

ORDINANCE NO. 22-50

**AN ORDINANCE AUTHORIZING A REAL ESTATE PURCHASE AND SALES AGREEMENT WITH THE DUNDEE TOWNSHIP FOUNDATION, INC. FOR 611 EAST MAIN STREET, UNITS 113, 121 AND 222 COMPRISING A PART OF THE EAST DUNDEE DOWNTOWN TAX INCREMENT FINANCING DISTRICT**

**BE IT ORDAINED**, by the Village President and Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, as follows:

**SECTION 1:** The Village President and Board of Trustees of the Village of East Dundee (“Village”) find as follows:

- A. The Village is a home rule unit of government in accordance with Article VII, Section 6 of the Constitution of the State of Illinois, 1970.
- B. The Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base and increase additional tax revenues realized by the Village, to foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes, and otherwise take action in the best interests of the Village.
- C. The Village is authorized, under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, *et seq.*, as amended (“Act”), to finance redevelopment in accordance with the conditions and requirements set forth in the Act, and pursuant to Section 8-1-2.5 of the Illinois Municipal Code, 65 ILCS 5/8-1-2.5, the Village is authorized to incur costs and to make and enter into all contracts necessary or incidental to promotion of economic development within the Village.
- D. The Village has approved and amended ordinances adopting a tax increment redevelopment plan and project, designating the tax increment redevelopment project area (“Redevelopment Project Area”), and adopting tax increment financing relative to the Village’s Downtown Tax Increment Financing District (“TIF District”); with said TIF District being legally described and depicted as set forth in EXHIBIT A-1, and EXHIBIT A-2, respectively, attached hereto and made part hereof.

- E. The Village is the fee owner of certain real property located within the Redevelopment Project Area commonly known as 611 East Main Street, Units 113, 121 and 222, East Dundee, Illinois 60118, with said property being legally described on EXHIBIT B attached hereto and made part hereof ("Property").
- F. Dundee Township Foundation, Inc. ("Purchaser") desires to acquire ownership of the Property and use it in furtherance of the TIF District redevelopment plan and project.
- G. The Purchaser is in possession of a portion of the Property pursuant to the "License Agreement Between the Village of East Dundee and Dundee Township Foundation, Inc. in Regard to the Use and Occupancy of a Portion of the Summit Square, 611 East Main Street, East Dundee, Illinois," approved by the Village President and Board of Trustees in Resolution No. 12-21 on, and dated, September 20, 2021 ("License Agreement").
- H. That attached hereto as EXHIBIT C and made part hereof is a real estate purchase and sales agreement, between the Purchaser and the Village, which sets forth the terms and conditions pursuant to which the Purchaser will acquire the Property ("Agreement").
- I. That notice of the Village's intent to enter into the Agreement, including the Village's intent to transfer title to the Property pursuant thereto, as required by 65 ILCS 5/11-74.4-4(c), was published on October 21, 2022 ("TIF Notice"); a copy of the publisher's certificate in relation to said TIF Notice being attached hereto as EXHIBIT D and made part hereof.
- J. Dundee Township ("Township") is in possession of a portion of the Property pursuant to the "Intergovernmental Agreement Between the Village of East Dundee and Dundee Township in Regard to the Use and Occupancy of a Portion of the Summit Square, 611 East Main Street, East Dundee, Illinois," approved by the Village President and Board of Trustees in Resolution No. 15-18 on, and dated, August 20, 2018 ("Township Agreement").
- K. In accordance with the TIF Act, it is in the best interests of the Village to terminate both the License Agreement and the Township Agreement and to approve the Agreement, so that redevelopment within the TIF District can continue, said redevelopment pursuant to the TIF Act and Section 8-1-2.5 of the Illinois Municipal Code, 65 ILCS 5/8-1-2.5, being the Village's public purpose for providing the incentives set forth in the Agreement.

**SECTION 2:** Based upon the foregoing, and pursuant to the TIF Act and the Village's home rule authority, the Agreement, attached hereto as EXHIBIT C, is hereby

approved, and the Village President and Village Clerk are hereby authorized and directed to execute and deliver such other instruments, including said Agreement attached hereto as EXHIBIT C, with such changes thereto as are approved by the Village President, as may be necessary or convenient to consummate said property transaction, and as may be necessary or convenient to carry out the terms of said Agreement.

