

# **Exhibit B**

# **Purchase Agreement**

**REAL ESTATE PURCHASE AND SALE AGREEMENT**

**BETWEEN**

**MILWAUKEE COUNTY, AS SELLER**

**AND**

**THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, AS BUYER**

**Table of Contents**

Article 1 Basic Terms

Article 2 Transaction

2.1 Purchase

2.2 Option Fee

2.3 Extension of Inspection Period

2.4 Conveyance of Deed

2.5 Operation Contract

Article 3 Escrow

Article 4 Payment of the Purchase Price

Article 5 Title and Survey

5.1 Title Insurance Commitment

5.2 Survey

5.3 Subsequent Matters Affecting Title

Article 6 Condition of the Property

6.1 Inspection of Property

6.2 Entry onto Land and Improvements

6.3 Environmental Investigation and Environmental Reports

6.4 Buyer's Acceptance Notice

6.5 Management of the Property

6.6 Estoppel Certificates

Article 7 Closing

7.1 Buyer's Conditions Precedent to Closing

7.2 Seller's Conditions Precedent to Closing

7.3 Deposits in Escrow

7.4 Costs

7.5 Prorations

7.6 Insurance

7.7 Close of Escrow

7.8 Possession

7.9 Recorded Instruments

7.10 Tenant Notices

Article 8 Casualty

Article 9 Condemnation

Article 10 Representations and Warranties

10.1 Representations and Warranties of Seller

- 10.2 Representations and Warranties of Buyer
- 10.3 Buyer's Reliance – "As IS" Sale

Article 11 Notices

Article 12 Brokers

Article 13 Default

- 13.1 Default By Buyer
- 13.2 Default By Seller

Article 14 Non-Default Termination

Article 15 Indemnities

- 15.1 Seller's Indemnity
- 15.2 Buyer's Indemnity
- 15.3 Unknown Environmental Liabilities
- 15.4 Buyer's Waiver and Release of Seller
- 15.5 Survival

Article 16 Miscellaneous

- 16.1 Survival of Representations, Covenants, and Obligations
- 16.2 Attorneys' Fees
- 16.3 Publicity
- 16.4 Captions
- 16.5 Waiver
- 16.6 Time
- 16.7 Controlling Law
- 16.8 Severability
- 16.9 Construction
- 16.10 Amendments
- 16.11 Successor and Assigns
- 16.12 Assignment
- 16.13 Entire Agreement

Exhibits

- Exhibit A Land
- Exhibit B Special Warranty Deed
- Exhibit C Operation Contract
- Exhibit D List of Existing Environmental Reports
- Exhibit E Estoppel Certificate
- Exhibit F Certificate of Non-foreign Status
- Exhibit G Bill of Sale and Assignment
- Exhibit H Seller's Certificate
- Exhibit I Buyer's Certificate
- Exhibit J Assignment and Assumption of Leases

Exhibit	K	Assignment and Assumption of Service Contracts and Other Obligations
Exhibit	L	Tenant Notice
Exhibit	M	Exceptions to Seller's Representations and Warranties
Exhibit	N	Tenant List
Exhibit	O	Escrow Agreement

THIS PURCHASE AGREEMENT (this “**Agreement**”), made and entered into as of \_\_\_\_\_, 2014 by and between Milwaukee County (“**Seller**”), and The Northwestern Mutual Life Insurance Company (“**Buyer**”),

W I T N E S S E T H

WHEREAS, Seller is the owner of the property commonly known as O'Donnell Park with a street address of 910 E. Michigan Street in Milwaukee, Wisconsin, as more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof; and

WHEREAS, Buyer desires to purchase from Seller and Seller desires to sell to Buyer all of Seller's interest in said O'Donnell Park, including those areas commonly known as (i) the O'Donnell Park Parking Structure, (ii) the Garden Plazas, and (iii) the Miller Pavilion, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the terms, covenants, agreements and conditions hereinafter contained, Buyer and Seller do hereby agree as follows:

**ARTICLE I  
BASIC TERMS**

As used herein, the following basic terms are hereby defined to mean:

**Acceptance Date.** The date that Buyer sends the Acceptance Notice, as defined in Section 6.4 hereof.

**Appurtenances.** Streets, alleys and rights of way adjacent to the Land, and the rights, benefits, licenses, interests, privileges, easements, tenements, and hereditaments on the Land or in anywise appertaining thereto.

**Buyer's Address for Notice.** The Northwestern Mutual Life Insurance Company  
720 East Wisconsin Avenue  
Milwaukee, WI 53202  
Attn: Steven M. Radke

**with a copy to:** The Northwestern Mutual Life Insurance Company  
720 East Wisconsin Avenue  
Milwaukee, WI 53202  
Attn: Catherine M. Young

<b><u>Closing.</u></b>	The consummation of the sale and purchase of the Property in accordance with the terms hereof.
<b><u>Closing Date.</u></b>	Sixty (60) days after the Acceptance Date, or such other date as mutually agreed to in writing by Buyer and Seller.
<b><u>Effective Date.</u></b>	The date on which Buyer delivers to Seller a fully executed copy of this Agreement.
<b><u>Escrowholder.</u></b>	Chicago Title Insurance Company
<b><u>Escrowholder's Address for Notice.</u></b>	Chicago Title Insurance Company 20900 Swenson Drive, Suite 900 Waukesha, WI 53187 Attn: Michele Schmid
<b><u>Estoppel Tenants.</u></b>	Betty Brinn Children's Museum, Inc. Grandview Management, Inc.
<b><u>Improvements.</u></b>	All buildings and other physical improvements, structures and fixtures located on the Land.
<b><u>Inspection Period.</u></b>	The period from the Effective Date until the earlier of (i) the Acceptance Date, or (ii) the sixty-first (61 <sup>st</sup> ) day after the Effective Date unless extended pursuant to the provisions of Section 2.3 hereof.
<b><u>Involved Seller Employee.</u></b>	Teig Whaley-Smith, Seller's Economic Development Director
<b><u>Land.</u></b>	The parcel of land described in Exhibit "A", attached hereto and by this reference made a part hereof, together with all rights, privileges and easements appurtenant thereto.
<b><u>Materiality Limit.</u></b>	Five Hundred Thousand Dollars and no cents (\$500,000.00).
<b><u>Option Fee</u></b>	Fifty Thousand Dollars and no cents (\$50,000.00).
<b><u>Personal Property.</u></b>	All tangible and intangible personal property owned by Seller and used in the operation of the Land and Improvements and located thereon or therein, to the extent any exist, including, by way of example and not limitation, all fixtures and appliances, furniture and furnishings, equipment and supplies, signage and lighting systems, all transferable trade names, phone numbers, brochures,

manuals, lists of tenants, advertising materials, plans and specifications, governmental permits, entitlements, licenses and approvals, warranties and guarantees received in connection with any trade-work or maintenance services performed with respect to the Property, and security deposits paid to Seller by tenants.

**Property.**

Seller's right, title and interest in the Land, the Appurtenances, the Improvements, the Personal Property and the Tenant Leases, and in the Service Contracts which Buyer chooses to have assigned to it and to assume; and such other rights, interests and properties as may be specified in this Agreement to be sold, transferred, assigned or conveyed by Seller to Buyer.

**Purchase Price.**

Fourteen Million Dollars and no cents (\$14,000,000.00).

**Seller's Address for Notice.**

Milwaukee County  
Economic Development Division  
2711 W Wells Street  
Milwaukee, WI 53208  
Attn: Teig Whaley-Smith

**with a copy to:**

Milwaukee County  
Corporation Counsel  
Milwaukee County Courthouse, Room 303  
901 N. 9th Street  
Milwaukee, WI 53233  
Attn: Paul Bargren

**Service Contracts.**

Any and all contracts and service agreements affecting the Land and Improvements to which Seller is a party and which Seller chooses to assign to Buyer.

