

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (this “Agreement”), is entered into as of last date signed below, by and between **Cleveland Restoration Society, Inc., an Ohio corporation for non-profit** (“Seller”), and _____ (“Buyer”).

W I T N E S S E T H :

In consideration of the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. **Agreement To Buy And Sell.** Seller agrees to sell and convey to Buyer, and Buyer agrees to buy and take title to, under the terms and conditions set forth below, the real property owned by Seller located at 18829 and 18875 Fairmount Blvd. Shaker Heights, Ohio, as more particularly described in **Exhibit A** attached hereto and made a part hereof (the “Property”).

2. **Appurtenances.** The parties agree that the Property shall include, all appurtenant rights, privileges, easements, fixtures and improvements in their present or “**AS IS**” condition, including such of the following now on the Property: all lighting fixtures, and mirrors attached to walls/ceilings, range, refrigerator, dishwasher, washer, dryer, built-in cabinetry, garage openers, if any, and window treatments.

3. **Purchase Price.** Buyer agrees to pay to Seller for the Property the sum of _____ and No/00 Dollars (\$_____.00) (the “Purchase Price”), payable as follows:

(a) _____ and No/100 Dollars (\$_____.00) earnest money in cash (the “Earnest Money”), to be deposited into escrow with the Title Company (as hereinafter defined) upon the full execution of this Agreement; and

(b) _____ and No/100 Dollars (\$_____.00), subject to the adjustments provided herein, in cash or otherwise immediately available funds, on the Closing Date, part or all of which may be the proceeds of a mortgage loan secured from conventional lending institution.

Buyer and Seller acknowledge and agree that unless this Agreement is terminated by Buyer as expressly permitted by the terms of this Agreement, the Earnest Money shall be non-refundable to Buyer and payable to Seller.

4. **Conveyance.**

(a) Seller shall convey marketable title to Buyer by limited warranty deed, free and clear of all liens and encumbrances whatsoever, except: (i) zoning and building ordinances and regulations, (ii) covenants, conditions, easements, reservations, agreements, restrictions and any other matters of record, including the declaration of historic easement (the “Easement”) as made available to Buyer on Seller’s website www.clevelandrestoration.org (the “Website”); (iii) any matters that would be disclosed by an accurate survey of the Property, and (iii) real estate taxes and assessments, both general and special, which are a lien but not yet due and payable as of the Closing Date (hereinafter defined) (collectively, the “Permitted Exceptions”). If title is not as herein stated, Buyer may, as its sole remedy, terminate this Agreement and thereafter the Earnest Money shall be returned to Buyer and no party shall have any further liability to the other, except for indemnification obligations and other provisions (if any) which, by their express terms in this Agreement, survive the termination of this Agreement.

(b) Promptly following the Effective Date, Buyer shall order a current title commitment for an ALTA Owner's Policy of Title Insurance from the Title Company showing the state of the title to the Property, accompanied by true, correct and legible copies of all recorded instruments affecting title, and committing to issue such Owner's Policy of Title Insurance to Buyer at Closing in the full amount of the Purchase Price (the "Title Commitment"). If any exceptions appearing in the Title Commitment, (but excluding the Easement and all items other than 2021 real estate taxes shown on the Commonwealth Land Title Insurance Company Policy Number 81306-226441470 which Seller has made available on the Website, each of which shall be a Permitted Exception) which encumber the Property, materially and adversely affect the Property, and such matters are unacceptable to Buyer, then, Buyer shall notify Seller of such fact in writing (the "Title Objection Notice") within fifteen (15) days following receipt of the Title Commitment. Buyer shall deliver to Seller a copy of the Title Commitment. If Seller is unable or unwilling, in Seller's sole discretion, to eliminate any such exceptions to Buyer's reasonable satisfaction, then Seller will notify Buyer within five (5) days after Seller's receipt of Buyer's Title Objection Notice of its inability or unwillingness to do so ("Seller's Title Response"), and if Seller and Buyer have not otherwise entered into a written agreement with respect to the elimination of such exceptions, then Buyer shall be entitled, as Buyer's sole right and remedy to either (i) terminate this Agreement by written notice delivered to Seller within five (5) days after Buyer's receipt of Seller's Title Response, in which case the Earnest Money shall be returned to Buyer and the parties shall have no further obligations or liabilities hereunder, except for indemnification obligations and other provisions (if any) which, by their express terms in this Agreement, survive the termination of this Agreement, or (ii) proceed to Closing and accept title to the Property subject to such exception(s) (which shall be deemed to be waived and accepted by Buyer). If Buyer fails to deliver such written notice, Buyer shall be deemed to have elected under (ii) above. All exceptions appearing in the Title Commitment to which Buyer does not object or which are deemed waived and accepted by Buyer as set forth above in this **Paragraph 4**, are included as "Permitted Exceptions"; provided, however, as to those exceptions to which Buyer does object, if Seller modifies any such exception to Buyer's reasonable satisfaction, then such exception, as so modified, shall be deemed included in the term "Permitted Exceptions."

