to the other party of such demand. Escrow Agent will continue to hold such amount until otherwise directed by written instructions from both parties to this Agreement or a final judgment or arbitrator's decision. If both parties cannot agree on the disposition of the Earnest Money after such written demand, Escrow Agent will have the right at any time to deposit or interplead the Earnest Money with a court of competent jurisdiction in the state in which the Real Property is located. Escrow Agent will give written notice of such deposit to Seller and Buyer. Upon such deposit, Escrow Agent will be relieved and discharged of all further obligations and responsibilities hereunder.

4.4 The parties will deliver to Escrow Agent an executed copy of this Agreement, which will constitute the sole instructions to Escrow Agent. Escrow Agent will execute the signature page for Escrow Agent attached hereto with respect to the provisions of this Section;

provided, however, that (a) Escrow Agent's signature hereon will not be a prerequisite to the binding nature of this Agreement on Buyer and Seller, and this Agreement will become fully effective upon execution by Buyer and Seller, and (b) the signature of Escrow Agent will not be necessary to amend any provision of this Agreement other than this Section. The provisions of this Section will survive termination of this Agreement.

5. **Inspections; Due Diligence; Buyer Termination Rights.**

5.1 **Title and Title Documents.** Within one hundred twenty (120) days after the Effective Date, Buyer will obtain (and deliver a copy thereof to Seller) a standard form commitment for title insurance ("**Commitment**") for the Real Property in an amount equal to the Purchase Price from a title insurance company selected by Buyer in its sole discretion (the "**Title Company**") for an owner's title insurance policy ("**Title Policy**") on the most recent standard American Land Title Association form, together with copies of all recorded instruments identified as exceptions therein (together with the Commitment, referred to herein as the "**Title Documents**").

5.2 **Survey.** Within one hundred twenty (120) days after the Effective Date, Buyer may obtain, at Buyer's sole cost and expense, a current ALTA survey of the Real Property (the "**Survey**") made by a reputable registered surveyor of its choosing. A counterpart of the Survey will be delivered by Buyer to Seller prior to the Title Notice Date (defined below).

5.3 **Title Objection and Response Process.** If the Survey discloses survey defects or if the Commitment shows exceptions or other obligations that are not acceptable to Buyer (collectively, the "**Unpermitted Encumbrances**"), then Buyer will notify Seller, in writing, not less than fifteen (15) Business Days before the Contingency Date (the "**Title Notice Date**"), specifying the Unpermitted Encumbrances. Any encumbrances shown on the Commitment or the Survey to which Buyer has not objected on or prior to the Title Notice Date will be deemed "**Permitted Encumbrances**" from and after the Title Notice Date. Seller will respond to Buyer, in writing within five (5) Business Days after delivery of Buyer's title objection notice stating which, if any, of the Unpermitted Encumbrances described therein that Seller intends to cure on or before the Closing and the manner in which Seller intends to effect any such cure. Seller's failure to timely deliver such a response will be deemed to be Seller's election not to cure any such Unpermitted Encumbrances. Notwithstanding anything herein to the contrary, (a) all mortgages, deeds of trust, deeds to secure debt, assignments of leases and rents, security agreements, financing statements, other financing-related liens and tax liens on the Subject Property (other than the lien of real property taxes not yet due and payable) created by the acts of Seller, will conclusively be deemed to be Unpermitted Encumbrances and will be removed (or insured over in a manner reasonably acceptable to Buyer) at or prior to the Closing (such obligation of Seller to cause the removal or insuring over of such items is herein called "**Seller's Mandatory Cure Obligation**"), and (b) except for Seller's Mandatory Cure Obligation and to the extent otherwise agreed by Seller in writing, Seller will have no obligation to correct, cure or remove any Unpermitted Encumbrances. Buyer will determine, on or prior to the Contingency Date, whether Buyer is satisfied with the status of title. If Buyer is not satisfied with the status of title in Buyer's sole discretion, Buyer may terminate this Agreement by written notice to Seller delivered on or before the Contingency Date. If Seller has not expressly agreed in writing that Seller will remove (or cause the Title Company to endorse over in a manner reasonably acceptable to Buyer) any encumbrances to which Buyer has objected, as provided above, and Buyer has not otherwise terminated this Agreement as permitted above in this Section, such encumbrances (other than Seller's Mandatory Cure Obligation and other Unpermitted Encumbrances Seller has agreed, in writing, to cause to be removed or insured over) will be deemed "Permitted Encumbrances" (and will no longer be Unpermitted Encumbrances)

from and after the Contingency Date. In the event of any termination of this Agreement by Buyer under this Section 5.3, all of the Earnest Money will be returned to Buyer.

5.4 **Due Diligence Materials.** Within five (5) Business Days after the Effective Date Seller will provide Buyer with copies of the due diligence materials listed on Schedule 1 attached hereto (“**Due Diligence Materials**”). Seller will have no obligation to deliver additional materials beyond the items listed on Schedule 1. Notwithstanding anything in this Section 5.4 to the contrary, Seller will provide Buyer all of the reports and inspections that, to Seller’s knowledge (defined below) are within Seller’s possession and control regarding the existence of Hazardous Materials at the Subject Property. In addition, if Seller has knowledge of other reports and inspections regarding the existence of Hazardous Materials at the Subject Property that are not within Seller’s possession or control, Seller will request that the possessor of those reports and inspections release same to Buyer and will provide Buyer with copies of any such requests.

5.5 **Inspections.** Upon not less than two (2) Business Days’ prior written notice to Seller (but subject to this Section 5.5), beginning on the Effective Date and, if this Agreement is not otherwise terminated by Buyer, through the Closing Date, Seller will allow Buyer and its employees, agents, contractors and representatives access, during normal business hours, to access the Real Property, without charge, for the purpose of making such inspections, tests, studies and investigations with respect to the Subject Property as Buyer reasonably deems necessary in connection with Buyer’s purchase of the Subject Property (collectively, “**Inspections**”); provided, however, that Buyer will not be entitled to conduct any invasive engineering, soils, environmental or other Inspections with respect to the Subject Property (collectively, “**Invasive Tests**”) without Seller’s prior written consent, which will not be unreasonably withheld, conditioned or delayed. Seller agrees to respond to Buyer’s request for consent to an Invasive Test within five (5) Business Days after delivery to Seller of a written request for such consent accompanied by a reasonably detailed scope of work describing, in part, the number and location of any such tests and the substances being tested for. Seller’s failure to timely respond to such a request as provided above will not be a default by Seller under this Agreement but will be deemed to be Seller’s approval of the applicable request. Buyer will keep the results of all Inspections confidential, except as the same may be disclosed to Seller or Seller’s representatives hereunder or to Buyer’s employees, agents, attorneys, accountants, architects and engineers and potential lenders who have a need to know such information (collectively, “**Recipients**”) or as disclosure of the same may be mandated by applicable law (but Buyer will give prompt written notice to Seller of any such legally-mandated disclosure). Buyer will cause the Recipients to also keep that information confidential in accordance with the requirements of this Agreement. Buyer will be solely responsible for, and will promptly pay, all costs and expenses of the Inspections, and will indemnify, defend and hold harmless Seller, and its officers, directors, shareholders, members, managers, employees, contractors and agents, and the Subject Property, from and against any and all loss, cost, damage, lien, liability, settlement, cause of action or threat thereof, or expense (including, without limitation, reasonable attorneys’ fees and costs) arising from or relating to the following matters pertaining to the activities of Buyer or Buyer’s employees, agents, contractors and representatives at the Subject Property under this Section 5.5 (a) third party claims for death, personal injury or property damage, (b) mechanics’ or materialmen’s liens, (c) violations of applicable law, and (d) Buyer’s failure to restore damage to the Subject Property as required under this Section 5.5. Prior to any entry onto the Subject Property, Buyer will provide to Seller a certificate of insurance showing that Buyer (or the contractor or consultant entering the Subject Property on behalf of Buyer) maintains in full force and effect, a policy of commercial general liability insurance (1) covering its activities (including, without limitation, the activities of its employees, independent contractors and agents) in connection with the Inspections; (2) in an amount of not less than Two Million and 00/100ths Dollars (\$2,000,000.00) combined single limit per occurrence from a company of recognized

