PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into on the date of last signature below (the “Effective Date”) by and between REGENTS OF THE UNIVERSITY OF MINNESOTA, a Minnesota constitutional corporation ("Seller") and ____________________________, a _______________________ ("Purchaser").

In consideration of the covenants and agreements contained herein, the parties agree as follows:

1. Property To Be Purchased. Subject to compliance with the terms and conditions of this Agreement, Seller shall sell and convey to Purchaser and Purchaser shall purchase from Seller real property located at 2642 University Avenue in the City of St. Paul, County of Ramsey, State of Minnesota, and legally described on Exhibit A attached hereto, together with the building located thereon and all fixtures, improvements, easements, tenements, hereditaments, and appurtenances belonging thereto, subject to Permitted Exceptions as defined in Section 3 and excluding minerals and mineral rights, if any (the “Property”). Any personal property located on the Property that is not removed by Seller before the Closing (as defined in Section 9) shall also be deemed to be included in the sale of the Property. Purchaser’s purchase of the Property shall also include the assignment of all of Seller’s right, title, and interest in, and the assumption on the behalf of Purchaser of, all of Seller’s obligations in that certain Ground Lease dated July 31, 2002 between Emerald Street LLC and the University, as supplemented by that certain letter dated January 29, 2005 ("Parking Lease"), providing rights to use 37 parking stalls located at 808 Berry Street with a term expiring July 30, 2032, pursuant to the Assignment and Assumption Agreement attached hereto as Exhibit B (the “Parking Assignment”) as of the date of the Closing, as defined below.

2. Purchase Price. The purchase price for the Property ("Purchase Price") shall be ____________________________ Dollars ($__________________________). Purchaser shall deliver to Seller a certified or cashier’s check in the amount of five percent (5%) of the Purchase Price together with an executed copy of this Agreement, which amount will be held by Seller as an earnest money deposit in accordance with the terms of this Agreement. The balance of the Purchase Price shall be payable at Closing by wire transfer in accordance with instructions to be provided by Seller.

3. Title/Survey. Seller agrees to convey the Property to Purchaser subject only to the Permitted Exceptions (as defined below):

3.1 Purchaser acknowledges receipt of a commitment for an ALTA owner’s title insurance policy covering the Property, File No. 01040-9034, dated January 28, 2015 (the “Commitment”) from Stewart Title Guaranty Company (the “Title Company”).
3.2 Purchaser shall be deemed to have accepted and approved (and waived any objection to) any title encumbrances or liens listed in Schedule B, Part II of the Commitment (collectively, the “Permitted Exceptions”).

3.3 If, subsequent to the issuance of the Commitment and prior to Closing, Title Company notifies Purchaser of additional exceptions to title, Purchaser shall have 10 days after receiving such notice to render objections to title (“Objections”) in writing to Seller and Seller shall have until the Closing Date to have the same removed, cured or insured over to Purchaser’s reasonable satisfaction. Purchaser shall be deemed to have accepted and approved (and waived any objection to) any title encumbrances or liens that Purchaser fails to object to in writing within 10 days after receiving notice of such exceptions. If Seller shall fail to have such Objections removed, cured or insured over on or before the Closing Date, Purchaser may, at its sole discretion, either (a) terminate this Agreement without any liability on either party’s part (except for Purchaser’s obligation to indemnify Seller as set forth in Section 4 hereof), in which case the earnest money deposit shall be returned to Purchaser, or (b) take title subject to such Objections without any reduction in the Purchase Price. If Purchaser does not terminate this Agreement as provided in this Section, Purchaser shall accept title to the Property at the Closing subject to all title matters which are either (i) not part of the Objections, or (ii) part of the Objections but not removed, cured or insured over by the Seller to Purchaser’s reasonable satisfaction on or prior to the Closing Date (and all such matters shall be deemed to be part of the Permitted Exceptions).