**SECTION 3:** That Village staff is directed and authorized to terminate both the License Agreement and the Township Agreement prior to conveyance of the Property from the Village to the Purchaser, so that the Purchaser may take possession of the Property at the time of conveyance of the Property.

**SECTION 4:** That this Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

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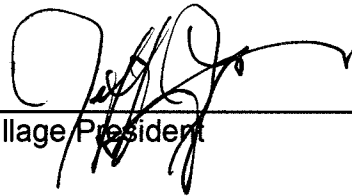
ADOPTED this 7<sup>th</sup> day of November, 2022, pursuant to a roll call vote as follows:

AYES: Runze, Brittin, Treiber, Sauder and Mahony

NAYS: Ø

ABSENT: Saviano

APPROVED by me this 7<sup>th</sup> day of November, 2022.

  
\_\_\_\_\_  
Village President

ATTEST:

Katherine Diedl  
Village Clerk

Published by me in pamphlet form this 8<sup>th</sup> day of November, 2022.

Katherine Diedl  
Village Clerk

**REAL ESTATE PURCHASE AND SALES AGREEMENT  
(611 EAST MAIN STREET, UNITS 113, 121 AND 221, EAST DUNDEE, ILLINOIS 60118)**

This **REAL ESTATE PURCHASE AND SALES AGREEMENT (611 EAST MAIN STREET, UNITS 113, 121 AND 221, EAST DUNDEE, ILLINOIS 60118)** (“**Agreement**”) is made as of the Effective Date (as defined in Section 24 below) between the **VILLAGE OF EAST DUNDEE**, an Illinois home rule municipal corporation (“**Seller**”) and the **DUNDEE TOWNSHIP FOUNDATION, INC.**, an Illinois not-for-profit corporation (“**Buyer**”).

**A G R E E M E N T :**

1. **THE SELLER IS A MUNICIPAL ENTITY AND THIS CONTRACT IS SUBJECT TO THE APPROVAL OF, AND IS NOT ENFORCEABLE UNLESS APPROVED AT AN OPEN MEETING BY, THE PRESIDENT AND BOARD OF TRUSTEES OF THE SELLER.**

2. **SALE.** The Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, upon the terms and conditions set forth in this Agreement, the fee simple title to the parcels of land commonly known as 611 East Main Street, Units 113, 121 and 221, East Dundee, Illinois 60118, with property index numbers (“PINs”) 03-26-226-010 (Unit 113), 03-26-226-011 (Unit 121), and 03-26-226-013 (Unit 221), located in the County of Kane (collectively the “**Property**”), which Property is legally described in **Exhibit A** attached hereto and made a part hereof, and which legal description shall be adjusted, if necessary, to conform to the legal description in any “Survey,” as defined in Section 9 below.

3. **PURCHASE PRICE.** The purchase price for the purchase of the Property by Buyer is **ONE HUNDRED TEN THOUSAND AND NO/100 DOLLARS (\$110,000.00)** (“**Purchase Price**”). At closing, Buyer shall pay to Seller, in good and available funds by wire transfer or cashier’s check, the Purchase Price, plus or minus prorations as provided herein.

4. **CLOSING DATE.** The closing (“**Closing**”) of the contemplated purchase and sale of the Property shall take place remotely through a deed and money escrow (“**Escrow**”) on December 13, 2022 (“**Closing Date**”) at the office of Chicago Title Insurance Company, 10 South LaSalle St. Suite 3100 Chicago, Illinois 60603 (“**Title Company**”), or at such other time and place as mutually agreed to by the parties. Closing costs shall be paid as customarily charged, except that the Buyer shall pay for any Survey.

5. **EARNEST MONEY DEPOSIT.** There shall be no earnest money deposit.

6. **AS-IS CONVEYANCE; FIXTURES AND PERSONAL PROPERTY; LICENSE AGREEMENT.**

A. This Agreement is for the sale and purchase of the Property in its “AS IS/WHERE IS” condition as of the Effective Date. Buyer acknowledges that no representations, warranties or guarantees of any kind with respect to the condition of the Property and matters of survey have been made by Seller other than those known defects, if any, disclosed by Seller.

B. Buyer is taking the Property subject to any and all personal items present on or within the Property as of the date of possession being tendered from Seller to Buyer per the terms of this Agreement. Seller has the right to remove any personal property, attached or unattached, from the Property prior to giving possession to Buyer.