**Tenant Leases.**

All of Seller's interest in any and all leases and rental agreements of space in the Improvements.

**Title Insurer.**

Chicago Title Insurance Company

**ARTICLE II  
TRANSACTION**

**2.1 Purchase.** Upon the terms and conditions hereinafter set forth, Seller shall sell to Buyer, and Buyer shall purchase from Seller, the Property for the Purchase Price. Buyer shall receive a credit at Closing toward necessary restoration costs ("Restoration Credit") in the amount of One



Million Three Hundred Thousand Dollars (\$1,300,000.00). Within 24 months after Closing, Buyer shall submit documentation to Seller that Buyer has applied the full Restoration Credit on safety and structural improvements for the Property. If Buyer has not spent the full Restoration Credit amount, Buyer shall reimburse Seller the difference between the Restoration Credit and the actual amount spent on safety and structural improvements by Buyer.

**2.2 Option Fee.** On the Effective Date, Buyer shall deposit the Option Fee with Seller. The Option Fee is independent consideration and is not refundable to Buyer except as specifically set forth herein, however, if the Closing occurs, the amount of the Option Fee shall be credited to Buyer.

**2.3 Extension of Inspection Period.** Notwithstanding anything contained herein to the contrary, Buyer shall have two (2) options, at any time during the Inspection Period, to extend the Inspection Period for an additional thirty (30) days each. Buyer shall exercise each or both said options by providing notice (the "Extension Notice") of such fact to Seller and to Escrowholder and by depositing for each Twenty-Five Thousand Dollars (\$25,000.00), in cash or other immediately payable funds (each an "Extension Fee"), with Seller. Each Extension Fee is independent consideration for the extension of the Inspection Period and is not refundable to Buyer except as specifically set forth herein, however, if the Closing occurs, the amount of each Extension Fee shall be credited to Buyer. Notwithstanding anything contained herein to the contrary, Buyer shall be deemed to have waived its option to extend the Inspection Period unless Seller receives the Extension Notice and the Extension Fee on or before the expiration of the Inspection Period.

**2.4 Conveyance of Deed.** Subject to the provisions hereof, Seller shall, as of the Closing Date, convey the Property to Buyer by a Special Warranty Deed (the "Deed") in substantially the form as Exhibit "B" attached hereto, subject to those matters permitted therein.

**2.5 Operation Contract.** At or prior to Closing, Buyer and Seller shall execute a document (the "Operation Contract") setting forth the duties and responsibilities of Buyer with respect to Buyer's obligations after Closing. The Operation Contract shall be substantially the form as Exhibit "C" attached hereto.

### **ARTICLE III ESCROW**

In order to effectuate the conveyance contemplated by this Agreement, the parties hereto agree to open an escrow account ("Escrow") with Escrowholder by execution of an Escrow Agreement in substantially the form as Exhibit "O" attached hereto. A copy of this Agreement shall be delivered by Buyer to, and receipt thereof shall be acknowledged by, Escrowholder upon full execution hereof by Seller and Buyer.

### **ARTICLE IV PAYMENT OF THE PURCHASE PRICE**

At or prior to Closing, Buyer shall deposit the Purchase Price, less the Restoration Credit, and plus costs to be paid by Buyer pursuant to the terms of this Agreement, and plus or minus prorations and adjustments shown as Buyer's debits or credits on the closing statement executed by Buyer and Seller, with Escrowholder.

## ARTICLE V TITLE AND SURVEY

**5.1 Title Insurance Commitment.** Seller shall, as soon as reasonably possible after the Effective Date, obtain from Title Insurer a title commitment (the "Commitment") with respect to the Property and shall cause Title Insurer to deliver the Commitment, together with a legible copy of each instrument that is listed as an exception in the Commitment simultaneously to Buyer, with the cost thereof to be paid in accordance with Section 7.4 hereof. Buyer shall have until the expiration of the Inspection Period to examine same and to notify Seller in writing of its objections to title (all items so objected to being hereinafter referred to as the "Objectionable Items"). If Buyer timely notifies Seller of any Objectionable Items, Seller may, but shall not be obligated to, cure or remove same; however, Seller agrees to consult with Title Insurer in order to determine which Objectionable Items, if any, Title Insurer is willing to remove. All matters affecting title to the Property as shown on the Commitment, except the Objectionable Items, shall be deemed approved by Buyer and shall be "Permitted Exceptions".

Notwithstanding anything in this Agreement to the contrary, but subject to the process outlined below, Seller shall, prior to Closing, cure or remove any matters of title other than the Permitted Exceptions arising after delivery of the Commitment resulting directly or indirectly, in whole or part, from any act or omission of Seller or any act or omission of anyone acting (or omitting to act) on behalf of Seller or under contract with Seller.

Seller shall notify Buyer, within ten (10) days after Seller's receipt of Buyer's notice of Objectionable Items, as to which Objectionable Items Seller and/or Title Insurer are willing or able to cure or remove ("Seller's Election"); and if no such notice is given within such time period, Seller shall be deemed to have elected not to cure any of the Objectionable Items. If Seller is unwilling or unable to cure some or all of the Objectionable Items, Buyer shall, as its sole and exclusive remedy in such event, make an election in writing ("Buyer's Election"), within five (5) days after receipt by Buyer of Seller's Election (or the expiration of the time period for Seller to make Seller's Election if Seller fails to send notice of Seller's Election, provided, further, if such ten (10) day period would expire after the expiration of the Inspection Period, the Inspection Period shall be extended so that such ten (10) day period coincides with the expiration of the Inspection Period), either:

- (a) to accept title to the Property subject to the Objectionable Items which Seller is unwilling or unable to cure (all such items being thereafter deemed to be "Permitted Exceptions"), in which event the obligations of the parties hereunder shall not be affected by reason of such matters, the sale contemplated hereunder shall be consummated without reduction of the Purchase Price; or

(b) to terminate this Agreement in accordance with the Article XIV hereof.

If Seller shall not have received notice from Buyer setting forth Buyer's Election within the time period specified above, Buyer shall be deemed to have elected to terminate this Agreement in accordance with paragraph (b) above.

If, for any reason whatsoever, the title insurance policy which would otherwise be delivered to Buyer at Closing reflects as exceptions any items other than Permitted Exceptions, such items shall be deemed "Objectionable Items" if and only if Buyer shall give written notice thereof to Seller no later than three (3) business days before the Closing Date. If Buyer shall so give notice to Seller, then (i) the Closing shall be postponed to the first business day which is at least thirty (30) days after the date previously set for Closing; and (ii) the rights and obligations of Buyer and Seller with regard to such Objectionable Items shall be as set forth in this Section 5.1.

**5.2 Survey.** Buyer has the option, provided that Buyer does so promptly after the Effective Date and at Buyer's sole cost and expense, to obtain its own survey of the Property (the "Survey"), and upon completion of the Survey shall provide certified originals to Seller and Title Insurer. If, as a result of reviewing the Survey, Buyer or Title Insurer determines that there are exceptions to title, such items shall, if and only if Buyer shall give written notice thereof to Seller no later than the expiration of the Inspection Period, be deemed "Objectionable Items," and, if Buyer shall so give notice to Seller, then the rights and obligations of Buyer and Seller with regard to such Objectionable Items shall be as set forth in Section 5.1.

**5.3 Subsequent Matters Affecting Title.** Seller and Buyer shall promptly notify the other party if it becomes aware of any matters affecting title not specified in the Survey or the Commitment. Seller shall not create any new exceptions to title, and shall use all reasonable efforts to prevent any other person or entity from creating new exceptions to title regarding the Property prior to Closing. If Buyer becomes aware of any matters affecting title not specified in the Survey or the Commitment, all such subsequent matters shall be subject to Buyer's approval as if they had been so disclosed, except that the Buyer shall in any event have no less than five (5) business days to review and either approve or disapprove such subsequent exceptions. If approved, such matters shall be deemed to be Permitted Exceptions. Any items other than Permitted Exceptions shall be deemed "Objectionable Items" if and only if Buyer shall give written notice thereof to Seller within said five (5) day period. If Buyer shall so give notice to Seller, then (i) the Closing shall be postponed to the first business day which is at least thirty (30) days after the date previously set for Closing; and (ii) the rights and obligations of Buyer and Seller with regard to such Objectionable Items shall be as set forth in this Section 5.1.