4. Inspections, Condition of the Property.

4.1 Purchaser acknowledges and agrees that Purchaser was provided access to the Property before Closing and Purchaser therefore had a full and adequate opportunity to inspect the Property. Thus, Purchaser shall be conclusively presumed to have satisfied itself as to the Property’s condition.

4.2 Purchaser acknowledges and agrees that it is purchasing the Property in AS-IS, WHERE-IS condition and WITH ALL FAULTS without reliance upon any representation, warranty, opinion, or statement of Seller, or any agent of Seller, express or implied, including without limitation representations, warranties, opinions, or statements as to the Property’s merchantability, condition, fitness or habitability or fitness for a particular use or purpose; compliance with government requirements and applicable federal, state, and local laws; or the physical or environmental condition of the Property or any portion thereof, except as expressly set forth herein. Purchaser affirmatively represents that it is acquiring the Property solely in reliance on the results of its own inspections. Purchaser acknowledges that the provisions of this Section are a material part of the consideration to be received by Seller under this Agreement, and that Seller has agreed to the Purchase Price by reason of such understanding.

4.3 The parties acknowledge and agree that after the Closing Date, Seller shall have no obligation whatsoever at any time, and Purchaser agrees to assume all obligations, to perform or pay for repairs or to perform or pay for any work of any kind or nature including without limitation environmental investigation, remediation, or clean-up of the Property.
4.4 If identified releases are detected in, on, or under the Property, Purchaser agrees, after Closing, to enter the Property into the Minnesota Pollution Control Agency’s (“MPCA”) Voluntary Investigation and Clean-up Program and/or the Petroleum Brownfields Program. Purchaser shall ensure that Regents of the University of Minnesota is named as Successors or Assigns to any statutory liability assurance letter(s) received from the MPCA. The terms of this paragraph shall survive Closing.

4.5 Purchaser expressly releases and forever discharges Seller from any and all claims, causes of action, damages, or liabilities relating to defects or the condition of the Property, whether such defect or condition is disclosed or latent. Purchaser also agrees to indemnify, defend, and hold harmless Seller from and against and to reimburse Seller with respect to any and all claims, demands, causes of action, losses, damages, liabilities and costs (including attorneys’ fees and court costs) related to the Property, its condition, the existence of hazardous substances or pollutants thereon or claims brought by third parties of whatever nature where the injury or damage is in any manner alleged to be caused by the Property or the existence of hazardous substances or other pollutants within or emanating from the Property.

4.6 The provisions of this Section 4 shall indefinitely survive closing of this transaction and delivery of the deed by Seller.

5. Risk of Loss. Until the Closing Date (as hereinafter defined), subject to Purchaser’s indemnity obligation as set forth in Section 4 above, Seller shall have the full responsibility and the entire liability for any and all damage or injury of any kind whatsoever to the Property, any and all persons, whether employees or otherwise, and all property from and connected to the Property. In the event of substantial damage to the Property before Closing, Seller or Purchaser shall have the right to terminate this Agreement upon written notice to the other, and if so terminated the earnest money deposit shall be returned to Purchaser. If, prior to the Closing, the Property shall be the subject of an action in eminent domain or a proposed taking by a governmental authority whether temporary or permanent, Seller shall promptly notify Purchaser of such proposed taking, and Purchaser shall have the right, which must be exercised within 15 days after such notice, to terminate this Agreement upon notice to Seller without liability on its part by so notifying Seller and the earnest money deposit shall be returned to Purchaser. If the Property is taken but Purchaser does not timely exercise its right of termination, any and all proceeds arising out of any such eminent domain taking, shall be held in trust by Seller and shall be paid to Purchaser on the Closing Date.

6. Operation of Property Prior to Closing. Until the Closing Date, Seller shall continue to maintain the Property in accordance with its past standards.


7.1 Seller’s Representations and Warranties. Seller hereby represents and warrants to Purchaser, to Seller’s actual knowledge, as follows:

(a) No action in condemnation is now pending or is threatened against the Property.
(b) The individual executing this Agreement on behalf of Seller has the requisite authority to execute this Agreement and such other documents as are contemplated or to be delivered by Seller herein and to bind Seller thereto.