C. Seller and Buyer are parties to the "License Agreement Between the Village of East Dundee and Dundee Township Foundation, Inc. in Regard to the Use and Occupancy of a Portion of the Summit Square, 611 East Main Street, East Dundee, Illinois," dated September 20, 2021 ("**License Agreement**"). Pursuant to the License Agreement, the Buyer has been in possession of a portion of the Property prior to the Effective Date. The Seller and Buyer agree that (a) the License Agreement shall be terminated as of the Closing without further action of the Seller or the Buyer, (b) no modification to the Purchase Price in this Agreement shall be made as set forth in Section 3.2 of the License Agreement, and (c) Buyer releases and gives up any claims to payment or remuneration from Seller under the License Agreement.

D. Seller and Dundee Township are parties to the "Intergovernmental Agreement Between the Village of East Dundee and Dundee Township in Regard to the Use and Occupancy of a Portion of the Summit Square, 611 East Main Street, East Dundee, Illinois," dated August 20, 2018 ("**Township Agreement**"). Pursuant to the Township Agreement, Dundee Township has been in possession of a portion of the Property prior to the Effective Date. Seller shall use reasonable efforts to terminate the Township Agreement prior to the Closing, including but not limited to sending a termination notice.

7. **BUYER'S OPTION TO TERMINATE AGREEMENT.** Buyer shall have the right to select and retain an inspector to examine and inspect the physical condition of the Property and to conduct a site inspection ("**Property Assessment**") within thirty (30) calendar days from the Effective Date. Buyer shall not be obligated to take title to the Property if, in the Buyer's sole and exclusive judgment, for any reason whatsoever, Buyer determines within a thirty (30) calendar day period following the Effective Date, that the use or condition of the Property, or any part thereof or any adjacent property, poses a material health, safety or environmental hazard, or if the Property Assessment discloses any condition which may be dangerous and/or unacceptable to the Buyer, or in violation of any law or regulation including, but not limited to, the presence of any hazardous material (collectively the "**Property Defect**"). If, in the sole and exclusive judgment of Buyer, Buyer determines that there is a Property Defect, Buyer shall have the right to revoke its acceptance of the Agreement, and to declare the Agreement and related closing documents, if any, null and void. Said termination and revocation shall only be valid if written notice is tendered to Seller within thirty (30) calendar days of the Effective Date. Buyer shall indemnify, defend and hold harmless Seller from and against any loss or damage caused by the acts of negligence of Buyer or any person performing any Property Assessment. Failure of Buyer to notify Seller within the timeframe stated herein, or to conduct the Property Assessment, shall operate as a waiver of Buyer's right to terminate this Agreement as provided for in this Section 7.

8. **TITLE INSURANCE.** Upon the execution of this Agreement by the Seller and the Buyer, Seller shall obtain a title commitment issued by the Title Company, in the amount of the Purchase Price, with extended coverage over the standard exceptions 1 through 5 ("**Title Commitment**"), together with copies of all underlying title documents listed in the Title Commitment ("**Underlying Title Documents**"), subject only to those matters described in **Exhibit B**, attached hereto and made a part hereof ("**Permitted Exceptions**").

If the Title Commitment, Underlying Title Documents or the Survey (as hereinafter defined) disclose exceptions to title, which are not acceptable to Buyer ("**Unpermitted Exceptions**"), Buyer shall have fourteen (14) days from the later of the delivery of the Title Commitment, the Underlying Title Documents and the Survey to object to the Unpermitted Exceptions. Buyer shall provide Seller with an objection letter ("**Buyer's Objection Letter**") listing the Unpermitted Exceptions, which are not acceptable to Buyer. Seller shall have five (5) business days from the date of receipt of the Buyer's Objection Letter ("**Seller's Cure Period**") to have the Unpermitted Exceptions removed from the Title Commitment or to cure such Unpermitted Exceptions or to have the Title Company commit to insure against loss or damage that may be occasioned by such Unpermitted Exceptions, and the Closing shall be extended such additional time, but not **beyond \_\_\_\_\_, 2022** ("**Extended Title Closing Date**") after Buyer's receipt of a proforma title policy ("**Proforma Title Policy**") reflecting the Title Company's commitment to insure the Unpermitted Exceptions. If Seller fails to have the Unpermitted Exceptions removed or, in the alternative, to obtain a Title Commitment insuring the Unpermitted Exceptions within the specified time, Buyer may elect to either (i) terminate this Agreement and this Agreement shall become null and void without further action of the parties, or (ii) upon notice to Seller within ten (10) days after Buyer's receipt of Seller's intention not to cure the Unpermitted Exceptions, take title as it then is with the right to deduct from the Purchase Price any liens or encumbrances of a definite or ascertainable amount which are listed in the Title Commitment. All Unpermitted Exceptions, which the Title Company commits to insure, shall be included within the definition of Permitted Exceptions. The Proforma Title Policy shall be conclusive evidence of good title as shown therein as to all matters insured by the Title Company, subject only to the Permitted Exceptions. The Buyer shall pay the cost for any later date title commitments, and Buyer shall pay for the cost of the later date to its Proforma Title Policy.