responsibility, authorized to do business in West Virginia with a financial rating of at least a Class A- status, as rated in the most recent edition of Best's Insurance Reports; and (3) naming Seller as an additional insured. Such insurance will insure against any and all claims for bodily injury, including, without limitation, death resulting therefrom, and damage to or destruction of property arising from the Inspections performed by Buyer, by any of its contractors or subcontractors, or by any other person so authorized by Buyer. Buyer will promptly repair and restore any damage to the Subject Property attributable to the conduct of the Inspections, and will promptly return the Subject Property to substantially the same condition as existed prior to the conduct of the Inspections. All Inspections will be conducted in such a manner so as to minimize interference with the operation of the Subject Property and Seller's activities thereon. At Seller's sole option, any such Inspections will be performed in the presence of a representative of Seller. Should Seller require the presence of a representative at any Inspections, Seller agrees to make the representative available upon three (3) Business Day's advance written notice or waive the requirement of a representative at the Inspection so as not to materially delay Buyer. Upon Seller's written request, Buyer will promptly deliver to Seller copies of the written results of all Inspections. Anything in this Agreement to the contrary notwithstanding, (a) the confidentiality and restoration obligations of Buyer under this Section 5.5 will survive any termination of this Agreement and (b) the indemnification obligations of Buyer under this Section 5.5 will survive Closing and any termination of this Agreement for a period of two (2) years; provided; however, if a claim for indemnification is delivered to Buyer on behalf of Seller during that two (2) year period, then Buyer's indemnification obligations under this Section 5.5 will continue until that claim has been resolved and Buyer's obligations with respect thereto fulfilled.

5.6 **Contingency Date.** The Contingency Date will be 5:00 p.m., Eastern Standard Time, on the date that is one hundred twenty (120) days after the Effective Date (the "**Contingency Date**"). If a Contingency Date does not fall on a business day, then that Contingency Date will be the next Business Day thereafter.

5.7 **Buyer's Right to Terminate Before Contingency Date.** Anything in this Agreement to the contrary notwithstanding, Buyer may, in its sole and absolute discretion, and for any reason or reasons or for no reason whatsoever, terminate this Agreement by delivering written notice of such termination to Seller at any time on or before the Contingency Date. In the event of any termination under this Section 5.7 on or before the Contingency Date, all of the Earnest Money and all of the interest accrued thereon will be promptly paid to Buyer. Upon any such termination, neither party will have any further rights or obligations under this Agreement (other than Buyer's obligations under Sections 4.4, 5.5, 7.4, 15, 16, 25, 26, 28, 33, 34, 35, 36 and 37 that specifically survive any such termination and Seller's obligations under Sections 4.4, 7.4, 15, 16, 25, 26, 28, 33, 35 and 37 that specifically survive any such termination (collectively, "**Surviving Obligations**"), which obligations will survive any such termination). If Seller does not timely receive written notice of termination from Buyer under this Section 5.7, Buyer will be deemed to have waived its right to terminate this Agreement under this Section 5.7.

6. **Covenants by Seller.** Seller covenants and agrees with Buyer that from the Effective Date until the Closing Date, Seller will conduct its business involving the Subject Property as follows, and during such period will (except as specifically provided to the contrary herein):

6.1 **Conveyances; Easements.** Refrain from conveying the Subject Property or creating on the Real Property, as applicable, any easements affecting the Real Property, without Buyer's prior written consent, which consent will not be unreasonably withheld conditioned or delayed.

6.2 **Contracts.** Refrain from entering into or amending any contracts or other agreements that would bind the Subject Property after Closing without the prior written consent of Buyer, which consent will not be unreasonably withheld, conditioned or delayed.

6.3 **Operation of Subject Property.** Operate, maintain, repair and insure the Subject Property in a manner consistent with the existing operation, maintenance, repair and insurance of the Subject Property.

7. **Representations and Warranties.**

7.1 **By Seller.** For purposes of this Section 5.1, "Seller's Knowledge" or words of similar import means the actual knowledge of Richard Sunderland, as Executive Vice President, Chief Financial Officer of Seller, Thomas Beckett, as Vice President and General Counsel of Seller or Christopher Lowe, as Vice President of Real Estate of Seller, without any duty of inquiry or investigation. Seller represents and warrants to buyer that the foregoing individuals (together with their respective successors) are the employees of Seller with the primary responsibility for making decisions regarding the Subject Property. Seller represents and warrants to Buyer that:

7.1.1 **Authority.** (a) Seller is a corporation duly organized and validly existing and in good standing under the laws of the State of West Virginia; (b) Seller has the requisite power and authority to execute this Agreement, Seller's Closing Documents (as described in Section 9.1) and the Joint Closing Documents (as described in Section 9.3) (collectively, "**Seller Documents**") and to perform its obligations under the Seller Documents; (c) the person executing the Seller Documents on Seller's behalf has the requisite power and authority to do so; and (d) Seller's execution and delivery of, and performance of its obligations under the Seller Documents will not conflict with or violate any of Seller's organizational documents, any agreement to which Seller is a party or any judgment, order or decree of any court or arbiter to which Seller is a party.

7.1.2 **Hazardous Materials.**

7.1.2.1 **Definitions.** For purposes of this Agreement, (a) "**Hazardous Materials**" means any of the following, in any amount: (i) any petroleum or petroleum product, asbestos in any form, urea formaldehyde and polychlorinated biphenyls; (ii) any radioactive substance; (iii) any toxic, infectious, reactive, corrosive, ignitable or flammable chemical or chemical compound; and (iv) any chemical, material or substance, whether solid, liquid or gas, defined as or included in the definitions of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," or words of similar import in any existing federal, state or local statute, law, ordinance or regulation, as the same may be interpreted by government offices and agencies, and (b) "Hazardous Materials Laws" means any existing federal, state or local statutes, laws, ordinances, or regulations that control, classify, regulate, list or define Hazardous Materials or require remediation of Hazardous Materials contamination.

7.1.2.2 **Representations and Warranties.** To Seller's Knowledge, except as may have been disclosed in writing to Buyer and except as shown in the environmental report(s) listed on Schedule 1 attached hereto (the "**Reports**"), (a) Seller has not used or permitted the Real Property to be used, and the Real Property has not been, during Seller's period of ownership, used for generating, transporting,

treating, storing, manufacturing, emitting or disposing any reportable quantities of Hazardous Materials, except as permitted by Hazardous Materials Laws; (b) Seller has not received written notice during its period of ownership of any investigation of or report from or by any governmental authority, respecting the Real Property with respect to any actual or alleged violations of Hazardous Materials Laws; (c) during Seller's period of ownership, there have not been any actions, suits, or proceedings or settlements related to the presence of Hazardous Materials on the Real Property; and (d) to Seller's Knowledge except as shown on the Reports, the Real Property has not been used for generating, transporting, treating, storing, manufacturing, emitting or disposing any reportable quantities of Hazardous Materials in violation of Hazardous Materials Laws.

Notwithstanding anything in this Section 7.1.2 to the contrary, Seller has advised Buyer that to Seller's Knowledge and as more particularly described in the Due Diligence Documents, prior to Seller's period of ownership, the Real Property was subject to releases of Hazardous Materials.

7.1.3 Proceedings. To Seller's Knowledge, there is no action, litigation, condemnation or any legal proceeding of any kind pending or threatened, against the Real Property, or Seller in connection with the Real Property that would affect the value of the Real Property or the Seller's ability to perform its obligations under this Agreement.

7.1.4 Condemnation. Seller has not received any written notice of any pending, and to Seller's knowledge there are no contemplated, condemnation proceedings affecting all or any part of the Real Property

7.1.5 FIRPTA. Seller is not a "foreign person," "foreign partnership," "foreign trust" or "foreign estate" as those terms are defined in Section 1445 of the Internal Revenue Code.

7.1.6 Leases. There are no parties in possession of any portion of the Real Property pursuant to lease agreements.

7.1.7 Blocked Persons. Seller has not received written notice that Seller is:

(i) listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 Sept. 25, 2001 (the "Order") and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable orders (such lists are collectively referred to as the "Lists");

(ii) a person who has been determined by competent authority to be subject to the prohibitions contained in the Order;

(iii) owned or controlled by, and does not act for or on behalf of, any person or entity on the Lists or any other person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Order.

