

REAL ESTATE SALES AGREEMENT

THIS REAL ESTATE SALES AGREEMENT ("Agreement") is made as of this _____ day of August, 2022 by and between _____, whose address is _____ ("Buyer" or "Purchaser") and the Court Appointed Receiver, John T. Hillyer at Summit County Ohio Common Pleas Case No. CV 2021 10 3204 on behalf of 150 East Market LLC ("Seller" or "Receiver"). In consideration of the mutual promises, covenants, and agreements hereinafter set forth, and for other good and valuable consideration, Seller and Buyer agree as follows:

1. **Purchase and Sale, As Is Condition.**

(a) Purchase and Sale. On the terms and subject to the conditions set forth in this Agreement, Seller shall sell, convey, assign, and transfer to Buyer and Buyer shall purchase from Seller all of Seller's right, title and interest in and to the following described property ("Premises"):

Parcel Nos.: 68-60628

Addresses: 150 East market Street, Akron, Ohio 44308

See Exhibit A

together with all rights presently titled to Seller pertaining to such property, including all rights of way, easements, appurtenances, roads, streets; said Premises being sold by Seller and being purchased by Buyer in its "**AS IS**" condition.

Personal Property on Premises: Some or all of the personal property located on the Premises may be subject to sale as part of Plaintiff's security interest. Any other lienholders shall be provided notice of the judicial sale of the personal property and said sale is subject to Court Approval. The Receiver reserves the right to sell the personal property in a manner most suitable to the compliance with any court Order or existing security interest. Any personal property sold with the real property shall be "As Is" without warranty as to its condition.

(b) "As Is" Judicial Sale. Buyer and Buyer's representatives will be afforded the opportunity to continue to make inspections of the Premises as Buyer and its representatives' desire, until Court Approval of the Judicial Sale, at which time the agreement becomes irreversible. Buyer acknowledges that notwithstanding any prior or

contemporaneous oral or written representations, statements, documents or understandings, this Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes any such prior or contemporaneous oral or written representations, statements, documents or understandings. **BUYER FURTHER ACKNOWLEDGES THAT SELLER DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, EXCEPT AS SPECIFICALLY CONTAINED HEREIN WITH RESPECT TO THE PREMISES, ITS SUITABILITY FOR CONSTRUCTION OF ANY IMPROVEMENTS THEREON, WHETHER OR NOT IT IS A LEGAL LOT FOR CONSTRUCTION OF ANY IMPROVEMENTS THEREON, OR ANY RELATED MATTERS, AND THAT THE PREMISES IS BEING SOLD TO BUYER IN AN "AS IS", "WHERE IS", "WITH ALL FAULTS" CONDITION.** In particular, without being a limitation, Seller makes no representations or warranties regarding the Premises with respect to its use, physical condition, insurability, access, ingress and egress, compliance with applicable statutes, laws, codes, ordinances, regulations or requirements relating to leasing, zoning, subdivision, planning, building, fire, safety, health, insurability or environmental matters, compliance with covenants, conditions and restrictions (whether or not of record) pertaining to the title to the Premises, other local, municipal, regional, state or federal requirements, or other statutes, laws, codes, ordinances, regulations or requirements.

2. **Representations of Seller.** To induce Buyer to enter into this Agreement and to purchase the Premises, Seller represents and warrants to Buyer as follows:

- A. Seller has full power and authority to enter into and carry out the terms and provisions of this Agreement and the transactions contemplated hereby, including the sale and conveyance and of the Premises, without obtaining the approval or consent of any other party, except for final approval of the Court of Common Pleas of Summit County Ohio. Seller's execution, delivery and performance of this Agreement and all other agreements or instruments contemplated hereby will be a legal, valid and binding obligation of Seller enforceable in accordance with its terms.
- B. Seller is not a party to any executed, valid and binding contract to sell the Premises other than this Agreement.

3. **Purchase Price.** The purchase price for the Premises shall be \$ _____ ("Purchase Price") payable in immediately available funds at closing or as otherwise provided for herein.

4. **No Reliance By Buyer.** **BUYER HEREBY ACKNOWLEDGES AND AGREES THAT, AS MORE FULLY SET FORTH BELOW, BUYER IS TO RELY UPON ITS OWN**

INVESTIGATION TO FULLY INSPECT THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL MATTERS, USE RESTRICTIONS, SUITABILITY FOR CONSTRUCTION OF IMPROVEMENTS, PHYSICAL CONDITION, INSURABILITY, ACCESS, INGRESS AND EGRESS, COMPLIANCE WITH APPLICABLE STATUTES, LAWS, CODES, ORDINANCES, REGULATIONS OR REQUIREMENTS RELATING TO LEASING, ZONING, SUBDIVISION, PLANNING, BUILDING, FIRE SAFETY, HEALTH, INSURABILITY, COMPLIANCE WITH COVENANTS, CONDITIONS AND RESTRICTIONS (WHETHER OR NOT OF RECORD) PERTAINING TO THE TITLE TO THE PREMISES, OTHER LOCAL, MUNICIPAL, REGIONAL, STATE OR FEDERAL REQUIREMENTS, OR OTHER STATUTES, LAWS, CODES, ORDINANCES, REGULATIONS OR REQUIREMENTS BEFORE MAKING ITS INDEPENDENT DECISION TO COMPLETE THE PURCHASE CONTEMPLATED BY THIS AGREEMENT.