5. **Title Insurance.** Buyer shall obtain a title insurance policy from _____ (the "Title Company") in the amount of the Purchase Price (the "Title Policy").

6. **Escrow Agent.** The escrow agent shall be the Title Company (the "Escrow Agent"). Buyer shall cause the escrow to be opened within five (5) days of the date hereof and shall promptly notify Seller of the number of the escrow account.

7. **Closing.**

(a) Closing – The Closing Date shall be on or before _____, 2022 (the "Closing Date") unless the parties agree otherwise in writing. All funds and documents necessary for the completion of this transaction shall be placed in escrow with the Escrow Agent on or before the Closing Date.

(b) Possession – Seller shall deliver possession to Buyer on the Closing Date.

(c) Escrow Instructions - On the Closing Date, the Escrow Agent shall first file for record Seller's deed and immediately thereafter file for record any first mortgage of Buyer, provided that the Escrow Agent shall have received all funds and documents necessary to close this transaction.

8. **Inspection Period.**

(a) Buyer acknowledges receipt of the Certificate of Compliance at Point of Sale from the City of Shaker Heights which is available on the Website. Buyer has had the opportunity to visit the Property and inspect and hereby waives any further right to cause an inspection of the Property.

(b) Buyer hereby agrees to protect, defend, indemnify, and hold harmless Seller against any loss, liability, damages, costs or expenses incurred by Seller as a result of Buyer's right of inspection granted to Buyer under this **Paragraph 8**. Furthermore, Buyer shall repair any damage to the Property caused by or resulting from the exercise of said right. Buyer acknowledges and agrees that any such inspection conducted by Buyer or Buyer's agents and representatives shall be solely at the risk of Buyer. Notwithstanding anything to the contrary set forth herein, all of the obligations of Buyer under this **Paragraph 8** shall survive the Closing or the termination of this Agreement, as the case may be.

9. As-Is, Where-Is Condition. BUYER HAS HAD OR WILL HAVE THE OPPORTUNITY TO INSPECT THE PROPERTY PRIOR TO CLOSING. BUYER HEREBY ACKNOWLEDGES THE PROPERTY SHALL BE CONVEYED BY SELLER TO BUYER IN AN "AS-IS", "WHERE-IS" CONDITION WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, WITH RESPECT THERETO EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES, IF ANY, EXPRESSLY SET FORTH IN THIS AGREEMENT. SELLER HAS PROVIDED BUYER WITH A SIGNED RESIDENTIAL PROPERTY DISCLOSURE FORM, AND SELLER AGREES TO NOTIFY BUYER IN WRITING OF ANY ADDITIONAL DISCLOSURE ITEMS THAT ARISE BETWEEN THE DATE OF ANY ACCEPTANCE AND THE DATE OF RECORDING THE DEED. BUYER ACKNOWLEDGED THAT THE PROPERTY WAS DONATED TO SELLER AND NEITHER SELLER NOR ANY EMPLOYEE OF SELLER HAS RESIDED IN THE PROPERTY. THIS PARAGRAPH 9 SHALL SURVIVE THE CLOSING.