7.2 By Buyer. Buyer represents and warrants to Seller that:

7.2.1 **Authority.** (a) Buyer is a county duly organized and validly existing and in good standing under the laws of the State of West Virginia; (b) Buyer has the requisite power and authority to execute this Agreement, Buyer's Closing Documents (as described in Section 8.2) and the Joint Closing Documents (as described in Section 8.3) (collectively, "**Buyer Documents**") and to perform its obligations under the Buyer Documents; (c) the person executing the Buyer Documents on Buyer's behalf has the requisite power and authority to do so; and (d) Buyer's execution, delivery and performance of its obligations under the Buyer Documents will not conflict with or violate any of Buyer's organizational documents, any agreement to which Buyer is a party or any judgment, order or decree of any court or arbiter to which Buyer is a party.

7.2.2 **Blocked Persons.** Buyer has not received written notice that Buyer is:

(i) listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("**OFAC**") pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 Sept. 25, 2001 (the "**Order**") and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable orders (such lists are collectively referred to as the "**Lists**");

(ii) a person who has been determined by competent authority to be subject to the prohibitions contained in the Order;

(iii) owned or controlled by, and does not act for or on behalf of, any person or entity on the Lists or any other person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Order.

7.3 **Representation and Warranty Becoming Untrue.** Seller's representations and warranties under Section 7.1 and Buyer's representations and warranties under Section 7.2 will each be true and correct in all material respects as of the Effective Date and the Closing Date with respect to the Real Property. In the event that, between the Effective Date and the Closing Date, Seller becomes aware that any of the representations and warranties of Seller in Section 7.1 is no longer true and correct in any material respect, Seller will promptly notify Buyer thereof in writing. Within thirty (30) days after Seller's delivery of such initial written notice (such thirty (30)-day period being sometimes herein called the "**Warranty Cure Period**"), Seller will notify Buyer further in writing that either (i) Seller will not cure such then-incorrect representations and warranties, or (ii) Seller will use reasonable efforts (but without being required to expend any funds) to cure any such then-incorrect representations and warranties, and, in the event Seller so elects to try to cure, the Closing will be delayed in accordance with this Section 5.3 while Seller undertakes such efforts. If Seller notifies Buyer that Seller will not attempt to cure or if, after using such reasonable efforts, Seller cannot effect such cure on or before the expiration of the Warranty Cure Period, Buyer will, within ten (10) Business Days following the earlier of the delivery of Seller's notice that Seller will not cure or the expiration of the Warranty Cure Period, elect either (i) to terminate this Agreement (other than the Surviving Obligations which will survive any such termination), or (ii) to waive any such incorrect representations and warranties of Seller and to proceed hereunder. Failure of Buyer to notify Seller within the aforesaid ten (10)-Business Day period will constitute Buyer's irrevocable election to waive any such incorrect representations and warranties of Seller and proceed under clause (ii) of the immediately preceding sentence. If Buyer terminates this Agreement as provided in clause (i) above, the Earnest Money will be promptly returned to Buyer. Notwithstanding the foregoing, if the date by which Buyer must either terminate

this Agreement or waive an incorrect representation or warranty, as provided above is after the scheduled Closing Date, then the Closing Date will be extended to a date that is two (2) Business Days after the date that Buyer must make such election.

7.4 Survival/Liability Limitations. Seller's and Buyer's representations and warranties in Section 7 of this Agreement survive the Closing for one (1) year unless Buyer or Seller delivers to the other a notice of misrepresentation or breach of warranty within such one (1) year period (in which event any claim that is the subject of the notice survives until such time as the claim is finally resolved). Seller's total liability in connection with any breach or breaches of its representations and warranties in this Agreement or the Seller Documents will be limited to the aggregate amount of \$750,000.00. Seller is not liable to Buyer with respect to the breach by Seller of any particular representation or warranty in this Agreement if, prior to the Closing, Buyer obtains knowledge of a fact or circumstance, the existence of which would constitute a breach of such Seller's representation or warranty under this Agreement and Buyer does not terminate this Agreement under Section 7.3. For purposes of this Agreement, Buyer is deemed to have knowledge of all facts and circumstances described in any document Buyer received in connection with the due diligence described in Section 5 of this Agreement, and the warranties and representations herein contained will be deemed modified to the extent any document delivered to Buyer is inconsistent with the matters covered herein.

8. Closing.

8.1 Closing Date. The Closing will occur on or prior to the Closing Date at the office of, or by mail through escrow with, the Escrow Agent or at such other time and place as the parties may mutually agree in writing.

8.2 Buyer's Closing Conditions Precedent. Buyer's obligation to consummate the transaction contemplated by this Agreement will be subject to satisfaction or waiver in writing of each of the following conditions ("**Buyer's Closing Conditions Precedent**") in connection with the Subject Property; provided, however that Buyer will have the unilateral right to waive any Buyer's Closing Conditions Precedent, in whole or in part, by written notice to Seller:

- (i) The representations in Section 7.1 of Seller hereof will be, in all material respects, true and complete.
- (ii) Seller will have performed all of the obligations required to be performed by Seller under this Agreement, as and when required by this Agreement, in all material respects, subject to the notice and cure in Section 11.1.

8.3 Seller's Conditions Precedent. Seller's obligation to consummate the transaction contemplated by this Agreement will be subject to satisfaction or waiver in writing of each of the following conditions ("**Seller's Closing Conditions Precedent**") in connection with the Subject Property but Seller will have the unilateral right to waive, in whole or in part, any Seller's Closing Conditions Precedent by written notice to Buyer:

- (i) The representations in Section 7.2 of Buyer hereof will be, in all material respects, true and complete.
- (ii) Buyer will have performed all of the obligations required to be performed by Buyer under this Agreement, as and when required by this Agreement, in all material respects, subject to the notice and cure in Section 11.2.

(iii) The Deed (defined below) will convey the Real Property to Buyer free and clear of all encumbrances other than the Permitted Encumbrances.

If Buyer's Closing Conditions Precedent or Seller's Closing Conditions Precedent, as the case may be, have not been satisfied or waived as of the scheduled Closing Date and provided the failure to satisfy or waive any such condition is not attributable to a breach or default of this Agreement by Seller or Buyer, as the case may be, Buyer or Seller, as the case may be, will have the right to terminate this Agreement by written notice to the other delivered on or before the scheduled Closing Date. Upon delivery of such notice, this Agreement will terminate (other than the Surviving Obligations, which obligations will survive any such termination); provided, however, upon such termination both Buyer and Seller will execute a document evidencing such termination. Upon such termination for a Buyer's Closing Condition Precedent, the Earnest Money will be promptly returned to Buyer. Upon such termination for a Seller's Closing Condition Precedent, the Earnest Money will be promptly paid to Seller. Upon any such termination, neither party will have any further rights or obligations (other than the Surviving Obligations which will survive any such termination) regarding this Agreement or the Subject Property.

9. **Closing Deliveries.**

9.1 **Seller's Closing Documents.** At Closing, Seller will deliver:

9.1.1 **Deed.** A Special Warranty Deed ("**Deed**"), in the form attached as **Exhibit B** hereto, conveying the Real Property to Buyer free and clear of all encumbrances other than Permitted Encumbrances.

9.1.2 **Bill of Sale.** A Bill of Sale, in commercially reasonable form substantially similar to that attached hereto as **Exhibit D**, transferring the Personal Property (including, without limitation, the Solar Array) and any Off-Site Property (defined below) to Buyer.

9.1.3 **Authorization Documents.** Evidence reasonably satisfactory to the Title Company that Seller is duly authorized and has full power and authority to convey title to the Subject Property to Buyer in the conditions required by this Agreement and to perform and consummate the obligations of Seller described herein.

9.1.4 **FIRPTA Certificate.** A certificate containing the information required by Section 1445 (b) (2) of the Internal Revenue Code and its corresponding regulations.

9.1.5 **Title Documents.** An owner's affidavit in substantially the form attached hereto as **Exhibit C** together with such other documents as may be reasonably required by Title Company and otherwise approved by Seller in writing prior to the Contingency Date.

9.1.6 **Miscellaneous.** Such other documents reasonably required to consummate the transaction this Agreement contemplates, in form reasonably acceptable to Seller and Buyer.

9.2 **Buyer's Closing Documents.**

9.2.1 **Purchase Price.** The balance of the Purchase Price (*i.e.*, after taking into account applicable credits for the Earnest Money), plus or minus prorations, by wire transfer or otherwise in immediately available funds.