## **ARTICLE VI CONDITION OF THE PROPERTY**

**6.1 Inspection of Property.** Buyer has been expressly advised by Seller to conduct an independent investigation and inspection of the Property, including environmental inspection, utilizing experts as Buyer deems necessary. Seller discloses that the Land may contain old building

foundations, building materials and other debris. Without changing the “AS-IS/WHERE IS” nature of this transaction, Buyer is aware that the Property is or may be affected by adverse geotechnical conditions due to the presence of these materials or due to the bearing capacity of the soil.

Subject to the provisions of this Article VI, during the Inspection Period Buyer shall have the right, at its own expense, to do the following:

- (a) determine zoning and financial aspects of the Property;
- (b) investigate and review all entitlements, approvals, regulations, and or other governmental or quasi-governmental matters affecting the Property, including without limitation, the review and approval of all entitlement costs;
- (c) review of all laws, ordinances, rules, regulations, resolutions, and policies of any governmental authority having jurisdiction over the Property concerning its development, construction, alteration, or use, including compliance with the Americans with Disabilities Act of 1990;
- (d) Subject to Tenant Leases, enter upon the Land, Appurtenances and Improvements for purposes of examining the access thereto and physical condition and terrain thereof;
- (e) conduct or commission such studies, engineering work, site analyses and any test or inspection related to the Property Buyer may deem necessary, provided, Buyer's inspection rights shall be subject to the rights of each Estoppel Tenant and Buyer agrees that it will not unreasonably interfere with any Estoppel Tenant or Seller's contractor on the Property; and
- (f) request and receive access to, and copy at Buyer's expense, any of the following which are in the possession or control of Seller: (i) income and expense operating statements for the Property for the most recent two (2) calendar years and the partial current year; (ii) Estoppel Tenant Leases, along with a standard form lease, if any; (iii) any real property tax assessment and tax bills with respect to the Property for the past year; (iv) utility bills which have been the obligation of Seller for the preceding twelve (12) months; (v) all available warranties and guarantees, if any; (vi) available licenses and permits, if any; (vii) all Service Contracts, including any and all amendments thereto; (viii) available soils reports, if any; (ix) maintenance reports; (x) invoices; and (xi) any correspondence with Estoppel Tenants.

Seller shall promptly deliver to Buyer copies of the following which Seller has in its possession relating to the Property: (xii) licenses, approvals, entitlements, and permits relating to the development and operation of the Property, (xiii) geological and engineering studies and soils reports, if any, (xiv) maintenance reports, if any, (xv) plans and specifications, (xvi) any notices of violations of law received by Seller over the past three (3) years, and (xvii) any appraisals of

the Property over the past three (3) years (all documents referred to under this Section 6.1 shall be referred to herein as the "**Due Diligence Documents**").

**6.2 Entry Onto Land and Improvements.** As of the Effective Date, and until the Closing Date or earlier termination of this Agreement, Buyer, its contractors, and/or agents shall have the right to enter upon the Land and Improvements upon prior notice to Seller and subject to the Tenant Leases. Seller will provide Buyer and its representatives with reasonable access to any on-site manager and/or employees of the current management firm. Buyer, its contractors, and/or agents will enter upon the Land and Improvements during normal business hours unless otherwise mutually agreed by Buyer and Seller. Buyer, its contractors, and/or agents shall observe appropriate safety precautions in conducting Buyer's inspection of the Land and Improvements. Buyer shall indemnify, defend, and hold Seller harmless from and against any losses, damages, expenses, liabilities, claims, demands, and causes of action (together with any legal fees and other expense incurred by Seller in connection therewith), resulting directly or indirectly from, or in connection with, any inspection or other entry upon the Land and Improvements by Buyer or its agents, employees, contractors, or other representatives, including, without limitation, any losses, damages, expenses, liabilities, claims, demands, and causes of action resulting, or alleged to be resulting, from injury or death of persons, or damage to the Land and Improvements or any other property, or mechanic's or materialmen's liens placed against the Land and Improvements in connection with Buyer's inspection thereof. Notwithstanding the foregoing, Buyer's indemnity shall not apply, and Buyer shall have no liability whatsoever, with regard to the discovery or disclosure of any pre-existing problems on or around the Land and Improvements such as pre-existing environmental contamination or violations of law. If this transaction is not consummated for any reason, Buyer shall immediately repair any damage to the Land and Improvements directly or indirectly caused by any acts of Buyer or Buyer's agents and/or contractors in connection with Buyer's inspection of the Land and Improvements.

Prior to Buyer or Buyer's agents and/or contractors entering onto the Property, Buyer shall (i) obtain and keep in full force and effect insurance as set forth below naming Seller as an additional insured on the Commercial General Liability and Business Automobile insurance policies, and (ii) deliver to Seller, and obtain the approval of Seller of, certificates of insurance evidencing such insurance being in full force and effect.

Type	Limits
Worker's Compensation Employer's Liability	Statutory/\$500,000
Commercial General Liability	\$1,000,000/occurrence \$2,000,000/aggregate
Business Automobile Liability	\$1,000,000 Combined Single Limit

Prior to any Phase II environmental study being conducted on the Property, Buyer shall deliver to Seller, in addition to the certificate required above, a certificate of insurance satisfactory to Seller

and, naming Seller as an additional insured, evidencing that Buyer's agents and/or contractors, have the following insurance in full force and effect meeting the requirements set forth below:

Type	Limits
Professional Liability (including Pollution Coverage)	\$1,000,000/occurrence \$1,000,000/aggregate
Contractor's Pollution Liability	\$2,000,000/occurrence \$2,000,000/aggregate

The aforesaid coverages shall be maintained throughout the term of the Inspection Period. If any such coverages are written on a "claims-made" basis, such coverages shall be kept in force either by renewal thereof or the purchase of an extended reporting period for a minimum of one (1) year following the expiration of the Inspection Period. Nothing herein contained, including but not limited to insurance carried by Buyer, shall in any way be deemed to limit Buyer's liability under this Agreement or otherwise. The insurance requirements contained in this Agreement are subject to annual review and adjustment by Seller's Risk Manager.

**6.3 Environmental Investigation and Environmental Reports.** Buyer may conduct, at Buyer's cost, such independent investigation and inspection of the Property as Buyer shall deem reasonably necessary to ascertain the environmental condition of the Land and Improvements (the "**Environmental Investigation**"). Notwithstanding anything contained herein to the contrary, Buyer may not undertake a Phase II environmental study, any invasive drilling, or any test, sampling or other action which will or might cause physical damage to the Land and Improvements without Seller's prior written consent. If the transaction contemplated by this Agreement is not consummated for any reason, Buyer agrees to promptly repair any damage to the Land and Improvements caused by any acts of Buyer or Buyer's agents in connection with Buyer's Environmental Investigation. If Buyer's inspection uncovers any pre-existing environmental contamination or violations of law, before providing or disclosing to Seller any results, reports or other information regarding such pre-existing problems, Buyer shall, if permitted by law, inquire as to whether Seller desires a copy of or information regarding the same. If Buyer elects not to purchase the Property, Buyer shall, as permitted by law, maintain such information as confidential. If Buyer elects to purchase the Property without undertaking a Phase II environmental study, Buyer shall be required to sign at Closing a "Buyer's Acknowledgment, Waiver and Indemnification Respecting Environmental Conditions Affecting the Property."