9. **SURVEY**. Prior to the Closing, the Buyer may shall obtain a Plat of Survey ("**Survey**") at Buyer's sole cost.

10. **DEED**. Seller shall convey fee simple title to the Property to Buyer, by a recordable Quit Claim Deed ("**Deed**"), subject only to the Permitted Exceptions. Seller shall also execute and deliver, at Closing, any and all documents, in addition to the Deed, including an Affidavit of Title, Covenant and Warranty, Title Company documentation including, but not limited to, an ALTA Statement, GAP Undertaking, Bill of Sale and such other documents reasonably requested either by the Buyer or the Title Company to consummate the transaction contemplated herein and to vest fee simple title to the Property in Buyer subject only to the Permitted Exceptions and the issuance of the Buyer's Title Company owners title insurance policy. Buyer shall be responsible for the recording fee of the Deed.

11. **CLOSING DOCUMENTS**. On the Closing Date, the obligations of the Buyer and Seller shall be as follows:

- A. Seller shall deliver or cause to be delivered to the Title Company:
  - i. the original executed and properly notarized Deed;
  - ii. the original executed and property notarized Affidavit of Title, Warranty and Covenant;
  - iii. the original executed and property notarized Non-Foreign Affidavit;
  - iv. the original executed Bill of Sale;

- v. counterpart originals of Seller's Closing Statement; and
- vi. such other standard closing documents or other documentation as is required by applicable law or the Title Company to effectuate the transaction contemplated hereby, including, without limitation, ALTA statements and GAP Undertaking, such other documentation as is reasonably required by the Title Company to issue Buyer its owners title insurance policy in accordance with the Proforma Title Policy and in the amount of the Purchase Price insuring the fee simple title to the Property in the Buyer as of the Closing Date, subject only to the Permitted Exceptions.

B. Buyer shall deliver or cause to be delivered to the Title Company:

- i. the balance of the Purchase Price, plus or minus prorations;
- ii. counterpart originals of Seller's Closing Statement;
- iii. ALTA Statement and such other standard closing documents or other documentation as is required by applicable law or the Title Company to effectuate the transaction contemplated herein.

C. The parties shall jointly deposit fully executed State of Illinois Transfer Declarations and County Transfer Declarations.

12. **POSSESSION.** Possession of the Property shall be delivered to the Buyer on the Closing Date, subject to the Seller successfully terminating the Township Agreement and the Township vacating the portion of the Property it is in possession of pursuant to the Township Agreement.

13. **PRORATIONS.** At Closing, the following adjustments and prorations shall be computed as of the Closing Date and the balance of the Purchase Price shall be adjusted to reflect such prorations. All prorations shall be based on a 366-day year, with the Seller having the day prior to the Closing Day.

A. **Real Estate Taxes.** General real estate taxes for 2021 and subsequent years, special assessments and all other public or governmental charges against the Property, if any, which are or may be payable on an annual basis (including charges, assessments, liens or encumbrances for sewer, water, drainage or other public improvements completed or commenced on or prior to the Closing Date) shall be adjusted and apportioned as of the Closing Date. If the exact amount of general real estate taxes is not known at Closing, the proration will be based on 105% of the most recent full year tax bill, and shall be conclusive, with no subsequent adjustment.

B. **Miscellaneous.** All other charges and fees customarily prorated and adjusted in similar transactions shall be prorated as of Closing Date. In the event that accurate prorations and other adjustments cannot be made at Closing because current bills or statements are not obtainable (as, for example, all water, sewer, gas and utility bills), the parties shall prorate on the best available information. Final readings and final billings for utilities shall be taken as of the date of Closing.