(c) 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.

(d) There has been no labor performed and no materials furnished to the Property by any person or persons, or any other entities, within the past one hundred twenty (120) days for which payment has not been made.

(e) There are no wells, private sewage treatment systems or underground storage tanks located on the Property.

(f) Methamphetamine production has not occurred on the Property.

7.2 For purposes of Section 7.1, the term “Seller’s actual knowledge” shall mean the actual knowledge of Susan Carlson Weinberg, Director of Real Estate, without investigation or inquiry.

7.3 Purchaser’s Representations and Warranties. Purchaser hereby represents and warrants to Seller as follows:

(a) That Purchaser has the authority to enter into this Agreement and consummate the Agreement under the terms hereof.

(b) That Purchaser has the financial capacity to meet its obligations specified in this Agreement.

(c) That Purchaser will timely perform its obligations specified in this Agreement.

8. Seller’s Conditions Precedent to Closing. Seller’s obligation to close the transaction is conditioned on the following:

8.1 Purchaser not being in material default in the performance of any duty, obligation, or covenant contained in this Agreement.

8.2 Approval of the sale of the Property to Purchaser pursuant to this Agreement by University’s Board of Regents.

8.3 The representations and warranties made by Purchaser in Section 7 shall be correct as of the Closing Date with the same force and effect as if such representations and warranties were made at such time.

If the above conditions have not been either satisfied or waived in writing by Seller as of the Closing Date, Seller may terminate this Agreement by written notice to Purchaser, in which case
the earnest money deposit shall be returned to Purchaser and Seller shall have no further liability to Purchaser.

9. **Closing. Possession.** The closing of the purchase and sale and payment of the Purchase Price (the “Closing”) shall take place on or before __________________________ (the “Closing Date”), unless otherwise agreed by Seller and Purchaser. Possession shall be delivered on the Closing Date.

10. **Seller’s Obligations At Closing.** At or prior to the Closing Date, Seller shall:

10.1 Deliver to Purchaser a limited warranty deed to the Property conveying to Purchaser fee simple title to the Property and all rights appurtenant thereto subject only to the Permitted Exceptions and excluding minerals and mineral rights.

10.2 Deliver to Purchaser a quit claim bill of sale for any personal property located on the Property as of the Closing Date.

10.3 Deliver to Purchaser and the Title Company an affidavit sufficient to remove any exception in the title policy for mechanics’ and materialmen’s liens.

10.4 Deliver to Purchaser the affidavit of Seller confirming that Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code.

10.5 Deliver to Purchaser a signed copy of the Parking Assignment.

10.6 Deliver to Purchaser such other documents as may be reasonably required by Title Company, in accordance with the Title Commitment, all in a form reasonably satisfactory to Purchaser and Seller.

11. **Purchaser’s Obligations At Closing.** At or prior to the Closing Date, Purchaser shall:

11.1 Deliver to Seller a signed copy of the Parking Assignment.

11.2 Execute and deliver any documents reasonably required for the performance of its obligations hereunder.

11.3 Deliver to Seller the Purchase Price pursuant to Section 2 above.

12. **Closing Costs.** Purchaser shall pay the following costs in connection with the closing:

12.1 The costs of preparation of the Commitment;

12.2 The title insurance premium in connection with the issuance of the title policy;

12.3 The state deed tax or transfer fee imposed on the conveyance;
12.4 The recording fees due upon the recording of any documents (including the limited warranty deed) necessary to place record title in the condition required by this Agreement;

12.5 All real estate taxes and special assessments due and payable in the year of Closing and in the years following Closing;

12.6 All costs and expenses associated with Purchaser’s investigation of the Property and Purchaser’s intended use and development of the Property;