Seller shall deliver to Buyer, not later than five (5) business days after the Effective Date, copies of all environmental reports in Seller's possession relating to the Property (the "Seller's Environmental Reports"). The Seller's Environmental Reports are listed on Exhibit "D" attached hereto.

**6.4 Buyer's Acceptance Notice.** Buyer shall have the right, in its absolute discretion, for any reason, to terminate this Agreement by written notice to Seller given at any time during the Inspection Period. In the event of such termination, Seller shall retain the Option Fee and any Extension Fees. If Buyer does not elect to terminate this Agreement, Buyer shall, on or before the

end the Inspection Period, deliver to Seller and Escrowholder a written notice of acceptance (the "Acceptance Notice"). If Buyer does not timely send the Acceptance Notice, Buyer will be conclusively deemed to have terminated this Agreement in accordance with Article XIV hereof.

Any Acceptance Notice sent by Buyer to Seller pursuant to the provision of this Section 6.4 shall be conclusively deemed to be Buyer's approval of the Survey and of the condition of title to the Property pursuant to the provisions of Sections 5.1 and 5.2 hereof.

**6.5 Management of the Property.** From the Effective Date until the Closing Date, Seller shall have no right to enter into or permit any agreement which would affect the Property after the Closing Date (including, without limitation, any Construction Contract, New Tenant Lease, or Governmental Approval) or any modification or termination of any Tenant Lease, Construction Contract, or Governmental Approval, without the prior written consent of Buyer, which may not be unreasonably conditioned, delayed or withheld. A "New Tenant Lease" means any agreement, oral or written, which constitutes a lease, rental agreement, license, or other agreement granting rights of possession, use, or occupancy of the Property, or any amendment, extension, or renewal thereof. A "Construction Contract" means any agreement, oral or written, for the performance of any work on the Property which could result in a mechanic's lien on the Property. A "Governmental Approval" means any agreement, written or oral, which affects the zoning, entitlement, or other legal, governmental, or quasi-governmental rights or obligations of the Property or the owner thereof. From the Effective Date until the Closing Date, Seller shall cause the Property to be kept in good order and condition and in at least as good order and condition as the Property is in as of the date of the Effective Date.

**6.6 Estoppel Certificates.** On or before the date which is at least fifteen (15) days prior to the Closing Date, Seller shall furnish to Buyer an estoppel certificate completed by each Estoppel Tenant on the form of Exhibit "E" attached hereto. The estoppel certificates shall not be dated more than thirty (30) days preceding the Closing Date.

## ARTICLE VII CLOSING

**7.1 Buyer's Conditions Precedent to Closing.** The obligations of Buyer with regard to Closing under this Agreement are, at its option, subject to the fulfillment of each and all of the following conditions prior to or at the Closing:

- (i) Seller shall have performed and complied with all the agreements and conditions required in this Agreement to be performed and complied with by Seller prior to Closing and Buyer and Seller agree that Escrowholder may deem all such items to have been performed and complied with when Seller has deposited all items in escrow as required hereunder;
- (ii) Buyer shall be in receipt of and approved a "marked-up, signed and dated" Proforma Title in the amount of the Purchase Price and showing title vested in

Buyer subject only to the "Permitted Exceptions", and otherwise complying with the requirements of Article V hereof;

- (iii) the representations of Seller contained herein shall be true and correct in all material respects as of the Closing Date;
- (iv) all other conditions to Buyer's obligation to purchase the Property as set forth herein shall have been satisfied;
- (v) Seller shall not be in material default in any of its obligations under the terms of this Agreement;
- (vi) no material adverse change in the condition of the Property has occurred since the Acceptance Date;
- (vii) any reversionary clauses effecting the Property shall have been released; and
- (viii) Buyer shall have obtained the necessary approval of its Board.

If any one or more items listed above have not been satisfied as of the Closing Date, Buyer shall have the right to terminate this Agreement pursuant to Article XIV hereof.

**7.2 Seller's Conditions Precedent to Closing.** The obligations of Seller with regard to Closing under this Agreement are, at Seller's option, subject to the fulfillment of each of the following conditions prior to or at the Closing:

- (i) Buyer shall have performed and complied with all the agreements and conditions required by this Agreement to be performed and complied with by Buyer prior to Closing, and Buyer and Seller agree that Escrowholder may deem all such items to have been performed and complied with when Buyer has deposited with Escrowholder all items required hereunder;
- (ii) the representations by Buyer contained herein shall be true and correct in all material respects as of the Closing Date;
- (iii) Buyer shall have provided Seller with an EDB Affidavit, as defined in Section 10.2 hereof; and
- (iv) Seller shall have obtained the necessary approval of its County Board and/or County Executive by Resolution File No. 14- \_\_\_\_\_.

If any one or more items listed above have not been satisfied as of the Closing Date, Seller shall have the right to terminate this Agreement pursuant to Article XIV hereof.



**7.3 Deposits in Escrow.** On or before 12:00 noon on the Closing Date the following deposits shall be made with the Escrowholder to be held in escrow:

**A. Seller's Deposits.** Seller shall deliver the following, each executed by persons or entities duly authorized to execute same on behalf of Seller:

- (i) the Deed;
- (ii) Certificate of Non-Foreign Status in the form of Exhibit "F" attached hereto;
- (iii) Bill of Sale and Assignment in the form of Exhibit "G" attached hereto;
- (iv) Seller's Certificate in the form of Exhibit "H" attached hereto;
- (v) proof of Seller's authority to enter into this Agreement and to consummate the transaction contemplated herein in a form acceptable to Title Insurer;
- (vi) Seller's closing instructions to Escrowholder; and
- (vii) any other documents requested by Title Insurer to consummate the transaction.

**B. Buyer's Deposits.** Buyer shall deliver the following, each executed by persons or entities duly authorized to execute same on behalf of Buyer:

- (i) the Purchase Price plus costs to be paid by Buyer pursuant to the terms of this Agreement, and plus or minus prorations and adjustments shown on the Closing Statement executed by Buyer and Seller;
- (ii) Buyer's Certificate in the form of Exhibit "I" attached hereto;
- (iii) proof of Buyer's authority to enter into this Agreement and to consummate the transaction contemplated herein in a form acceptable to Title Insurer;
- (iv) Buyer's closing instructions to Escrowholder; and
- (v) any other documents requested by Title Insurer to consummate the transaction.

**C. Joint Deposits.** Buyer and Seller shall jointly deposit with Escrowholder two (2) originals of the following documents, each executed by persons or entities duly authorized to execute same on behalf of Buyer and Seller:

- (i) the Closing Statement prepared by Escrowholder for approval by Buyer and Seller;

- (ii) the Operation Contract;
- (iii) the Assignment and Assumption of Leases (and security deposits not heretofore applied) in the form of Exhibit "J" attached hereto; and
- (iv) the Assignment and Assumption of Contracts and Other Obligations in the form of Exhibit "K" attached hereto, assigning to Buyer all of Seller's right, title and interest in the Service Contracts and other obligations.

**D. Other Documents.** Buyer and Seller shall deposit with Escrowholder all other documents which are required to be deposited in escrow by the terms of this Agreement.

**7.4 Costs.** Seller shall pay the cost of (i) an ALTA Extended Coverage Owner's Title Insurance Policy, (ii) gap coverage, (iii) documentary transfer taxes and (iv) recording fees. Buyer shall pay the cost of all endorsements to the ALTA Extended Coverage Owner's Title Insurance Policy and the Survey. Buyer shall pay the cost of Escrowholder's charge for the escrow, if any. Buyer and Seller shall each pay its own legal fees incurred in connection with the drafting and negotiating of this Agreement and the closing of the transaction contemplated herein.