10. Prorations and Charges. The parties shall prorate and apportion as of the Closing Date real estate taxes and special assessments based upon the rates and valuation shown on the latest available tax duplicate, which proration shall be final. At the Closing, Seller shall be charged the following: (a) prorated real estate taxes; (b) the cost of real estate transfer taxes, if any; (c) the cost of the title examination and Title Commitment; and (d) one-half (1/2) the escrow fee. At the Closing, Buyer shall be charged the following: (a) the cost of recording the Deed; (b) the cost of the Owner's Policy of Title Insurance, plus the full cost of any lender's policy and any endorsements or extended coverage obtained by Buyer; (c) the cost of any location survey obtained by Buyer or Buyer's lender; and (d) one-half (1/2) the escrow fee. Each party shall pay their own attorney fees.

11. Utilities. Seller shall pay directly all utility charges to the Closing Date. The Escrow Agent shall withhold Two Hundred and No/100 Dollars (\$200.00) from the proceeds due to Seller, which shall be to secure Seller's payment of all water charges incurred at the Property up to close of business on the Closing Date. If Seller has not paid such water and sewer charges, then the Escrow Agent shall pay such charges from the Escrow Amount. If all such water and sewer charges have been paid in full by Seller, and Seller has provided the Escrow Agent with written evidence indicating such payment, then the Escrow Agent shall deliver to Seller the Escrow Amount. Buyer shall be responsible for any utility charges incurred after the Closing Date.

12. Loss of Property. If the Property, is damaged or destroyed by fire or any other cause or is condemned or taken in eminent domain prior to the Closing Date, and such damage shall not have been repaired or reconstructed prior to the Closing Date to the reasonable satisfaction of Buyer, Buyer may at Buyer's option: (a) receive an assignment of the proceeds of any insurance or condemnation award payable in connection therewith, together with the amount of Seller's deductible under its insurance policy in the event of a casualty, and remain obligated to perform this Agreement; or (b) terminate this Agreement and receive back the Earnest Money and no party shall have any further liability to any other, except for indemnification obligations and

other provisions (if any) which, by their express terms in this Agreement, survive the termination of this Agreement. The aforesaid option shall be exercised by Buyer by written notice to Seller within ten (10) days following notice to Buyer of such damage or condemnation.

13. **Notices.** Any notice which may be or is required to be given pursuant to the provisions of this Agreement shall be personally delivered or sent by overnight delivery service and addressed as follows with copy via email: if to Seller, to: Attn: Kathleen H. Crowther, President, 3751 Prospect Avenue, Cleveland, Ohio 44115 kcrowther@clevelandrestoration.org; if to Buyer, to:

14. **Default.**

(a) If Buyer defaults in the performance of any of its obligations and/or covenants hereunder prior to the Closing and such default is not cured within five (5) days after written notice thereof to Buyer, Seller's sole and exclusive remedy on account thereof shall be to terminate this Agreement and receive the Earnest Money as full and liquidated damages (due to the inconvenience of ascertaining and measuring actual damages and the uncertainty thereof).

(b) If Seller defaults in the performance of any of its obligations and/or covenants hereunder and such default is not cured within five (5) days after written notice thereof to Seller, provided that Buyer is not then in default hereunder, Buyer shall be entitled, as its sole remedy, to terminate this Agreement, in which event this Agreement shall be of no further force or effect and Buyer shall receive back the Earnest Money.

15. **Brokers.** Seller represents and warrants that Seller has not been represented by a broker in the transaction contemplated by this Agreement. Seller shall protect, indemnify, hold harmless, and defend Buyer against all claims for sales commissions or other similar compensation that may be asserted by any person with respect to this transaction to the extent that the liability for said compensation shall be based upon actions of Seller. [Buyer represents and warrants that Buyer has not been represented by a broker in the transaction contemplated by this Agreement.][Buyer represents and warrants that Buyer has not been represented by a broker in the transaction contemplated by this Agreement other than _____ ("Buyer's Broker"). Upon Closing, Buyer's Broker shall be paid a commission by Seller equal to 3% on the first \$100,000 of the Purchase Price and 2% thereafter.] Buyer shall protect, indemnify, hold harmless, and defend Seller against all claims for sales commissions or other similar compensation that may be asserted by any person with respect to this transaction to the extent that the liability for said compensation shall be based upon actions of Buyer. This **Paragraph 15** shall survive the Closing.