5. Deposit. Contemporaneously with Buyer's execution of this Agreement, Buyer shall deposit ten percent (10%) of the Purchase Price \$_____ (the "Deposit") Payable to Wigley Title Agency, Inc., at its office located at 511 N Main St, Akron, OH 44310 ["Title Company" or "Escrow Agent"] in trust, for distribution as directed by the Court. The Deposit shall be non-refundable except as provided in this Agreement. The Deposit shall be disbursed in accordance with the following terms and conditions: If the purchase and sale of the Premises is: (a) consummated, the Deposit shall be credited against the Purchase Price; (b) not consummated as a result of a breach or default by Buyer, Seller shall be entitled to retain the Deposit; and (c) not consummated (i) as a result of a failure to obtain Court approval, or (ii) Buyer's exercise of its right to cancel this Agreement in accordance with the terms hereof, Buyer shall be entitled to the return of the Deposit.

If the transaction contemplated hereunder does not close due to Buyer's failure to perform any act required of him hereunder, then the Deposit shall be delivered to Seller as liquidated damages for Buyer's failure to complete the purchase, it being acknowledged by Buyer and Seller that the damages which Seller would sustain would be impracticable or extremely difficult to fix or determine. In addition, Buyer shall pay all title and escrow cancellation charges. If the transaction contemplated hereunder does not close due to Seller's default, Buyer agrees that its sole and exclusive remedy shall be the prompt return of its Deposit, and as limited by the Order Appointing Receiver at paragraph 5. Buyer hereby waives any and all other remedies Buyer may have at law or in equity. In such event, Seller shall pay all title and escrow cancellation charges. **BUYER AND SELLER ACKNOWLEDGE THAT THEY HAVE READ, UNDERSTOOD AND AGREED TO BE BOUND BY THIS LIQUIDATED DAMAGES PROVISION.**

6. Rents, Taxes, Assessments and Utilities: Prorations. Seller shall pay or credit to the Purchase Price a prorated amount of all real estate taxes, including penalties and interest, that are a lien as of the Closing as required by the Court. Any proration of undetermined taxes shall be based upon the requirements of the Court, and such proration shall be final. Seller shall pay or credit to

the Purchase Price all installments billed for special taxes, public assessments and private assessments levied against the property which are due and payable prior to the Closing.

7. **Closing Procedures.** Upon approval of sale by the Court, the Buyer shall provide the balance of the purchase price to Seller within 30 days. Upon receipt of the purchase price, closing may take place immediately or as extended from time to time as permitted by the Court pursuant to its Orders. The provisional closing date pending Court Approval shall be September ____ 2022. At closing a Receiver's Deed will be recorded by Seller in the Office of the Summit County Ohio Fiscal Officer. Seller shall cause notices to be issued to all lienholders of record to strip the liens by the judicial sale, and pay all tax liens required by the Court pursuant to law.

8. **Costs to be Paid by Parties.** Buyer shall be required to purchase title insurance from the Title Company and pay all costs of evidence or assurance of title required including costs of title examination, and the cost of the Title Guaranty. Seller shall pay any amounts due Buyer by reason of prorations, the cost of discharging any liens or encumbrances as required by the Court, all transfer or conveyance fees or taxes, all recording fees for filing the Fiduciary Deed. Buyer shall pay recording fees for any encumbrances placed upon the Property by Buyer and costs associated therewith, any and the escrow fee and all title fees.

9. **Possession.** Buyer shall be entitled to possession of the Premises at closing or as otherwise provided by any Order of the Court.

10. **Commission.** All payments from the proceeds of the Judicial Sale are subject to Court approval. The Receiver's payment is determined by the Court Order Appointing the Receiver, and all other costs of sale are subject to review by the Court and subject to the objections of any interested lienholder. Buyer's commission agreement with its broker is subject to court approval.

11. **Governing Law.** It is intended by the parties that the laws of the State of Ohio, in the Summit County Court of Common Pleas Case No. CV 2021 10 3204 shall govern the validity, construction, enforcement, and interpretation of this Agreement as well as serve as venue for this agreement.

12. **Parties Bound.** Upon approval by the Court, this Agreement shall be binding upon, inure to the benefit of and be enforceable by and against Seller and Buyer, and their respective successors and assigns. Buyer may, prior to the closing, upon terms and conditions which Seller may request to protect its interests, assign all or any part of its rights and obligations under this Agreement to any entity, provided that Seller's consent to such assignment is conditioned on Buyer remaining fully liable and accountable for the performance of its assignee.

13. **No Third Party Beneficiaries.** Except as otherwise specifically provided herein nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person, firm or corporation, other than Seller and Buyer, any rights or remedies under or by

reason of this Agreement.

14. Waiver of Jury Trial. The parties hereto hereby waive any right to trial by jury in matters arising out of this Agreement and the transfer of the Property. **BUYER AND SELLER HEREBY SPECIFICALLY ACKNOWLEDGE THE AFORESAID WAIVER OF RIGHT TO JURY TRIAL.**

15. Recording. The parties agree that this Agreement shall not be recorded, and if recorded, such recording shall be deemed a breach of this Agreement by the party causing such recording.

16. Risk of Loss. The risk of loss by destruction or damage to the property by fire or otherwise prior to the closing of the sale is that of Seller. If all or a substantial portion of the improvements on the property are destroyed or damaged prior to the closing and transfer of title this agreement shall be voidable at Purchaser's option and in the event Purchaser elects to avoid this agreement the earnest money deposited shall be promptly refunded.

The parties hereto have executed this Agreement as of the date set forth below their respective signatures.

SELLER:

BUYER:

John T. Hillyer of Hillyer Group LLC
Court appointed receiver for
150 East Market LLC
Summit County Court of Common Pleas
Case No. CV 2021 10 3204

By: _____
John T. Hillyer, Receiver

By: _____

Dated: _____

Dated: _____