**7.5 Prorations.** The following items shall be prorated between Buyer and Seller as of the Closing Date:

**A. Taxes and Assessments.** General real estate taxes and assessments and other similar charges which are Permitted Exceptions, but not yet due and payable as of the Closing Date shall be prorated based upon the most recent tax bill and will be final. Any assessments levied against the Property which are payable on an installment basis and which installments are due, payable and outstanding on the Closing Date shall be paid by Seller on the Closing Date;

**B. Rentals, Other Income, and Security Deposits.** Rentals and other amounts and items of income relating to the Property, shall be prorated as of the Closing Date. Buyer shall receive a credit at the Closing for the aggregate amount of tenant security deposits and prepaid rents held by or on behalf of Seller.

**C. Expenses.** All expenses of operating the Property which have been prepaid by Seller (except insurance pursuant to Section 7.6 hereof) shall be prorated, but only to the extent such expenses stem from and are consistent with contracts or other arrangements which have been previously disclosed to Buyer on or before the Acceptance Date.

**D. Utilities.** Seller shall receive credit for assignable utility deposits, if any, which are assigned to Buyer at Buyer's request or with Buyer's consent. To the extent possible, Seller shall cause all utility meters with respect to utility charges, which are not payable by tenants, to be read as of the Closing Date, and Seller shall pay all charges for those utilities payable by Seller with respect to the Property which have accrued to the Closing Date and Buyer shall pay all such expenses accruing from and after the Closing Date.

Buyer and Seller agree that, if any of the aforesaid prorations other than taxes and/or assessments cannot be calculated accurately on the Closing Date, the same shall be estimated as of the Closing Date and any final adjustments shall be made within thirty (30) days after the Closing Date or as soon as sufficient information to determine such prorations is available. Prorations for any taxes and/or assessments on the Property shall be final as of the Closing Date. Prorations and adjustments shall be made by credits to or charges against the Purchase Price. Any rents under Tenant Leases collected after the Closing Date by Buyer or any of its agents shall be applied first to the current rent due, and, if any portion of such rents so collected are applicable to any periods prior to the Closing, Buyer shall remit such portion to Seller; provided, however, Buyer shall not be required to make any such remittances more frequently than once each month. For purposes of calculating prorations, Buyer shall be deemed to be entitled to the income and responsible for the expenses for the entire day upon which the Closing occurs.

**7.6 Insurance.** The fire, hazard, and other insurance policies relating to the Property shall be canceled by Seller as of the Closing Date and shall not, under any circumstances, be assigned to Buyer. All unearned premiums for fire and any additional hazard insurance premium or other insurance policy premiums with respect to the Property shall be retained by Seller.

**7.7 Close of Escrow.** As soon as Buyer and Seller have deposited all items required with Escrowholder, and upon satisfaction of Sections 7.1 and 7.2, Escrowholder shall cause the sale and purchase of the Property to be consummated (the "Closing") in accordance with the terms hereof by immediately and in the order specified:

A. **Recordation.** Recording the Deed.

B. **Wire Transfer.** Wire transferring the Purchase Price, less the amount of costs paid by Seller at Closing, and plus or minus the amount of any prorations pursuant to the terms hereof, all as set forth on the closing statement signed by Seller and Buyer, directly to Seller pursuant to Seller's written closing instructions.

C. **Delivery of Other Escrowed Documents.**

- (i) delivering to each of Buyer and Seller at least one executed counterpart of each of the (a) Assignment and Assumption of Leases; (b) Assignment and Assumption of Service Contracts and Other Obligations; (c) Operation Contract; and (d) closing statement;
- (ii) delivering to Buyer the (a) Bill of Sale; (b) Certificate of Non-Foreign Status; (c) Certificate of Corporate Authorization; (d) Seller's Certificate; and (e) Affidavit as to Debts, Liens, Parties in Possession and GAP Coverage; and
- (iii) delivering to Seller the Buyer's Certificate.

**7.8 Possession.** As of the Closing Date, possession of the Property, subject to the rights and interests of tenants in possession pursuant to the Tenant Leases, along with the following items shall be delivered to Buyer:

- (i) the original of each Tenant Lease and any amendments thereto (if available), or a copy of each Tenant Lease and any amendments thereto in the possession of Seller, if not previously delivered to Buyer;
- (ii) the originals of all Service Contracts in the possession of Seller that have been assigned to and assumed by Buyer, if not previously delivered to Buyer;
- (iii) any keys and or key cards to any door or lock on the Property in the possession of Seller; and
- (iv) all original licenses and permits or certified copies thereof issued by governmental authorities having jurisdiction over the Property which Seller has in its possession and which are transferable.

As of the Closing, the Improvements shall become private property and property tax assessable and Buyer shall have the rights of a private owner.

**7.9 Recorded Instruments.** As soon after the Closing Date as possible, Escrowholder shall (i) deliver to Buyer the original recorded Deed and the original of any other recorded documents, and (ii) deliver to Seller a copy of the recorded Deed, with recordation information noted thereon, along with copies of other recorded documents.

**7.10 Tenant Notices.** On or before the Closing Date, Seller and Buyer shall execute a notice to the tenants of the Property, in the form of Exhibit "L" attached hereto, informing tenants that the Property has been sold by Seller to Buyer. Immediately following the Closing, Seller shall deliver such notices to all of the tenants of the Property.

## **ARTICLE VIII CASUALTY**

If any loss or damage, by fire or other casualty, to the Property occurs prior to the Closing Date, Seller shall give prompt written notice to Buyer. If any such loss does not exceed the Materiality Limit, the Closing shall occur just as if such loss or damage had not occurred, and Seller shall deliver to Buyer any and all proceeds paid to Seller by Seller's insurer with respect to such fire or other casualty. At Closing, Seller shall give Buyer a credit on the Purchase Price equal to the lesser of the estimated cost of restoration or the amount of any deductible.

If any such loss or damage exceeds the Materiality Limit, at Buyer's sole option, either:

- (i) this Agreement shall terminate in accordance with the Article XIV if Buyer shall so notify Seller within ten (10) days of Buyer receiving written notice from Seller of the casualty; or
- (ii) if Buyer shall not have timely notified Seller of its election to terminate this Agreement in accordance with paragraph (a) above, the Closing shall occur just as if such loss or damage had not occurred, without reduction in the Purchase Price, and Seller shall deliver to Buyer any and all proceeds paid to Seller by Seller's insurer with respect to such fire or casualty. At Closing, Seller shall give Buyer a credit on the Purchase Price equal to the lesser of the estimated cost of restoration or the amount of the deductible.

### **ARTICLE IX CONDEMNATION**

In the event of (i) any pending or contemplated annexation or condemnation proceeding affecting, or which may affect, all or any portion of the Property, (ii) any proposed or pending proceeding to change or redefine the zoning classification of all or any portion of the Property which would make the present use or the contemplated use of the Property by Buyer non-conforming, or (iii) a proposed change in road patterns or grades which may adversely affect access to the roads providing a means of ingress to or egress from the Property, Buyer shall have the right, at its option, to terminate this Agreement, or to proceed with the purchase of the Property without reduction of the Purchase Price, and Seller shall assign to Buyer its interest in any condemnation actions and proceeds.