9.2.2 **Authorization Documents.** Evidence satisfactory to the Title Company that Buyer is duly authorized and has full power and authority to acquire title to the Subject Property and to perform and consummate the obligations of Buyer described herein.

9.2.3 **Miscellaneous.** Such other documents reasonably required to consummate the transaction this Agreement contemplates, in form reasonably acceptable to Seller and Buyer.

9.3 **Joint Closing Documents.**

9.3.1 **Closing Statement.** A closing statement showing the Purchase Price and all prorations, adjustments, credits and debits this Agreement describes.

9.3.2 **Reciprocal Access Easement Agreement.** A fully executed original of the Reciprocal Access Easement Agreement (defined below).

9.3.3 **Real Estate Transfer Declarations.** To the extent applicable, any real estate transfer disclosures required by applicable law.

9.3.4 **Miscellaneous.** Other documents reasonably required to consummate the transaction this Agreement contemplates, in form reasonably acceptable to Seller and Buyer.

10. **Adjustment and Prorations.** For purposes of calculating prorations, Buyer will be deemed to be in title to the Subject Property, and therefore entitled to the income therefrom and responsible for the expenses thereof, for the entire day upon which the Closing occurs. All such prorations will be made on the basis of the actual number of days of the year and month that will have elapsed as of the Closing Date. Real estate taxes and operating expenses (if any) will each be prorated on a cash basis and except as specifically provided otherwise herein, items of income and expense for the period prior to the Closing Date will be for the account of Seller and items of income and expense for the period on and after the Closing Date will be for the account of Buyer. All prorations hereunder will be final.

10.1 **Title Insurance.** Buyer will pay all costs and fees associated with any Title Insurance Policy obtained by Buyer and for all costs and fees of any lender's title insurance policy.

10.2 **Survey Costs.** Buyer will pay all costs of the ALTA Survey described in Section 5.2. Seller will pay all costs associated with preparation of any plat of easement, easement legal description or plat approval required in connection with the Reciprocal Access Easement Agreement.

10.3 **Closing Fee.** Seller and Buyer will each pay one-half of the reasonable and customary closing fees or escrow fees Escrow Agent charges; provided, however, that Seller's share of such fees will not exceed \$1,500.00. Buyer will pay for all costs for any money lender's closing escrows.

10.4 **Transfer Tax.** State and County documentary stamp and transfer taxes payable (if any) in connection with the transfer of the Real Property will be paid by Seller.

10.5 **Recording Costs.** Buyer will pay the cost of recording the Deed and of recording of any documents required by any lender providing financing associated with Buyer's acquisition of the Real Property. Seller will pay the cost of recording any survey reasonably required by the

Title Company to describe the Real Property or to correct title defects, as well as any lien releases or other documents required to resolve any Seller Mandatory Cure Obligations or other Unpermitted Exceptions Seller is otherwise obligated to resolve under Section 5.3.

10.6 **Other Costs.** All other costs will be allocated in accordance with the customs prevailing in similar transactions in Jefferson County, West Virginia where the Real Property is located.

10.7 **Real Property Taxes and Assessments.** General ad valorem property taxes and any special assessments that are certified, confirmed, or ratified by the taxing authority (collectively, "Taxes"), in each case payable in the year of Closing, will be pro-rated as of the Closing Date, with due allowance for maximum available discount for early payment. Any Taxes that are due and payable on the Closing Date will be paid at that Closing by Seller if not previously paid. If the Closing will occur before the tax rate or the assessed valuation of the Subject Property is fixed for the year of that Closing, then the apportionment of taxes will be upon the basis of 100% of the most recently ascertainable real estate taxes for the Subject Property, with maximum available discount applied.

Except as otherwise expressly provided otherwise in this Agreement, all prorations provided for herein will be final.

11. **Default/Remedies.**

11.1 **DEFAULT BY SELLER.** IF SELLER DEFAULTS IN THE PERFORMANCE OF ITS OBLIGATION TO CLOSE THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT, AND SELLER FAILS TO CURE THE DEFAULT WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF WRITTEN NOTICE THEREOF FROM BUYER, BUYER WILL BE DAMAGED AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT WILL BE TO ELECT ONE, AND ONLY ONE, OF THE FOLLOWING REMEDIES, AS FOLLOWS: (A) TO TERMINATE THIS AGREEMENT BY WRITTEN NOTICE DELIVERED TO SELLER AND ESCROW AGENT AND TO RECOVER THE EARNEST MONEY AND PAYMENT FROM SELLER FOR BUYER'S REASONABLE OUT-OF-POCKET EXPENSES IN CONNECTION WITH THE INSPECTIONS AND THE NEGOTIATION OF THIS AGREEMENT, NOT TO EXCEED \$50,000.00, OR (B) TO SPECIFICALLY ENFORCE (WHICH ACTION FOR SPECIFIC PERFORMANCE MUST BE FILED AND SERVED UPON SELLER WITHIN ONE HUNDRED TWENTY (120) DAYS AFTER THE EXPIRATION OF THE 10-DAY PERIOD TO CURE DESCRIBED IN THIS SENTENCE, OR SUCH RIGHT WILL BE DEEMED WAIVED) SELLER'S OBLIGATION TO CLOSE THE TRANSACTION, EXECUTE AND DELIVER THE DEED AND OTHER CLOSING DOCUMENTS AND TO CONVEY THE SUBJECT PROPERTY TO BUYER IN ACCORDANCE WITH THIS AGREEMENT.

11.2 **DEFAULT BY BUYER.** IF BUYER DEFAULTS IN THE PERFORMANCE OF ITS OBLIGATION TO CLOSE THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT, AND BUYER FAILS TO CURE THE DEFAULT WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF WRITTEN NOTICE THEREOF FROM SELLER, SELLER WILL BE DAMAGED AND SELLER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT WILL BE TO RECOVER THE EARNEST MONEY AS LIQUIDATED DAMAGES. IT IS HEREBY AGREED THAT SELLER'S DAMAGES IN THE EVENT OF A DEFAULT BY BUYER HEREUNDER ARE UNCERTAIN AND DIFFICULT TO ASCERTAIN, AND THAT THE EARNEST MONEY CONSTITUTES A REASONABLE LIQUIDATION OF

SUCH DAMAGES AND IS INTENDED NOT AS A PENALTY, BUT AS FULL LIQUIDATED DAMAGES. BUYER COVENANTS NOT TO BRING ANY ACTION OR SUIT CHALLENGING THE AMOUNT OF LIQUIDATED DAMAGES PROVIDED HEREUNDER IN THE EVENT OF SUCH DEFAULT. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 11.2, SELLER WILL NOT HAVE THE RIGHT TO RECOVER DAMAGES OF ANY KIND OR TO OBTAIN OTHER EQUITABLE RELIEF, INCLUDING, WITHOUT LIMITATION, ANY EQUITABLE ADJUSTMENT TO THE TERMS OF THE SALE OF THE SUBJECT PROPERTY.

12. **Condemnation.** If, prior to the Closing Date, eminent domain proceedings are commenced against all or any material part of the Real Property, Seller will promptly give notice to Buyer of such fact and, at Buyer's option (to be exercised within fifteen (15) days after Seller's notice), this Agreement will terminate. Upon any such termination, neither party will have further obligations under this Agreement (other than the Surviving Obligations, which obligations will survive any such termination), except that Buyer will, at the request of Seller, execute any document reasonably requested by Seller to evidence such termination. If Buyer fails to elect to terminate this Agreement in the manner provided in this Section 12, or the eminent domain proceeding relates to less than a material portion of the Real Property, then there will be no reduction in the Purchase Price, and Seller will assign to Buyer at the Closing Date all of Seller's right, title and interest in and to any award made or to be made in the condemnation proceedings. Prior to the Closing Date (but after the Contingency Date), Seller will not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without Buyer's prior written consent, which consent will not be unreasonably withheld or delayed; provided, however, that if any action is necessary with respect to such proceeding to avoid any forfeiture or material prejudice, Seller will be entitled to take such action as and to the extent necessary without obtaining Buyer's prior written consent. For purposes of this Section 12, the words "material part" with respect to eminent domain proceedings means that the portion of the Real Property to be so taken is valued in excess of \$345,000.00.