12.7 All costs and expenses associated with Purchaser’s Inspections; and

12.8 The closing fee charged by the Title Company.

13. Prorations. All expenses relating to the operation and maintenance of the Property not otherwise specified herein and all income derived from the Property shall be prorated as of the Closing Date so that Seller is charged or credited with that portion of such expenses or income which accrued prior to the Closing Date and Purchaser is charged or credited with that portion of such expenses or income which accrues on or after the Closing Date. To the extent that Seller has received as of the Closing payments allocable to a period subsequent to the Closing, those payments shall be prorated with an adjustment in favor of Purchaser. With respect to any payments received by Purchaser after the Closing allocable to a period prior to Closing, Purchaser shall pay the same to Seller. Each party shall pay its own legal fees and other expenses in connection with the transaction contemplated by this Agreement.

14. Brokerage. Seller and Purchaser represent and warrant to each other that they have not engaged the services of any commissioned broker in connection with the sale and purchase contemplated by this Agreement. Each party agrees to indemnify and hold the other harmless from and against any claims by any broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with such party with respect to this transaction.

15. Seller Default. If the sale and purchase of the Property as contemplated by this Agreement is not consummated in accordance with the terms and conditions of this Agreement because of Seller’s default, then Purchaser’s sole and exclusive remedy shall be to terminate this Agreement by giving written notice of such termination to Seller, and the earnest money deposit shall be returned to Purchaser.

16. Purchaser Default. If the sale and purchase of the Property as contemplated by this Agreement is not consummated because of Purchaser’s default, then Seller may retain Purchaser’s earnest money deposit and do any of the following: terminate this Agreement by giving written notice of such termination to Seller; commence an action against Purchaser for damages; or waive the default and proceed to closing.
17. Miscellaneous.

17.1 Attorneys’ Fees. Each party is responsible for payment of its own attorney’s fees.

17.2 Controlling Law. This Agreement has been made under the laws of the State of Minnesota, and such laws will control its interpretation and enforceability. Any action regarding this Agreement shall be commenced in the state district court in Hennepin County or Ramsey County.

17.3 Captions. The paragraph 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.

17.4 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and together shall constitute one and the same instrument.

17.5 Merger. The terms of that certain “Invitation to Bid” to which this Agreement is attached shall be incorporated into this Agreement. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement and no waiver of any of its terms will be effective unless in writing executed by the parties. This Agreement binds and benefits the parties and their successors and assigns.

17.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto.

17.7 Exhibits. The attached Exhibit A is incorporated by reference and hereby made a part of this Agreement.

17.8 Severability. If any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

17.9 Time of Essence. Time is of the essence in this Agreement.

17.10 Waiver. No waiver of any breach of any agreement or provision contained herein shall be deemed a waiver of any preceding or succeeding breach of any other agreement or provision herein contained. No extension of time for the performance of any obligation or act shall be deemed an extension of time for the performance of any other obligation or act.

17.11 Notices. Any notice, request, demand, consent, approval and other communications under this Agreement shall be in writing, and shall be deemed duly given or made at the time and on the date when received by facsimile or via email (provided that the sender of such communication shall orally confirm receipt thereof by the appropriate parties and send a copy of such communication to the appropriate parties within one (1) business day of such
facsimile or email) or when personally delivered as shown on receipt therefor (which shall include delivery by a nationally recognized overnight delivery service) or upon receipt or refusal to accept delivery when mailed by prepaid registered or certified mail, return receipt requested, to the address for each party set forth below. Any party, by written notice to the other in the manner herein provided, may designate an address different from that set forth below.

If to the Seller: University of Minnesota
c/o Real Estate Office
424 Donhowe Building
319 15th Avenue SE
Minneapolis, MN 55455-0199
Facsimile No: (612) 624-6345
E-mail Address: reo@umn.edu

With a copy to: University of Minnesota
Office of the General Counsel
Attn: Transactional Law Services Group
360 McNamara Alumni Center
200 Oak Street SE
Minneapolis, MN 55455-2006
Facsimile No: (612) 626-9624
E-mail Address: contracts@mail.ogc.umn.edu

If to the Purchaser: ___________________________
___________________________
___________________________
___________________________
Facsimile No: ___________________
E-mail Address: _____________________

[Signatures follow.]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year written below.