### **ARTICLE X REPRESENTATIONS AND WARRANTIES**

**10.1 Representations and Warranties of Seller.** Subject to the limitations set forth herein, Seller hereby represents and warrants that, except as set forth in Exhibit "M" attached hereto and incorporated herein, to the best of Seller's actual knowledge as of the Effective Date:

- (i) Seller has not received any notice from a governmental or quasi-governmental entity citing Seller for, and otherwise has no knowledge of, any violation of any federal, state, county, municipal, or other governmental or quasi-governmental statute, law, ordinance, judgment, writ, decree, injunction, rule, ruling, regulation, restriction, or order to which the Property or the construction, development, use, operation, maintenance, or management thereof is subject, which violation has not been cured;
- (ii) the tenant list attached hereto and incorporated herein as Exhibit "N" is true and correct as of the date specified thereon;

- (iii) in connection with Tenant Leases: (i) Seller has not received a written claim from any tenant alleging that Seller has defaulted in performing any of its obligations thereunder that has not been cured or otherwise resolved, (ii) no material defaults exist on the part of any tenant thereunder, (iii) none of the tenants now occupying any of the Property is the subject of any bankruptcy, reorganization, insolvency or similar proceeding;
- (iv) Seller has not been served in any litigation, arbitration or other judicial, administrative or other similar proceedings involving, related to, or arising out of the Property which is currently pending;
- (v) Seller, and the individuals signing this Agreement on behalf of Seller, have the full legal power, authority and right to execute and deliver, and to perform their legal obligations under, this Agreement, and Seller's performance hereunder and the transactions contemplated hereby, have been duly authorized by all requisite action on the part of Seller by County Board Resolution File No. 14- \_\_\_\_ and no remaining corporate action is required to make this Agreement binding on Seller;
- (vi) there are no Service Contracts in effect which will become obligations of Buyer following the Closing, except those Service Contracts, if any, which Buyer will agree to assume;
- (vii) Seller has not received official governmental notice of any actual condemnation of the Property or any part thereof;
- (viii) Seller is not a "foreign person" (as defined in Internal Revenue Code Section 1445 and regulations issued thereunder);
- (ix) Seller has not received written notice from any governmental agency citing Seller for any Hazardous Material contamination on the Property, or notifying Seller that it is the subject of any investigation, administrative order or litigation with respect to Hazardous Material contamination that is in existence with respect to the Property. As used herein, "Hazardous Material" means any hazardous, toxic or dangerous waste, substance or material, as defined for purposes of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any other federal, state or local law, ordinance, rule or regulation, applicable to the Property, and establishing liability standards or required action as to reporting, discharge, spillage, storage, uncontrolled loss, seepage, filtration, disposal, removal, use or existence of a hazardous, toxic or dangerous waste, substance or material; and
- (x) Seller is not, and will not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking

Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities.

Buyer hereby acknowledges that "Seller's actual knowledge", upon which all of the representations and warranties set forth in this Section are based, means only the current actual knowledge of the Involved Seller Employee, without conducting any investigation, inquiry or review whatsoever. To the best of Seller's actual knowledge, there are no employees of Seller who are likely to have information regarding the representations and warranties set forth in this Section which would be superior to that of the Involved Seller Employee. The sole and exclusive obligations of Seller with respect to the representations set forth in this Section shall be as set forth in Section 16.1 hereof.

Except for the warranties set forth in the Deed, which shall survive indefinitely, all representations and warranties of Seller set forth in this Agreement or in any document to be executed by Seller and delivered to Buyer at Closing, shall survive for a period of six (6) months after the Closing Date only.

**10.2 Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller that:

- (i) Buyer, and the individuals signing this Agreement on behalf of Buyer, have the full legal power, authority and right to execute and deliver, and to perform their legal obligations under, this Agreement and Buyer's performance hereunder and the transactions contemplated hereby have been duly authorized by all requisite action on the part of Buyer and no remaining action is required to make this Agreement binding on Buyer;
- (ii) Buyer has the financial capacity to perform its obligations under this Agreement;
- (iii) Buyer is not, and will not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of the OFAC (including those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities; and
- (iv) Neither Buyer, nor any member of its Executive Management Team has, either as an individual or as a member of a company, as a shareholder of a corporation, or as a partner in a partnership, any of the following violations of Seller's "Economic Development Buyer Policy":
  - (a) Delinquent real estate or personal property taxes due to any municipality in Milwaukee County;

- (b) Building or health code violations that are not being actively abated;
- (c) Conviction for violating an order of the Department of Neighborhood Services or Health Department of any municipality within Milwaukee County within 12 months preceding Closing;
- (d) Conviction for a felony crime that affects property or neighborhood stability or safety; or
- (e) Outstanding judgment to Milwaukee County or any municipality within Milwaukee County.

Prior to the Closing Date, Buyer shall execute and deliver to Seller an affidavit ("EDB Affidavit") certifying to Seller that neither it nor any member of its Executive Management Team (defined below) is in violation of Seller's Economic Development Buyer Policy. If at Closing Buyer is unable to give the required certification, the Agreement may be canceled at the option of the County and the Option Fee and any Extension Fee and other fees paid to County pursuant to the this Agreement shall be retained by County.

For purposes of this Agreement, Buyer's "Executive Management Team" is comprised of its Chairman and CEO, John E. Schlifske; President, Gregory C. Oberland; Executive Vice President and CFO, Michael F. Carter; Executive Vice President and CIO, Ronald P. Joelson; Executive Vice President – Operations & Technology, Timothy G. Schaefer; Senior Vice President – General Counsel & Secretary, Raymond J. Manista; Senior Vice President – Human Resources, Joann M. Eisenhart; and Senior Vice President – Insurance & Investment Products, John M. Grogan.

All representations and warranties of Buyer set forth in this Agreement or in any document to be executed by Buyer and delivered to Seller at Closing, shall survive for a period of six (6) months after the Closing Date only.

**10.3 Buyer's Reliance on Own Investigation; "AS IS" Sale.** The agreements and acknowledgments contained in this Section constitute a conclusive admission that

- (i) Buyer is aware that the Land may contain old building foundations, building materials and other debris. Without changing the "AS-IS/WHERE IS" nature of this transaction, Buyer is aware that the Property is or may be affected by adverse geotechnical conditions due to the presence of these materials or due to the bearing capacity of the soil.
- (ii) Buyer agrees and acknowledges that, as of the Closing Date, Buyer shall have made such feasibility studies, investigations, title searches, environmental studies, engineering studies, inquires of governmental officials, and all other inquiries and investigations as Buyer shall deem necessary to satisfy itself as to the condition and quality of the Property. By proceeding with Closing, Buyer acknowledges that it has been given ample opportunity to inspect the Property and that the Purchase Price is a



discounted price representing the fact that the Property is being purchased by Buyer on an AS IS, WHERE IS and WITH ALL FAULTS basis; and

- (iii) BUYER FURTHER AGREES AND ACKNOWLEDGES THAT, AT CLOSING, BUYER SHALL BUY THE PROPERTY IN ITS THEN CONDITION, "AS IS, WHERE IS" AND WITH ALL FAULTS, AND SOLELY IN RELIANCE ON BUYER'S OWN INVESTIGATION, EXAMINATION, INSPECTION, ANALYSIS AND EVALUATION. BUYER IS NOT RELYING ON ANY STATEMENT OR INFORMATION MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, EXPRESS OR IMPLIED, BY SELLER OR ITS AGENTS AS TO ANY ASPECT OF THE PROPERTY, BUT, RATHER, SHALL BE RELYING ON INDEPENDENT EVALUATIONS BY ITS OWN PERSONNEL OR CONSULTANTS TO MAKE A DETERMINATION AS TO THE PHYSICAL AND ECONOMIC NATURE, CONDITION AND PROSPECTS OF THE PROPERTY.
- (iv) Buyer acknowledges that Wis. Stat. § 30.2038 (2014) provides that the Land is not located on land that is part of the lake bed of Lake Michigan and Buyer agrees that Seller is not responsible for any changes or alternate interpretations with respect to the location of the Land.

The provisions of this Section shall survive Closing or other termination of this Agreement.