13. **Damage.** If, prior to the Closing Date, all or any material part of the Improvements is materially damaged by fire or other casualty, Seller will promptly give notice to Buyer of such fact. Thereafter, at Buyer's option (to be exercised by Buyer's written notice to Seller given within fifteen (15) days after Seller's initial notice to Buyer), this Agreement will terminate. In the event of any such termination of this Agreement, neither party will have any further obligations under this Agreement (other than the Surviving Obligations, which obligations will survive any such termination), and the Earnest Money will be refunded to Buyer. If Buyer fails to elect to terminate (in the manner provided in this Section 13) despite such damage, or if the Improvements are damaged but not materially, Seller will promptly commence to repair such damage or destruction and to return the Improvements to substantially their condition prior to such damage. If the repair of such damage is completed prior to the Closing Date, then there will be no reduction in the Purchase Price, and Seller will retain the proceeds of all insurance related to such damage. If the repair of such damage is not completed prior to the then-scheduled Closing Date, but Seller is diligently proceeding to repair, then Seller will complete the repair and the Closing Date will be extended for the period of time needed to complete the repair and Seller will be entitled to receive the proceeds of all insurance related to such damage. For purposes of this Section 13, the words "materially damaged" mean damage that would cost \$345,000.00 or more to repair.

14. **Reciprocal Access Easement Agreement.** Seller and Buyer will negotiate in good faith the terms of a mutually agreeable form of reciprocal access easement agreement (the "**Reciprocal Access Easement Agreement**") to be recorded at Closing pursuant to which (a) the owner of the Real Property will be granted a permanent, irrevocable easement (for the benefit of the Real Property) for vehicular and pedestrian access between the Real Property and George Street over a portion of the drive aisles constructed on the neighboring parcel of property commonly known as 330 North George Street, Charles Town, WV ("**George Street Parcel**"), (b) the owner of George Street Parcel will be granted a permanent, irrevocable

easement (for the benefit of the George Street Parcel), for vehicular and pedestrian access between the George Street Parcel and North Lawrence Street over a portion of the drive aisles constructed on the Real Property, and (c) the owner of each of the Real Property and the George Street Parcel will maintain the easement areas on their respective parcels at their own cost and expense. If the Reciprocal Access Easement Agreement has not been agreed upon between Buyer and Seller before the Contingency Date, either Buyer or Seller may terminate this Agreement by written notice to the other delivered within ten (10) business days after the Contingency Date. Upon any such termination, the Earnest Money will be disbursed to Buyer in full.

15. **Broker's Commissions.** Seller and Buyer each represent and warrant to the other that in connection with the transaction contemplated hereby, no third-party broker or finder other than CBRE ("**Broker**"), has been engaged or consulted by Seller or Buyer or is entitled to compensation or commission in connection herewith as a result of acts of Seller or Buyer or their respective agents, employees or representatives. At Closing, Seller will pay Broker a commission in accordance with a separate agreement between Seller and Broker. Seller and Buyer will each indemnify, defend and hold harmless the other, and its respective employees, contractors and agents, from and against any and all loss, cost, damage, liability, settlement, cause of action or threat thereof, or expense (including, without limitation, reasonable attorneys' fees and costs) arising from or relating to claims of any brokers, finders or any like third parties (other than Broker), for any commission or compensation resulting from any acts of the indemnifying party or its agents, employees or representatives in connection herewith. The terms of this Section will survive the Closing and any termination of this Agreement.

16. **Environmental Disclosure.** Seller hereby discloses that the Subject Property contains or contained such hazardous materials (if any) as described in the environmental reports listed on Schedule 1 hereto (the "**Reports**"). Seller has delivered the Reports to Buyer as of the Effective Date and Buyer hereby acknowledges receipt of the Reports. Buyer acknowledges and agrees that the Reports are provided by Seller for informational purposes only and that Seller makes no representations or warranties as to the accuracy or completeness of the Reports. Buyer will conduct its own investigations and studies of the Subject Property as it deems necessary or appropriate in order to determine the presence or absence of hazardous materials on or within the Subject Property. Buyer hereby (a) agrees that Buyer is relying solely on the representations of Seller in this Agreement and Buyer's own investigation, if any, of the Subject Property covering the effect of any hazardous materials that may be on about or within the Subject Property, whether disclosed by such investigations or not (collectively, the "**Hazardous Materials Effect**"), (b) assumes the risk of any and all liabilities, claims, demands, suits, judgments, losses, damages, expenses (including, without limitation, attorney's fees) and other obligations arising out of or incurred in connection with the Hazardous Materials Effect, if any, and (c) except as otherwise expressly provided in this Agreement (including Section 7 regarding Seller's representations and warranties), waives and releases Seller from all liabilities, claims, demands, suits, judgments, losses, damages, and expenses relating to the Hazardous Materials Effect. Notwithstanding the foregoing, Purchaser does not waive and shall not be construed to have waived any right Purchaser otherwise may have in the event of an action by an unrelated third party to seek contribution against or indemnification from Seller for tort claims arising out of Seller's actions that accrued on or before the Closing Date. The terms of this Section will survive the Closing.

17. **Notices.** Any notice or other communication in connection with this Agreement will be in writing and will be sent by nationally recognized overnight courier guaranteed next business day delivery, by email transmission (provided that such notice sent by email is also sent via nationally recognized overnight courier for guaranteed next business day delivery), or by personal delivery, properly addressed as follows:

If to Seller: American Public University System, Inc.
c/o American Public Education, Inc.
303 West 3rd Avenue
Ranson, WV 25438
Attention: Vice President of Real Estate
E-Mail: realestate@apei.com

With a copy to: American Public University System, Inc.
c/o American Public Education, Inc.
303 West 3rd Avenue
Ranson, WV 25438
Attention: Legal Department
E-Mail: legal@apus.edu

And with a copy to: O'Rourke, Hogan, Fowler and Dwyer, LLC
10 South LaSalle Street, Suite 3700
Chicago, Illinois 60603
Attention: Howard I. Goldblatt
E-Mail: hgoldblatt@ohfdlaw.com

If to Buyer: Jefferson County Commission
124 East Washington Street
Charles Town, WV 25414
Attn: Nathan P. Cochran, Esquire
Jefferson County Prosecuting Attorney's Office
E-Mail: ncochran@jcpawv.org

With a copy to: Jefferson County Commission
124 East Washington Street
Charles Town, WV 2541
Attn: Edwina Benites, County Administrator
E-Mail: ebenites@jeffersoncountywv.org

And with a copy to: Conrad Luttrell, LLP
158 Crimson Circle
Martinsburg, WV 25403
Attn: Kanette Petry, Esquire
E-Mail: petry@conradluttrell.com

All notices will be deemed given one (1) Business Day following deposit if delivered to an overnight courier guaranteeing next day delivery and on the same day if sent by personal delivery or by e-mail transmission (provided that proof of transmission is necessary for notices sent by email) between 8:00 a.m. and 5:00 p.m. (eastern time). Attorneys for each party will be authorized to give notices for each such party. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified.

18. **Captions.** The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

19. **Entire Agreement; Modification.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein contained, and all prior negotiations, discussions, writings and agreements between the parties with respect to the subject matter herein contained are superseded and of no further force and effect. This Agreement may be amended only by a written instrument executed by Seller and Buyer. No covenant, term or condition of this Agreement will be deemed to have been waived by either party, unless such waiver is in writing signed by the party charged with such waiver.

20. **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

21. **Controlling Law.** This Agreement will be governed by and construed in accordance with the laws of the State of West Virginia. Any litigation between Buyer and Seller arising out of this Agreement will be commenced in a court of competent jurisdiction in the county in which the Subject Property is located, and both Buyer and Seller waive venue outside such county.

22. **Severability.** The unenforceability or invalidity of any provisions hereof will not render any other provision herein contained unenforceable or invalid.

23. **Time of Essence.** Time is of the essence in the performance of obligations under this Agreement.

24. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which is deemed an original, but all of which together constitute one and the same instrument.

25. **Consequential/Punitive Damages.** Neither party to this Agreement is liable to the other for any consequential, special or punitive damages under this Agreement, including, without limitation, lost profits. The terms of this Section will survive the Closing and any termination of this Agreement.

26. **Attorneys' Fees.** In the event of any litigation between the parties with respect to this Agreement or any document executed pursuant to this Agreement, the non-prevailing party in such action will pay the reasonable attorneys' fees, paralegals' fees and court costs of the prevailing party. The terms of this Section will survive the Closing and any termination of this Agreement.