SELLER

REGENTS OF THE UNIVERSITY
OF MINNESOTA,
a Minnesota constitutional corporation

By: ______________________________
Printed Name: _____________________
Title: ______________________________
Date: ______________________________

PURCHASER

_________________________________,
a ______________________________

By: ______________________________
Printed Name: _____________________
Title: ______________________________
Date: ______________________________

By: ______________________________
Printed Name: _____________________
Title: ______________________________
Date: ______________________________
EXHIBIT A
Legal Description of Property

Commencing at the iron monument at Northeasterly corner of Lot 25, Auditor's Subdivision No. 9; thence Northwesterly on South line of University Avenue, 207.45 feet; thence in a Southerly direction parallel to East line of said lot to South line of said lot at a point 181.5 feet from Southeasterly corner of said lot; thence East on South line to the Southeasterly corner of said lot and thence North to beginning, known as the East half of Lot 25, except the Easterly 55 feet thereof, Auditor's Subdivision No. 9, Ramsey County, Minnesota.

TOGETHER WITH the easements for ingress and egress and for light and air as set forth in Warranty Deed dated 11-3-1983, filed 11-8-1983, as Document No. 747106.

Certificate of Title No. 251494

Property type is: Torrens
EXHIBIT B
Parking Assignment

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS AGREEMENT is made and entered into as of the date of last signature below (the “Effective Date”), by and between REGENTS OF THE UNIVERSITY OF MINNESOTA, a Minnesota constitutional corporation (“Assignor”) and ______________________, a ________________________________ (“Assignee”).

RECITALS:

A. Assignor is the tenant under that certain Ground Lease between Assignor and Emerald Street LLC (“Landlord”) dated as of July 31, 2002, as supplemented by that certain letter dated January 29, 2005 providing rights to use 37 parking stalls located at 808 Berry Street with a term expiring July 30, 2032 (the “Lease”).

B. Assignor desires to assign all of its right, title and interest under the Lease to Assignee, and Assignee desires to accept the assignment of the Lease and assume and agree to perform all obligations of Assignor as tenant under the Lease arising from and after the Effective Date, in accordance with its terms.

AGREEMENT:

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby transfers, assigns and conveys to Assignee, and its successors and assigns, all of Assignor’s right, title and interest in, to and under the Lease from and after the Effective Date.

2. Assignee hereby accepts the assignment of the Assignor’s interest in the Lease, and hereby assumes all of the obligations and liabilities of the Assignor under the Lease accruing on and after the Effective Date and agrees, for the benefit of Assignor and Landlord to perform, observe, keep and comply with all the terms, covenants, conditions, provisions and agreements contained in the Lease on the part of the tenant to be performed, observed, kept and complied with on and after the Effective Date.

3. Assignor indemnifies and agrees to hold Assignee harmless from and against all claims, liabilities, losses, damages, causes of action and expenses (including court costs and reasonable attorneys’ fees) incurred in connection with Assignor’s duties and obligations as tenant under the Lease accruing before the date of this Assignment. Assignee indemnifies and agrees to hold Assignor harmless from and against all claims, liabilities, losses, damages, causes
of action and expenses (including court costs and reasonable attorneys’ fees) incurred in connection with Assignee’s duties and obligations as tenant under the Lease accruing on and after the date of this Assignment.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be duly executed and delivered as of the date stated above.

ASSIGNOR:

REGENTS OF THE UNIVERSITY
OF MINNESOTA,
a Minnesota constitutional corporation

By: _______ [to be signed at closing]__________
Print Name: _____________________________
Print Title: ______________________________
Date: ______________________________

ASSIGNEE:

________________________________________
By: _______ [to be signed at closing]__________
Print Name: ______________________________
Print Title: ______________________________
Date: ______________________________