14. **CONVEYANCE TAXES.** The parties acknowledge that, as Seller is a governmental entity, this transaction is exempt from any State, County or local real estate transfer tax pursuant to 35 ILCS 200/31-45(b). Seller shall furnish completed Real Estate Transfer Declarations signed by Seller or Seller's agent in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois.

15. **COVENANTS, REPRESENTATIONS AND WARRANTIES OF SELLER.** The covenants, representations and warranties contained in this Section shall be deemed remade as of the Closing Date and shall survive the Closing, and shall be deemed to have been relied upon by the Buyer in consummating this transaction, notwithstanding any investigation the Buyer may have made with respect thereto, or any information developed by or made available to the Buyer prior to the Closing and consummation of this transaction. Seller covenants, represents and warrants to the Buyer as to the following matters, each of which is so warranted to be true and correct as of the Effective Date and also on the Closing Date:

A. **Title Matters.** Seller has good and marketable fee simple title to the Property, subject only to the Permitted Exceptions.

B. **Violations of Zoning Laws.** Seller has received no notice, written or otherwise, from any governmental agency alleging any violations of any zoning ordinance, zoning regulation or zoning code. The Property as conveyed to Buyer shall include all rights of the Seller to the use of any off-site facilities, including, but not limited to, storm water detention facilities, necessary to ensure compliance with all zoning, building, health, fire, water use or similar statutes, laws, regulations and orders and any instrument in the nature of a declaration running with the Property.

C. **Pending and Threatened Litigation.** To the best knowledge and belief of Seller, there are no pending or threatened matters of litigation, administrative action or examination, claim or demand whatsoever relating to the Property.

D. **Eminent Domain, etc.** To the best knowledge and belief of Seller, there is no pending or contemplated eminent domain, condemnation or other governmental taking of the Property or any part thereof.

E. **Access to Property Utilities.** No fact or condition exists which would result in the termination or impairment of access to the Property or which could result in discontinuation of presently available or otherwise necessary sewer, water, electric, gas, telephone or other utilities or services.

F. **Authority of Signatories.** The execution, delivery of and performance under this Agreement by Seller is pursuant to authority validly and duly conferred upon Seller and the signatories hereto.

G. **Mechanic's Liens.** All bills and invoices for labor and material of any kind relating to the Property have been paid in full, and there are no mechanic's liens or other claims outstanding or available to any party in connection with the Property.

H. **Section 1445 Withholding.** Seller represents that he/she/it/they is/are not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is/are, therefore, exempt from

the withholding requirements of said Section. At Closing, Seller shall furnish Buyer with a Non-Foreign Affidavit as set forth in said Section 1445.

Seller hereby indemnifies and holds Buyer harmless against all losses, damages, liabilities, costs, expenses (including reasonable attorneys' fees) and charges which Buyer may incur or to which Buyer may become subject as a direct or indirect consequence of such breach of any of Seller's representations or warranties made hereunder, including all incidental and consequential damages. These representations, warranties and Seller's indemnification and hold harmless shall survive the Closing for one (1) year.

When used in this Section, the expression "to the best knowledge and belief of Seller," or words to that effect, is deemed to mean that Seller, after reasonable examination, investigation and inquiry, is not aware of any thing, matter or the like that is contrary, negates, diminishes or vitiates that which such term precedes.

16. **DEFAULT AND CONDITIONS PRECEDENT TO CLOSING.**

A. It is a condition precedent to Closing that:

- i. fee simple title to the Property is shown to be good and marketable, subject only to the Permitted Exceptions, as required hereunder and is accepted by Buyer; and
- ii. Seller has performed under the Agreement and otherwise has performed all of its covenants and obligations and fulfilled all of the conditions required of it under the Agreement in order to Close on the Closing Date.

B. If, before the Closing Date, Buyer becomes aware of a breach of any of Seller's representations and warranties or of Seller failing to perform all of its covenants or otherwise failing to perform all of its obligations and fulfill all of the conditions required of Seller in order to Close on the Closing Date, Buyer may, at its option:

- i. elect to enforce the terms hereof by action for specific performance; or
- ii. attempt to cure such breach or failure by Seller for a period of up to thirty (30) days following the Closing Date, charging Seller for all costs and expenses incurred in doing so and, following such attempt, to either:
  - (a) terminate this Agreement; or
  - (b) proceed to Close notwithstanding such breach or nonperformance.