27. **Electronic Signatures.** Signatures transmitted by electronic mail in so-called "PDF" format to this Agreement or any amendment thereto will be valid and enforceable as original signatures. In addition, electronic signatures to this Agreement, whether digital, via DocuSign or other digital signature program, will be as valid as original manual signatures and will be effective to bind the parties and have the same force and effect as manual signatures.

28. **Waiver of Jury Trial.** EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING AND COUNTERCLAIM BROUGHT BY ANY PARTY HERETO ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT AND WILL SURVIVE THE CLOSING AND ANY TERMINATION OF THIS AGREEMENT.

29. **Calculation of Days.** Unless otherwise specified herein, where the terms of this Agreement require the calculation of days to determine performance hereunder, the days will be calendar days. If the day calculated is not a Business Day, the next Business Day will be the date for performance. "Business Day," for purposes of this Agreement, means any day of the week other than (i) Saturday and

Sunday, (ii) a day on which the banking institutions in the State of West Virginia are obligated to be closed to the transaction of normal banking business, or (iii) a day on which the banking institutions in the State of West Virginia are interrupted because of extraordinary events including hurricanes, power outages, and acts of terrorism.

30. **Interpretation.** In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

31. **Assignment.** Neither Seller nor Buyer may assign its rights under this Agreement; provided, however, that Buyer may assign its rights and obligations under this Agreement to a person or entity that controls, is controlled by or is under common control with Buyer, upon at least five (5) Business Days' prior written notice to Seller; and provided further, however, that in the event of any such assignment, Buyer will remain liable to Seller for all obligations under this Agreement, as a principal and not as a surety.

32. **Non-Solicitation.** Beginning on the Effective Date and, if this Agreement is not otherwise terminated, through the Closing Date, Seller will not solicit or accept any offers for or engage in any discussion concerning the sale of the Subject Property, and Seller will cease all marketing efforts and negotiations with respect to the sale of the Subject Property, other than the transaction contemplated herein.

33. **Limitations.** In no event will the provisions of Sections 11.1 and 11.2 limit the damages recoverable by either party against the other party due to the other party's obligation to indemnify such party in accordance with this Agreement or affect the rights or obligations of the parties to this Agreement under Section 26. This Section will survive Closing or the earlier termination of this Agreement.

34. **No Personal Liability.** Notwithstanding anything in this Agreement or any of the documents executed by Seller pursuant hereto or in connection herewith, the liability of Seller will be limited to Seller's interest in the Real Property (including, without limitation, any net insurance or sales proceeds arising therefrom), and in no event will Buyer be entitled to or seek satisfaction for any such liability from any of Seller's partners, members, affiliates and subsidiaries, and their respective members, stockholders, directors, officers, participants, employees, consultants, brokers and agents. This Section will survive the Closing or earlier termination of this Agreement.

35. **No Reliance on Documents.** Except for Seller's express representations and warranties in this Agreement, Seller makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information delivered or given by Seller or its brokers or agents to Buyer in connection with the transaction contemplated hereby and any such representations and warranties are hereby excluded and disclaimed. Buyer acknowledges and agrees that (a) all materials, data and information delivered or given by Seller to Buyer in connection with the transaction contemplated hereby are provided to Buyer as a convenience only in Buyer's own examination and determination as to whether or not it wishes to purchase the Subject Property and (b) any reliance on or use of such materials, data or information by Buyer will be at the sole risk of Buyer. Neither Seller, nor any affiliate of Seller, nor the person or entity which prepared any report or reports delivered by Seller to Buyer will have any liability to Buyer for any inaccuracy in or omission from any such reports. Buyer will rely exclusively on its own independent investigation and evaluation of every aspect of the Subject Property and on the express representations of Seller contained herein and not on any materials supplied by Seller

36. **AS-IS SALE; DISCLAIMERS.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE DEED, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF

ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AS TO THE PHYSICAL, STRUCTURAL OR ENVIRONMENTAL CONDITION OF THE SUBJECT PROPERTY OR ITS COMPLIANCE WITH LAWS.

BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER WILL SELL AND CONVEY TO BUYER AND BUYER WILL ACCEPT THE SUBJECT PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS", EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT AND IN THE DEED. BUYER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE SUBJECT PROPERTY OR RELATING THERETO (INCLUDING SPECIFICALLY, WITHOUT LIMITATION, OFFERING PACKAGES DISTRIBUTED WITH RESPECT TO THE SUBJECT PROPERTY) MADE OR FURNISHED BY SELLER, THE MANAGERS OF THE SUBJECT PROPERTY, OR ANY REAL ESTATE BROKER OR AGENT REPRESENTING OR PURPORTING TO REPRESENT SELLER, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, UNLESS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

BUYER REPRESENTS TO SELLER THAT BUYER HAS CONDUCTED, OR WILL CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE SUBJECT PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS BUYER DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE CONDITION OF THE SUBJECT PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE SUBJECT PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AS ARE EXPRESSLY SET FORTH IN THIS AGREEMENT. UPON CLOSING, BUYER WILL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INVESTIGATIONS, AND BUYER, UPON CLOSING, WILL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER (AND SELLER'S MEMBERS, MANAGERS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER (AND SELLER'S MEMBERS, MANAGERS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF THE PHYSICAL AND ENVIRONMENTAL CONDITIONS OF THE LAND OR ANY IMPROVEMENTS THEREON, ANY LATENT OR PATENT CONSTRUCTION DEFECTS, VIOLATIONS OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE SUBJECT PROPERTY.

The provisions of Section 35 and Section 36, respectively, will survive Closing or any termination of this Agreement.

37. **Confidentiality; Press Releases.** Except as specifically permitted by this Section 37, neither Seller nor Buyer will release or cause or permit to be released any press notices, or publicity (oral or written) or advertising promotion relating to, or will otherwise announce or disclose or cause or permit to be announced

or disclosed, in any manner whatsoever, the terms, conditions or substance of this Agreement, without first obtaining the written consent of the other party. The foregoing will not preclude either party from discussing the substance or any relevant details of this transaction with any of its attorneys, accountants, professional consultants, lenders, partners, investors, or any prospective lender, partner or investor, as the case may be, or prevent either party from complying with laws, rules, regulations and court orders, including, without limitation, governmental regulatory, disclosure, tax and reporting requirements. In addition to any other remedies available to a party, each party shall have the right to seek equitable relief, including, without limitation, injunctive relief or specific performance, against the other party in order to enforce the provisions of this Section 37. The provisions of this Section 37 will survive the Closing, delivery of the Deed and any termination of this Agreement. Notwithstanding anything herein to the contrary, Seller and Buyer shall each have the right to issue a press release concerning the transaction set forth herein after Closing, provided the other party has approved such press release, which approval shall not be unreasonably withheld or delayed, and further provided that in no event shall any such press release or public disclosure specify the Purchase Price or terms and conditions of this Agreement.

38. **Removal of Excluded Personal Property.** Seller will repair any damage to the Subject Property caused by the removal of the personal property excluded from the Personal Property and described on Exhibit D hereto and restore the Subject Property to a substantially similar condition to the condition existing prior to such removal, reasonable wear and tear excepted; provided, however, that Buyer and Seller agree that the restoration of the floor of the Building lobby after removal of the APUS seal will be limited to installation of replacement tile that is reasonably consistent with the surrounding tile.

39. **Off-Site Personal Property.** Seller has advised Buyer that Seller has removed from the Building and stored in a nearby warehouse located at 406 South Buchannon, Ranson, West Virginia (“**Warehouse**”) approximately seventy-two (72) workstations and four (4) glass cubicles (“**Off-Site Property**”) and that Seller is willing to convey the Off-Site Property to Buyer at Closing at no additional cost, subject to and in accordance with the terms of this paragraph. If Buyer wishes to acquire all or any portion of the Off-Site Property, Buyer must deliver written notice of such election on or before the Contingency Date, which notice must identify which portion of the Off-Site Property Buyer has elected to acquire at Closing. Buyer’s failure to timely deliver such notice will be deemed to be Buyer’s election not to acquire any of the Off-Site Property and any of the Off-Site Property not identified in an election notice timely delivered will be deemed to be excluded from the Off-Site Property to be conveyed to Buyer at Closing. Buyer will not be entitled to any of the Off-Site Property unless Buyer also acquires the Subject Property at Closing. Buyer agrees that the Off-Site Property is being conveyed to Buyer in “AS-IS” condition and subject to Section 36 and Buyer acknowledges that the Off-Site Property may require assembly and that some of the work stations and cubicles that comprise the Off-Site Property may not be complete. Buyer will have thirty (30) days after Closing to cause any Off-Site Property acquired by Buyer to be removed from the Warehouse. Buyer’s access to the Warehouse for such purpose will be limited to inspection and removal of the Off-Site Property and will be subject to the terms and conditions of Section 5.4 above. Any Off-Site Property conveyed to Buyer at Closing not removed from the Warehouse within that period will be deemed to have been abandoned by Buyer and Seller may dispose of any such Off-Site Property in Seller’s sole discretion without compensation to Buyer. Buyer waives any and all claims against Seller and any affiliates of Seller for any theft of or damage to the Off-Site Property.