16. **Residential Property Disclosure Form and Condition of Property.** Buyer acknowledges that a Real Property Disclosure Form and Lead Disclosure Form have been made available to Buyer by Seller on the Website. Buyer acknowledged that Seller has not, and no employee of Seller has, resided in the Property. Buyer has examined or has had the opportunity to examine the Property (including the opportunity to have the Property inspected by an inspector of Buyer's choice at Buyer's expense) and agrees that the Property is being purchased in its "as is" present physical condition. Buyer has not relied upon any representations, warranties or statements about the Property unless specifically written in this Agreement.

17. **Miscellaneous.**

(a) This Agreement contains a complete expression of the agreement between the parties with respect to the Property, and there are no promises, representations, inducements or understandings, oral or otherwise, except as are herein provided. This Agreement may not be amended or modified except by a writing signed by the parties hereto.

(b) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Buyer shall have the right to take title to the Property using a nominee, but Buyer shall not be released from its obligations hereunder.

(c) If any provisions of this Agreement or the application thereof to any part or circumstances shall, to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent of the law.

(d) The paragraph headings contained in this Agreement are for reference purposes only, and shall not affect in any way the meaning or interpretation of this Agreement.

(e) This Agreement shall be interpreted according to the laws of the State of Ohio.

(f) Time is of the essence in this Agreement.

(g) The Effective Date of this Agreement as set forth in the introduction hereto shall be the later of the dates set forth below Buyer's and Seller's signatures.

(h) Seller warrants that Seller has not received any written notice with respect to the Property pursuant to Ohio's registered sex offender law as of the Effective Date, and will deliver to Buyer copies of any such notices received by Seller prior to the Closing Date. Buyer acknowledges that Buyer assumes all responsibility for making inquiry with the local sheriff's office as to registered sex offenders in the area and will rely solely on such inquiry.

(j) "Business Day" means each day of the year other than Saturdays, Sundays, legal holidays, days on which banking institutions are generally authorized or obligated by law to close in the State of Ohio.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the last date signed below.

SELLER:
CLEVELAND RESTORATION
SOCIETY, INC.

BUYER:

Print Name:

By: _____
Kathleen H. Crowther, President

Print Name:

Date: _____

Date: _____

EXHIBIT A

Legal Description

Parcel No. 1

Situated in the City of Shaker Heights, County of Cuyahoga and State of Ohio: and known as being part of Sublot No. 101 in Frederick W. Blatz's Parkway Allotment of part of Original Warrensville Township Lot No. 14, as shown by the recorded plat in Volume 67 of Maps, Page 21 of Cuyahoga County Records, and bounded and described as follows:

Beginning on the Northerly line of Fairmount Boulevard, 86 feet wide, at its point of intersection with the Easterly line of said Sublot No. 101; Thence Westerly along the Northerly line of Fairmount Boulevard, 60 feet to the Westerly line of Sublot No. 101; Thence Northerly along the Westerly line of said Sublot No. 101, 186 feet; Thence Easterly on a line parallel to the Northerly line of said Fairmount Boulevard, 60 feet to the Easterly line of said Sublot No. 101; Thence Southerly along said Easterly line of said Sublot No. 101, 186 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Permanent Parcel Number 733-02-016

Parcel No. 2

Situated in the City of Shaker Heights, County of Cuyahoga and State of Ohio, and known as being part of Original Warrensville Township Lot No. 14 and bounded and described as follows:

Beginning at a point on the Northerly line of Fairmount Boulevard, distant Easterly 66 feet, measured along the said Northerly line of said Fairmount Boulevard from its intersection with the Westerly line of land devised to Jacob Hecker by John Hecker as recorded in Will Record J, Page 470 of Cuyahoga County Records of Wills; thence Northerly parallel with the said Westerly line of said Jacob Hecker's land, 200 feet; thence Westerly parallel with the said Northerly line of said Fairmount Boulevard, 66 feet; thence Southerly parallel with the Westerly line of said Jacob Heckler's land, 200 feet to a point on the said Northerly line of said Fairmount Boulevard, which point is distant Westerly 66 feet, measured along the said Northerly line of said Fairmount Boulevard from the place of beginning; thence Easterly 66 feet, measured along the said Northerly line of said Fairmount Boulevard to the place of beginning. Excepting from the above premises that portion thereof included within the widening of the Fairmount Boulevard as shown by the recorded plat in Volume 104 of Maps, Page 20 of Cuyahoga County Records, be the same more or less.

Permanent Parcel Number 733-02-017