In all events, Buyer's rights and remedies under this Agreement shall always be non-exclusive and cumulative and the exercise of one remedy shall not be exclusive of or constitute the waiver of any other, including all rights and remedies available to it at law or in equity.

C. In the event of a default by Buyer, Seller's sole and exclusive right and remedy shall be to terminate this Agreement. Notwithstanding the foregoing, the parties agree that no default of

or by either party shall be deemed to have occurred unless and until notice of any failure by the non-defaulting party has been sent to the defaulting party and the defaulting party has been given a period of ten (10) days from receipt of the notice to cure the default.

17. **BINDING EFFECT.** This Agreement shall inure to the benefit of and shall be binding upon the heirs, legatees, transferees, assigns, personal representatives, owners, agents, administrators, executors and/or successors in interest of any kind whatsoever of the parties hereto.

18. **BROKERAGE.** Each party represents that it has not retained a broker regarding the proposed transaction. Each party hereby defends, indemnifies and holds the other harmless against any and all claims of brokers, finders or the like, and against the claims of all third parties claiming any right to a commission or compensation by or through acts of that party or that party's partners, agents or affiliates in connection with this Agreement. Each party's indemnity obligations shall include all damages, losses, costs, liabilities and expenses, including reasonable attorneys' fees, which may be incurred by the other in connection with all matters against which the other is being indemnified hereunder. This provision shall survive the Closing.

19. **NOTICES.** Any and all notices, demands, consents and approvals required under this Agreement shall be sent and deemed received: (A) on the third business day after mailed by certified or registered mail, postage prepaid, return receipt requested, or (B) on the next business day after deposit with a nationally-recognized overnight delivery service (such as Federal Express or Airborne) for guaranteed next business day delivery, or (C) by e-mail transmission on the day of transmission, with the original notice mailed by certified or registered mail, postage prepared, return receipt requested, or (D) by personal delivery, if addressed to the parties as follows:

To the Buyer:

Dundee Township Foundation, Inc.  
36W651 Richmond Rd.  
West Dundee, Illinois 60118  
Attn: Patricia Whitecotton, Duly Authorized Agent

With a copy to:

Bruning & Associates, P.C.  
2 N. Riverside Plaza, Suite 1830  
Chicago, Illinois 60606  
Attn: Kevin W. Bruning

To the Seller:

Village of East Dundee  
Village Administrator  
120 Barrington Avenue  
East Dundee, Illinois 60118

With a copy to:

Klein, Thorpe & Jenkins, Ltd.  
20 N. Wacker Drive, Suite 1660  
Chicago, Illinois 60606  
Attn: Lance C. Malina

Any party hereto may change the name(s), address(es) and e-mail address(es) of the designee to whom notice shall be sent by giving written notice of such change to the other parties hereto in the same manner, as all other notices are required to be delivered hereunder.

20. **RIGHT OF WAIVER.** Each and every condition of the Closing, other than the Buyer's duties at Closing, is intended for and is for the sole and exclusive benefit of Buyer. Accordingly, Buyer may at any time and from time to time waive each and any condition of the Closing, without waiver of any other condition or other prejudice of its rights hereunder. Such waiver by Buyer shall, unless otherwise herein provided, be in a writing signed by Buyer and delivered to Seller.

21. **DISCLOSURE OF INTERESTS.** In accordance with Illinois law, 50 ILCS 105/3.1, prior to execution of this Agreement by the Buyer, an owner, authorized trustee, corporate official or managing agent must submit a sworn affidavit to the Buyer disclosing the identity of every owner and beneficiary having any interest, real or personal, in the Property, and every shareholder entitled to receive more than 7½% of the total distributable income of any corporation having any real interest, real or personal, in the Property, or, alternatively, if a corporation's stock is publicly traded, a sworn affidavit by an officer of the corporation or its managing agent that there is no readily known individual having a greater than 7½% percent interest, real or personal, in the Property. The sworn affidavit shall be substantially similar to the one in **Exhibit C** attached hereto and made a part hereof.

22. **ASSIGNMENT.** Buyer shall not have the right to assign or transfer Buyer's interest in this Agreement without the Seller's consent, which consent the Seller may grant or deny in its sole discretion.

23. **MISCELLANEOUS.**

A. Buyer and Seller mutually agree that time is of the essence throughout the term of this Agreement and every provision hereof in which time is an element. No extension of time for performance of any obligations or acts shall be deemed an extension of time for performance of any other obligations or acts. If any date for performance of any of the terms, conditions or provisions hereof shall fall on a Saturday, Sunday or legal holiday, then the time of such performance shall be extended to the next business day thereafter.