40. **Schedule and Exhibits.** The following schedule and exhibits are made a part hereof, with the same force and effect as if specifically set forth herein:

Schedule 1	-	Due Diligence Materials
Exhibit A	-	Legal Description
Exhibit B	-	Form of Special Warranty Deed
Exhibit C	-	Form of Owner’s Affidavit

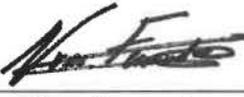
- Exhibit D - Schedule of Excluded Personal Property
- Exhibit E - Form of Bill of Sale

[Signature Pages Follow]

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the day and year first above written.

SELLER:

AMERICAN PUBLIC UNIVERSITY SYSTEM,
INC., a West Virginia corporation

By: 
Name: Nuno Fernandes
Its: President

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the day and year first above written.

BUYER:

COUNTY COMMISSION OF JEFFERSON
COUNTY WEST VIRGINIA, a duly organized
county under the laws of the State of West Virginia

By: 
Name: Stephen D. Stedje
Title: President

SCHEDULE 1

List of Due Diligence Materials

Folder/Document
Floor & Site Plans
1st Floor - Plan
2nd Floor - Plan
3rd Floor - Plan
1st Floor - Interior Build Out
2nd Floor - Interior Build Out
3rd Floor - Interior Build Out
Storage Building A - Plan
Storage Building B - Plan
Approved Site Plan
Title and Survey
Seller's Title Policy (FATIC Policy No. 5011400-0071866e)
Draft Survey (prepared by Appalachian Surveys PLLC)
Seller's Vesting Deed
Historical Property Upgrades and Maintenance
Trane Tracer SC Retrofit 3/21/17
TE 200 Centralized Controller Install-1
Parking
393 Parking
Environmental Reports
Phase I ESA dated 7/6/2010 Prepared by Nutshell Enterprises, Ltd.*
Phase II ESA dated 8/31/2010 Prepared by Nutshell Enterprises, Ltd.*
Phase II ESA dated 12/7/2007 Prepared by CDM for WPM Properties**
Physical Inspection Reports
393 LEED Certification
Fidelity Power Systems
Fire Safety Equipment Supply
Fire Alarm Inspection
Sprinkler System
Elevator 1
Elevator 2
Elevator 3
Solar Array
Contract
Warranty
Manual
As Built Drawings
Real Estate Tax Bills
2022 - 393 - 1
2022 - 393 - 2
2023 - 393 - 1
2023 - 393 - 2
2024 - 393 - 1
2024 - 393 - 2
Electric Invoices

2019 Invoices

*Report referenced additional environmental reports that Seller has not yet found. Seller will forward those reports to Buyer if Seller determines that those reports are in Seller's possession or control.

**Not prepared for Seller. May pertain to adjacent property.

Exhibit A-1

Legal Description

Tract I:

Beginning at (246) a P-K Nail (in block wall) found, corner to 111 West Congress, LLC (D.B. 1066 P. 247) and in the northern right-of-way limits of The Winchester and Potomac Railroad Company; thence with said Railroad Company, North 77°10'48" West 221.87-feet to (245) a Mag Nail (in block wall) found, in the eastern right-of-way limits of Buchanan Street a 60' R/W; thence with said Buchanan Street, North 5°16'10" East passing (244) a 5/8-inch Rebar (Dewberry) found, at 190.48-feet, in all 319.58-feet to (431) a Drill Hole, set, in the southern right-of-way limits of 2nd Avenue, R/W width Varies; thence with said 2nd Avenue, North 73°37'49" East 282.65-feet to (255) a Point, corner to Northern Virginia Power Co. (D.B. 184 P. 117); thence with said Northern Virginia Power Co. for the next two lines, South 16°17'26" East passing (89) a 1-1/4" Iron Pipe with bronze disk, found at 1.77-feet, in all 152.25-feet to (254) a 5/8" Rebar (Dewberry) found; thence, North 73°37'49" East 25.35-feet to (253) a 5/8" Rebar (no cap) found, corner to McKinney (D.B. 958 P. 27); thence with said McKinney, South 26°52'52" West 164.30-feet to (250) a Railroad Spike, found, in the western right-of-way limits of Old Bridge Road; thence with said Old Bridge Road for the next two lines, South 27°34'45" West 51.64-feet to (249) a 5/8" Rebar (Dewberry) cap, found; thence, South 36°08'59" West 41.00-feet to (248) a 5/8" Rebar (Dewberry) cap, found, corner to said 111 West Congress, LLC; thence with said 111 West Congress, LLC for the next two lines, South 29°08'59" West 52.00-feet to (247) a 5/8" Rebar (Dewberry) cap, found; thence, South 5°23'59" West 37.46-feet to the place of beginning, containing 2.5224 acres, more or less, as shown upon that certain Plat of Survey prepared by Appalachian Surveys, PLLC, dated 29 September 2010, and recorded in the office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25, at page 259;

AND BEING part of the same real estate conveyed to American Public University System, Inc. from AG/IRG WPM Ranson, L.L.C, by deed dated November 3, 2010, and recorded in the aforesaid Clerk's Office in Deed Book No. 1086, at page 450.

Tract II:

Beginning at (239) a P-K Nail, found, corner to Railroad Avenue, a 50' R/W, and in the western right-of-way limits of Buchanan Street a 60' R/W; thence with said Railroad Avenue for the next two lines, North 77°10'48" West 206.39-feet to (238) a Mag Nail, found; thence, South 73°37'48" West 102.52-feet to (237) a Mag Nail, (in a railroad tie) found, in the northern right-of-way limits of The Winchester and Potomac Railroad Company; thence with said Railroad Company, North 77°10'48" West 76.47-feet to (261) a Railroad Spike (in wood deck) found, corner to City of Ranson Building Commission (D.B. 1064 P. 518); thence with said City of Ranson Building Commission for the next two lines, North 12°14'07" East 97.37-feet to (1078) a Chainlink Fence Post; thence, North 74°11'58" East 279.69-feet to (252) a Point, in the southern right-of-way limits of 2nd Avenue, R/W width Varies; thence with said 2nd Avenue, North 73°37'49" East 110.71-feet to (251) a Mag Nail, set, in the western right-of-way limits of said Buchanan Street; thence with said Buchanan Street, South 5°16'10" West passing (243) a 5/8-inch Rebar (Dewberry) found, at 129.10-feet, in all 237.39-feet to the place of beginning, containing 1.3302 acres, more or less, as shown upon that certain Plat of Survey prepared by Appalachian Surveys, PLLC, dated 29 September 2010, and recorded in the office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25, at page 259;

AND BEING part of the same real estate conveyed to American Public University System, Inc. from AG/IRG WPM Ranson, L.L.C, by deed dated November 3, 2010, and recorded in the aforesaid Clerk's Office in Deed Book No. 1086, at page 450.