## **ARTICLE XI NOTICES**

All notices, requests, demands, and other communications given pursuant to this Agreement shall be in writing and shall be deemed to have been duly delivered, (i) when hand delivered to the addressee; or (ii) one (1) business day after having been deposited, properly addressed and prepaid for guaranteed next-business-day delivery with a nationally recognized, overnight courier service (e.g., FedEx, or U.S. Express Mail). All such notices, requests, or demands shall be addressed to the party to whom notice is intended to be given at the addresses set forth in Article II hereof or to such other address as a party to this Agreement may from time to time designate by notice given to the other party(ies) to this Agreement

## **ARTICLE XII BROKERS**

Buyer and Seller acknowledge and agree that no brokers have been involved in the transaction contemplated herein and no commissions are due in connection with the Agreement. Each party hereto shall indemnify and hold the other party harmless from and against any claim for commission or other similar compensation due any broker or other third party, including all costs or expenses incurred in connection therewith, to the extent such broker or third party is claiming such amount as a result of an agreement with or through the indemnifying party. This provision shall survive the Closing or other termination of this Agreement.

**ARTICLE XIII  
DEFAULT**

In the event of a default by either Seller or Buyer, the remedies for default provided for in this Article XIII shall constitute the sole and exclusive remedies of the other party.

**13.1 Default by Buyer.** In the event of any default on the part of Buyer, Seller, as Seller's sole and exclusive remedies, shall have the right, provided Seller has given Buyer written notice of such default and Buyer fails to cure such default within five (5) business days following such notice being given, to elect either (i) to terminate this Agreement and retain the Option Fee and any Extension Fees, in which event both parties shall be released of all further liability hereunder, except for the obligations hereunder which expressly survive the termination of this Agreement; or (ii) to file, within thirty (30) days of the Closing Date, an action for specific performance of Buyer's express obligations hereunder. Notwithstanding the foregoing, Buyer and Seller agree that nothing contained herein shall limit Seller's right to seek and obtain damages from Buyer due to Buyer defaulting in its obligations hereunder which expressly survive the termination of this Agreement.

**13.2 Default by Seller.** In the event of default by Seller, Buyer, as Buyer's sole and exclusive remedies, shall have the right, provided Buyer has given Seller written notice of such default and Seller fails to cure such default within five (5) business days following such notice being given, to elect either (i) to terminate this Agreement and get a refund of the Option Fee and any Extension Fees, in which event both parties shall be released of all further liability hereunder, except for the obligations hereunder which expressly survive the termination of this Agreement; or (ii) if Buyer has delivered the Acceptance Notice, to file, within thirty (30) days of the Closing Date, an action for specific performance of Seller's express obligations hereunder, without abatement of, credit against, or reduction in the Purchase Price. Notwithstanding the foregoing, Buyer and Seller agree that nothing contained herein shall limit Buyer's right to seek and obtain damages from Seller due to Seller defaulting in its obligations hereunder which expressly survive the termination of this Agreement.

**ARTICLE XIV  
NON-DEFAULT TERMINATION**

In the event of any termination of this Agreement pursuant to a provision expressly stating that the provisions of this Article are applicable, except for those obligations which expressly survive termination of this Agreement, neither Buyer nor Seller shall have any further obligations hereunder. In the event of a termination pursuant to this Article, Seller shall retain the Option Fee and any Extension Fees.

**ARTICLE XV  
INDEMNITIES**

**15.1 Seller's Indemnity.** Without in any way modifying the agreement of Buyer and Seller that the Property is being sold to Buyer "AS IS" and "WHERE IS", Seller hereby agrees, from and after the Closing, as the sole and exclusive obligation of Seller with respect to this Agreement or the Property, to indemnify, defend and hold Buyer harmless from and against any actual, direct damages (and reasonable attorneys' fees and other legal costs) incurred by Buyer:

(a) as a result of any claim or action by any third party in connection with, arising out of, or resulting in any way from the ownership or operation of the Property before the Closing Date; or

(b) which Buyer can prove Buyer would not have incurred but for inaccuracy in the representations and warranties of Seller set forth in Section 10.1 hereof as of the Closing Date; provided, however, that such agreement by Seller to so indemnify, defend and hold Buyer harmless shall be null and void except to the extent that Seller has received notice from Buyer, pursuant to Article XI hereof, within six (6) months of the Closing which notice specifies the amount, nature and facts underlying any claim being made by Buyer hereunder;

but, specifically excluding from the indemnity set forth in this Section 15.1 any and all claims, suits, actions and damages arising out of or in any way relating to (i) any acts or omissions of Buyer, its agents, employees, representatives, contractors or other persons or entities acting on behalf or at the direction of Buyer; (ii) any matter addressed in Section 10.3 hereof; (iii) any state of facts, whenever occurring, that Buyer had notice of on or before the Closing Date, including, without limitation, any information disclosed in Seller's Environmental Report, or Estoppel Certificates delivered hereunder; (iv) any demand or requirement for modification of the Improvements, including those required under the Americans with Disabilities Act of 1990, and regulations issued thereunder; (v) all obligations arising under or relating to Tenant Leases, Service Contracts and permits, zoning and other legal requirements relating to the Property, except for Tort Claims, (collectively, the "Assumed Obligations"); or (vi) Hazardous Material and pollutants (except that nothing in this exclusion shall limit any liability of Seller under Section 16.3 hereof). As used herein, "Tort Claim" means any claim or action by a third party alleging bodily injury or property damage that was the direct or proximate result of the neglect or intentional acts or omissions of Seller on the Property; excluding, however, any and all claims, actions and damages arising out of or in any way relating to Hazardous Material or pollutants.

**15.2 Buyer's Indemnity.** Buyer hereby agrees, from and after the Closing, to indemnify, defend and hold Seller harmless from and against any actual, direct damages (and reasonable attorneys' fees and other legal costs) incurred by Seller:

(a) as a result of any claim or action by any third party in connection with, arising out of, or resulting in any way from the ownership or operation of the Property from and after the Closing Date;

(b) as a result of any claim or action by any third party in connection with, arising out of, or resulting in any way from or relating to the "Assumed Obligations" whenever arising,

except only as to the extent of express indemnities given by Seller as set forth in Section 15.1 hereof and Seller's obligations, if any, under Section 15.3 hereof; or

(c) which the Seller can prove Seller would not have incurred but for inaccuracy in the representations and warranties of Buyer set forth in Section 10.2 hereof as of the Closing Date; provided, however, that such agreement by Buyer to so indemnify, defend and hold Seller harmless shall be null and void except to the extent that Buyer has received notice from Seller, pursuant to Article XI hereof, within six (6) months of the Closing, which notice specifies the amount, nature and facts underlying any claim being made by Seller hereunder;

but, specifically excluding from the indemnity set forth in this Section 15.2, any and all claims, suits, actions and damages arising out of or in any way relating to any acts or omissions of Seller.

**15.3 Unknown Environmental Liabilities.** Unknown Environmental Liabilities shall be allocated in accordance with applicable law. As used herein, "Unknown Environmental Liabilities" means future obligations to remediate Hazardous Material contamination located on, or originating from, the Property which occurred on or before the Closing Date, but only to the extent (a) the underlying Hazardous Material is not disclosed in Seller's Environmental Report or Buyer's Environmental Investigation, (b) neither Seller nor Buyer has notice of such Hazardous Material as of the Closing Date, and (c) remediation or other action with respect to such Hazardous Material is then required by an applicable governmental agency under then current state or federal environmental laws or regulations and also would have been required under state or federal environmental laws or regulations existing as of the Closing Date. Neither Seller nor Buyer shall solicit the involvement of local, state or federal governmental agencies in any of the aforesaid determinations, except only to the extent required by law.

**15.4 Buyer's Waiver and Release of Seller.** Except with respect to Seller's indemnification obligations set forth in Section 15.1 and Seller's obligations, if any, under Section 15.3, Buyer hereby waives, releases and discharges Seller from all other claims, damages, losses, causes of action and all other expenses and liabilities relating to the Property (including claims, damages, losses, causes of action and all other expenses and liabilities relating to environmental law and/or the presence of Hazardous Material), whether direct or indirect, known or unknown, foreseeable or unforeseeable, and whether relating to any period of time either before or after Closing.