B. This Agreement provides for the purchase and sale of property located in the State of Illinois, and is to be performed within the State of Illinois. Accordingly, this Agreement, and all questions of interpretation, construction and enforcement hereof, and all controversies hereunder, shall be governed by the applicable statutory and common law of the State of Illinois. The parties agree that, for the purpose of any litigation relative to this Agreement and its enforcement, venue shall be in the Circuit Court in the county where the Property is located and the parties consent to the *in personam* jurisdiction of said Court for any such action or proceeding.

C. The provisions of the Uniform Vendor and Buyer Risk Act of the State of Illinois shall be applicable to this Agreement.

D. Buyer and Seller hereby agree to make all disclosures and do all things necessary to comply with the applicable provisions of the Property Settlement Procedures Act of 1974. In the event that either party shall fail to make appropriate disclosures when asked, such failure shall be considered a breach on the part of said party.

E. The parties warrant and represent that the execution, delivery of and performance under this Agreement is pursuant to authority, validly and duly conferred upon the parties and the signatories hereto.

F. The Section headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several Sections hereof.

G. Whenever used in this Agreement, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

H. In the event either party elects to file any action in order to enforce the terms of this Agreement, or for a declaration of rights hereunder, the prevailing party, as determined by the court in such action, shall be entitled to recover all of its court costs and reasonable attorneys' fees as a result thereof from the losing party.

I. The Parties acknowledge and agree that the Subject Property is part of and subject to the Summit Square Condominiums Condominium Declaration ("Declaration") made on the 17<sup>th</sup> day of September 2013, and recorded with the Kane County, Illinois Office of the Recorder of Deeds as document 2013K069969, as amended pursuant to the First Amendment to Summit Square Condominiums Condominium Declaration made on the 25<sup>th</sup> day of January, 2021, and filed with the Kane County, Illinois, Office of the Recorder of Deeds as document 2021K008784, and that the Subject Property is subject to and part of the Summit Square Owners Association ("Association").

The Seller shall provide to Buyer within 15 business days of the Effective Date the following information, to the extent the Village has such information or can readily obtain it: (a) a full and complete copy of the Declaration, Bylaws, and other condominium instruments and any Rules and Regulations, and any amendments thereto; (b) a copy of the Statement of Financial Condition of the Association for the last fiscal year; (c) a Statement of the status of any pending suits or judgment in which the Association is a party; (d) a Statement of any insurance coverage(s) provided for all unit owners by the Association; and (e) the identity and mailing address of the principal officer of the Association and the Association's management company, if any.

Seller shall only be responsible for payment of assessments levied by the Association subject to the Declaration which were so levied prior to the Closing Date.

J. If any of the provisions of this Agreement, or the application thereof to any person or circumstance, shall be invalid or unenforceable to any extent, the remainder of the provisions of

this Agreement shall not be affected thereby, and every other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

K. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

24. **EFFECTIVE DATE.** This Agreement shall be deemed dated and become effective on the date that the authorized signatories of Seller shall sign the Agreement, which date shall be the date stated below the Seller's signature ("**Effective Date**").

25. **CONTRACT MODIFICATION.** This Agreement and the Exhibits attached hereto and made a part hereof, or required hereby, embody the entire Agreement between the parties hereto with respect to the Property and supersede any and all prior agreements and understandings, whether written or oral, and whether formal or informal. No extensions, changes, modifications or amendments to or of this Agreement, of any kind whatsoever, shall be made or claimed by Seller or Buyer, and no notices of any extension, change, modification or amendment made or claimed by Seller or Buyer (except with respect to permitted unilateral waivers of conditions precedent by Buyer) shall have any force or effect whatsoever unless the same shall be endorsed in writing and fully signed by Seller and Buyer.

26. **EXHIBITS.** The following Exhibits are attached hereto and made a part hereof by reference:

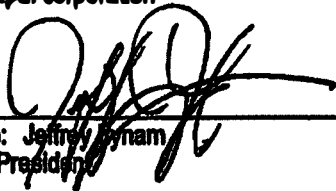
- |                  |                                   |
|------------------|-----------------------------------|
| <u>Exhibit A</u> | Legal Description of the Property |
| <u>Exhibit B</u> | Permitted Exceptions              |
| <u>Exhibit C</u> | Disclosure Affidavit              |

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date below their respective signatures.