Exhibit A-2

General Depiction of Property

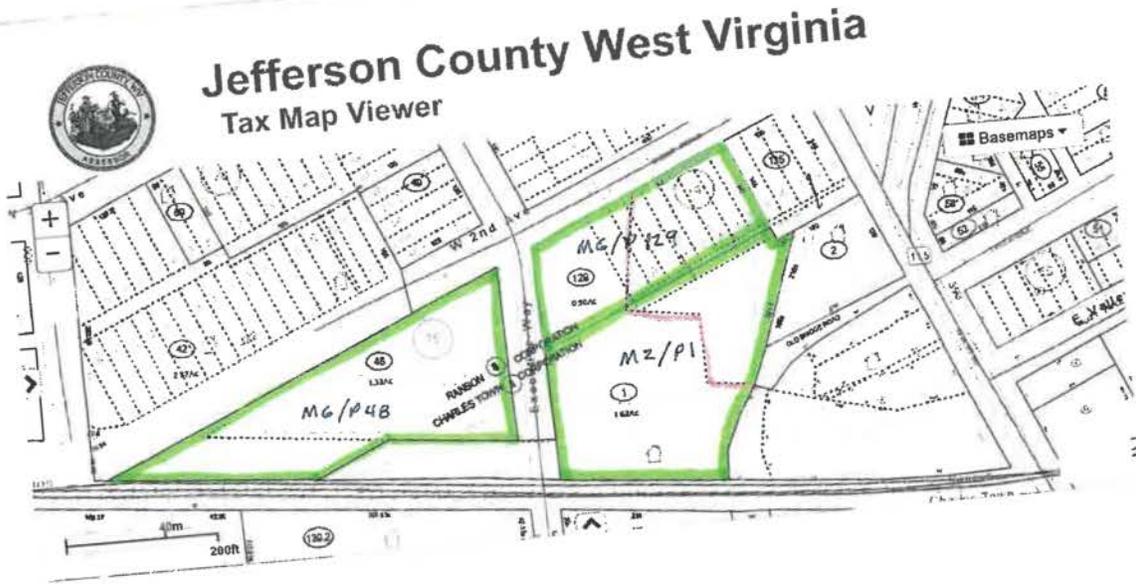


Exhibit B

Form of Special Warranty Deed

THIS INSTRUMENT PREPARED BY:

O'Rourke, Hogan, Fowler & Dwyer, LLC
10 S. LaSalle St., Suite 3700
Chicago, Illinois 60603

RECORDER'S STAMP

SPECIAL WARRANTY DEED

AMERICAN PUBLIC UNIVERSITY SYSTEM, INC., a West Virginia corporation, whose address is c/o American Public Education, Inc., 303 West 3rd Avenue, Ranson, West Virginia 25438 ("Grantor"), for and in consideration of the sum of Ten and 00/100 Dollars and other good and valuable consideration in hand paid by _____, whose address is _____ ("Grantee"), receipt of which is hereby acknowledged, hereby GRANTS, BARGAINS, SELLS, REMISES, RELEASES, ALIENS and CONVEYS to Grantee the real property situated in the City of Charles Town, County of Jefferson, State of West Virginia and described in Exhibit A attached hereto and made a part hereof, together with all of Grantor's right, title and interest, if any, in and to all rights-of-way, easement rights, access rights, privileges, hereditaments and appurtenances appertaining to such real property (the "Property").

And the Grantor, for itself, and its successors and assigns, does covenant, promise and agree, to and with the Grantee, its successors and assigns, that during the period that Grantor has owned title to the Property, it has not done or suffered to be done anything whereby the Property hereby granted are, or may be, in any manner encumbered or charged, except as set forth on Exhibit B attached hereto and made a part hereof; and that the Grantor will warrant and forever defend the Property against all persons lawfully claiming by, through or under the Grantor, but not otherwise.

PROPERTY ADDRESS: The Property is part of property commonly known as 393 North Lawrence Avenue, Charles Town, West Virginia.

TO HAVE AND TO HOLD the Property unto Grantee, its successors and assigns, forever.

Exhibit A
Legal Description

Exhibit B
Permitted Encumbrances

9. The undersigned is familiar with the management and operation of the Property, including the existence of any tenancies, leases, parties in possession and other occupancies, and payment of taxes and assessments in connection herewith.
10. Company's enjoyment of the Property has been peaceful and undisturbed and the title to the Property has never been disputed or questioned to the undersigned's knowledge, nor does the undersigned know of any facts by reason of which title to or possession of the Property might be disputed or questioned, or by reason of which any claim to the Property or any portion thereof might be adversely asserted.
11. The undersigned has received no written notice of any violation of any covenants, conditions or restrictions, if any, affecting the Property.
12. There are no defects, liens, encumbrances, adverse claims or other matters arising from the acts of Company first appearing in the public records or attaching subsequent to _____, but prior to the date the proposed insured acquires for value of record the estate interest thereon covered by the above commitment.

This Affidavit is given to induce _____ Title Insurance Company to issue its policies of title insurance including endorsements knowing that it will be relying upon the accuracy of same. The Owner agrees to indemnify and hold harmless _____ from any loss, claim, costs or expenses, including reasonable attorneys' fees, arising because of title insurance protection provided a purchaser or lender in reliance in whole or in part on the completeness and correctness of the representations or attestations made herein.

For purposes of this Owner's Affidavit, "actual knowledge of the undersigned" or words of similar import means the actual knowledge of Richard Sunderland, as Executive Vice President, Chief Financial Officer of the undersigned, Thomas Beckett, as Vice President and General Counsel of the undersigned or Christopher Lowe, as Vice President of Real Estate of the undersigned, without any duty of inquiry or investigation.

 By: _____
 Name: _____
 Its: _____

Subscribed and sworn to before me this ____ of _____, 202__.

 Notary Public
 My Commission Expires:

EXHIBIT "A"

Tax Parcel Nos.: Parcel No. _____

Commonly known as: _____

EXHIBIT "B"

EXHIBIT D

EXCLUDED PERSONAL PROPERTY

1. Intellectual property (including, without limitation, trademarks, patents and rights associated with the name “American Public University System” and of any of its parents, affiliates and subsidiaries).
2. Branded materials and other personal property branded with the name “American Public University System” or of any of its parents, affiliates or subsidiaries.
3. Computer and other IT equipment, including, without limitation, laptops, PC’s, Mac’s, peripherals, telephone handsets, head-end network gear and software (peripherals, such as wireless access points, and televisions and other audio-visual equipment will remain as Personal Property).
4. Artwork.
5. Office and cleaning equipment and supplies, including, without limitation, copiers.
6. Water coolers, coffee makers, and other small kitchen appliances and food and beverages for Seller’s employees and visitors (major appliances, such as refrigerators and dishwashers will remain as Personal Property).

EXHIBIT E

FORM OF BILL OF SALE

Bill of Sale

THIS BILL OF SALE (“**Agreement**”) is made as of _____, 2025 (“**Effective Date**”), by American Public University System, Inc., a West Virginia corporation (“**Seller**”) in favor of the County Commission of Jefferson County, West Virginia, a duly organized county under the applicable laws of the State of West Virginia (“**Buyer**”).

RECITALS:

A. Contemporaneously with the execution and delivery of this Agreement, Seller has sold and conveyed to Buyer, all of its right, title and interest in and to that certain real property, and any improvements situated thereon owned by Seller, more particularly described on Exhibit “A” attached hereto (“**Property**”) pursuant to a Purchase and Sale Agreement dated as of _____, 2024, by and between Seller and Buyer (as amended, the “**Purchase Agreement**”). Terms that are capitalized but not defined in this Agreement that are defined in the Purchase Agreement will have the same meaning in this Agreement as in the Purchase Agreement.

B. In connection with the conveyance of the Property, Seller and Buyer intend and agree that Seller will assign and transfer to Buyer, Seller’s rights to the Personal Property, subject to and in accordance with the terms and provisions of this Agreement.

AGREEMENT:

In consideration of the foregoing recitals and other good and valuable consideration, Seller and Buyer agree as follows:

1. Conveyance. Seller hereby transfers to Buyer and its successors and assigns, all of Seller’s right, title and interest (if any) in and to the Personal Property without representation or warranty, except as specifically set forth in this Agreement.

Seller’s Warranties. Seller has not previously conveyed the Personal Property (other than by granting a security interest in the Personal Property as security for a financing that will be paid in full at or before Closing) and that Seller has the right to sell and convey the Personal Property to Buyer. Except as expressly set forth herein or in the Purchase Agreement, Seller makes no warranties or representations as to the interests being transferred hereunder. *AMONG OTHER THINGS, ALL WARRANTIES OF QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED.*

Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of West Virginia.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the Effective Date.

SELLER:

AMERICAN PUBLIC UNIVERSITY SYSTEM, INC.,
a West Virginia corporation

By: _____

Name: _____

Its: _____

EXHIBIT A
(Legal Description)

4883-8738-9161, v. 8