**SELLER:**

**VILLAGE OF EAST DUNDEE, an Illinois municipal corporation**


By:   
Name: Jeffrey Dyanam  
Title: President

**ATTEST:**

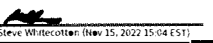
By: Katherine Diehl  
Name: Katherine Diehl  
Title: Village Clerk  
Date Seller executed: Nov 7, 2022

**BUYER:**

**DUNDEE TOWNSHIP FOUNDATION, INC., an Illinois not-for-profit corporation**

By:   
Name: Irish Whitecotton  
Title: President

**ATTEST:**

By:   
Name: Steve Whitecotton  
Title: Secretary  
Date Buyer executed: Nov 15, 2022

**Exhibit A**

**Legal Description of the Property**

UNITS 113, 121 AND 221 IN SUMMIT SQUARE CONDOMINIUMS AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE:

LOTS 5, 6, 8, 8 AND 11 AND THAT PART OF VACATED ROBERT AVENEUE, LYING BETWEEN THE SOUTHEASTERLY EXTENSION OF THE NORTHEASTERLY AND SOUTHWESTERLY LINES OF SAID LOTS 5 THROUGH 8 IN BLOCK 1 OF FOX RIVER BLUFFS UNIT 1, A SUBDIVISION OF PART OF SECTION 23 AND 26, NORTH OF HIGGINS ROAD, ALL IN TOWNSHIP 42 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS; WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM RECORDED SEPTEMBER 26, 2014 AS DOCUMENT 2013K069969 TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS.

Property Address: 611 East Main Street, Units 113, 121 and 221, East Dundee, Illinois 60118;

Permanent Index Numbers: 03-26,226-010 (Unit 113); 03-26-226-011 (Unit 121); and 03-26-226-013 (Unit 221).



**Exhibit B**

**Permitted Exceptions**

1. 2021 real estate taxes and subsequent years, not due and payable for the Property.
2. Easements, declarations, covenants and restrictions of record.
3. Other title exceptions not objected to by Buyer as Unpermitted Exceptions.

**Exhibit C**

State of Illinois )  
 ) ss.  
County of Kane )

**DISCLOSURE AFFIDAVIT**

I, \_\_\_\_\_, (hereinafter referred to as "Affiant") reside at \_\_\_\_\_  
\_\_\_\_\_, in \_\_\_\_\_ County, State of \_\_\_\_\_, being first duly sworn and  
having personal knowledge of the matters contained in this Affiant, swear to the following:

- 1. That I am over the age of eighteen and the (choose one)
  - owner or
  - authorized trustee or
  - corporate official or
  - managing agent or
  - \_\_\_\_\_ of the Real Estate (as defined herein).
  
- 2. That the Real Estate (as defined herein) being sold to the Buyer is commonly known as a part of \_\_\_\_\_ and is located in the County of Kane, Village of East Dundee, State of Illinois (collectively the "Real Estate"). The Real Estate has an Assessor's Permanent Index Numbers of \_\_\_\_\_.
  
- 3. That I understand that, pursuant to 50 ILCS 105/3.1, prior to execution of a real estate purchase agreement between the record fee owner of the Real Estate and Seller, Illinois State Law requires the owner, authorized trustee, corporate official or managing agent to submit a sworn affidavit to the Seller disclosing the identity of every owner and beneficiary having any interest, real or personal, in the Real Estate, and every shareholder entitled to receive more than 7½% of the total distributable income of any corporation having any interest, real or personal, in the Real Estate.
  
- 4. As the
  - owner or
  - authorized trustee or
  - corporate official or
  - managing agent or
  - \_\_\_\_\_ of the Real Estate, I declare under oath that (choose one):
    - The owners or beneficiaries of the trust are: \_\_\_\_\_ or \_\_\_\_\_
    - The shareholders with more than 7 1/2% interest are: \_\_\_\_\_ or \_\_\_\_\_
    - The corporation is publicly traded and there is no readily known individual having greater than a 7½% interest in the corporation.

This Disclosure Affidavit is made to induce the Seller to convey title to the Real Estate in accordance with 50 ILCS 105/3.1.

**[SIGNATURE PAGE FOLLOWS]**

AFFIANT

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**SUBSCRIBED AND SWORN** to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2022.