The provisions of this Section shall survive Closing or other termination of this Agreement

**15.5 Survival.** All of the provisions of this Article XV shall survive the Closing.

## ARTICLE XVI MISCELLANEOUS

**16.1 Survival of Representations, Covenants, and Obligations.** Except as otherwise expressly provided herein, no representations, covenants, or obligations contained herein shall survive Closing or termination of this Agreement.

**16.2 Attorneys' Fees.** In the event of any litigation between the parties hereto concerning this Agreement, the subject matter hereof or the transactions contemplated hereby, each party shall pay their own costs.

**16.3 Publicity.** Buyer and Seller understand that Milwaukee County is bound by the public records law and that all terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, et. seq. Buyer further understands that this Agreement will be part of a resolution of Milwaukee County approving the transaction contemplated herein..

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

**16.5 Waiver.** No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

**16.6 Time.** Time is of the essence with regard to each provision of this Agreement. If the final date of any period provided for herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, or banking/national holiday, then the time of that period shall be deemed extended to the next day which is not a Saturday, Sunday, or banking/national holiday. If the Closing Date provided for herein should fall on a Friday, Saturday, Sunday, or national/banking holiday, then the Closing Date shall be deemed extended to the next day which is not a Friday, Saturday, Sunday, or national/banking holiday. All time periods expiring on a specific date or period herein shall be deemed to expire at 5:00 p.m. Central Standard Time on such specific date or period.

**16.7 Controlling Law.** This Agreement shall be construed in accordance with the laws of the State of Wisconsin.

**16.8 Severability.** If any one or more of the provisions of this Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction or by law, such determination will not render this Agreement invalid or unenforceable, and the remaining provisions hereof shall remain in full force and effect.

**16.9 Construction.** Buyer and Seller agree that each party and its counsel have reviewed, and if necessary, revised this Agreement, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments, exhibits, or schedules hereto.

**16.10 Amendments.** This Agreement may be modified, supplemented or amended only by a written instrument executed by Buyer and Seller.

**16.11 Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

**16.12 Assignment.** This Agreement shall not be assigned by Buyer to any party, other than to an affiliate of Buyer, without the written consent of the Seller. Any assignment of this Agreement without the required consent may, at the option of the Seller, result in termination of this Agreement by Seller. In the event of such termination, Seller shall retain the Option Fee and any Extension Fees.

**16.13 Entire Agreement.** This Agreement constitutes the entire and complete agreement between the parties relating to the transactions contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, warranties, and statements, oral or written, are merged herein. No representation, warranty, covenant, agreement, or condition not expressed in this Agreement shall be binding upon the parties hereto or shall affect or be effective to interpret, change, or restrict the provisions of this Agreement.

Signatures contained on following page

IN WITNESS WHEREOF, the Parties hereto have set their hands as follows.

**SELLER: MILWAUKEE COUNTY**

By: \_\_\_\_\_  
Chris Abele, County Executive

By: \_\_\_\_\_  
Joseph Czarnezki, County Clerk

Reviewed:

By: \_\_\_\_\_  
Amy Pechacek, Risk Manager

Reviewed and Countersigned:

By: \_\_\_\_\_  
Paul Bargren, Corporation Counsel

Countersigned:

By: \_\_\_\_\_  
Scott Manske, Comptroller

**BUYER: THE NORTHWESTERN MUTUAL LIFE  
INSURANCE COMPANY**

By: \_\_\_\_\_

**EXHIBIT A**

**LAND**



EXHIBIT B

SPECIAL WARRANTY DEED

RECORDING REQUESTED BY  
WHEN RECORDED MAIL TO:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SPECIAL WARRANTY DEED

THIS INDENTURE, is made as of the \_\_\_ day of\_\_\_\_\_, 20\_\_ between \_\_\_\_\_("Grantor") and THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation, whose mailing address is 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202("Grantee").

WITNESSETH, That the said Grantor, in consideration of the sum of Ten (\$10.00) Dollars and other valuable consideration, to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has given, granted, bargained, sold, remised, released, aliened, conveyed, and confirmed, and by these presents does give, grant, bargain, sell, remise, release, alien, convey, and confirm, unto the said Grantee, its heirs, successors and assigns forever, the property described on Exhibit "A" attached hereto and made a part hereof, together with all and singular the appurtenances thereto belonging or appertaining, and together with all the estate, right, title, interest, claim, or demand whatsoever of the said Grantor, either in law or equity, either in possession or expectancy of, in and to said premises

SUBJECT, HOWEVER, TO:

1. Real Estate Taxes not yet due and payable;
2. General and Special Assessments payable after the date hereof; and
3. Permitted Exceptions set forth on Exhibit "B" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said premises as above described, with the appurtenances, unto the said Grantee, and to its heirs, successors, and assigns forever.

And the said Grantor, for itself, its successors and assigns, hereby covenants in this conveyance and in the covenants herein with the said Grantee, its heirs, successors, and assigns, to forever WARRANT AND DEFEND the same against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

In Witness Whereof, this Special Warranty Deed is executed by Grantor under seal on the day and year first above written.

GRANTOR: MILWAUKEE COUNTY

By: \_\_\_\_\_  
Chris Abele, County Executive

By: \_\_\_\_\_  
Joseph Czarnezki, County Clerk

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_

EXHIBIT C

OPERATION CONTRACT

AGREEMENT OF OPERATING CONDITIONS

THIS AGREEMENT OF OPERATING CONDITIONS (this "Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2014, by and between Milwaukee County ("County"), and The Northwestern Mutual Life Insurance Company ("Owner"),

WITNESSETH

WHEREAS, Owner has purchased from County the property ("Property") commonly known as O'Donnell Park with a street address of 910 E. Michigan Street in Milwaukee, Wisconsin, as more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof; and

WHEREAS, as condition of said purchase, County and Owner agreed to certain operational obligations relating those areas of O'Donnell Park commonly known as (i) the O'Donnell Park Parking Structure (the "Structure"), (ii) the Garden Plazas (the "Plazas"), and (iii) the Miller Pavilion (the "Pavilion").

NOW, THEREFORE, County and Owner do hereby enter into this Agreement to set forth the Operation obligations of Owner.

1. Parks District Zoning. The Property is zoned as a Parks District and may only be used "to accommodate a wide variety of public and quasi-public open spaces and facilities providing recreational and cultural opportunities and supporting services for surrounding neighborhoods." Owner shall at all times maintain and operate the Property in compliance with City of Milwaukee zoning requirements.

2. No County Contribution. County will not contribute to any operating or capital costs of the Property.

3. Structure. Based on that certain engineering report prepared for County by Graef Engineering dated \_\_\_\_\_, 2013, Owner and County assume that the Structure has a remaining useful life of twenty (20) years. From the date hereof until the first to occur of 12/31/33 or the date that Owner makes a good faith determination that the useful life of the Structure has ended (the "Useful Life Period"), Owner agrees that, excepting those spaces leased to parkers having specified access rights, (i) 100% percent of the parking spaces in the Structure will be available for public parking at market rates after 5:00 p.m. Monday through Friday and on weekends and holidays, and (ii) a minimum of 200 parking spaces in the Structure will be available to the public at market rates on all week days, provided, however, parking spots may be temporarily unavailable during maintenance or construction activity in the Structure.

4. Bridges. During the Useful Life Period, public access shall be maintained to the existing Calatrava bridge and to the existing Michigan Street bridge (together the "Bridges"), provided, however, access to the Bridges may be temporarily obstructed by Owner during special events or during maintenance or construction activity on the Property. Maintenance of the Bridges shall be the obligation of their respective owners and not Owner. In the event that either or both Bridges are removed, Owner will cooperate in good faith to determine a new bridge placement to provide access to the Property. Owner shall not charge an easement fee or other fee for any new bridge placement by a municipality.
5. Post Useful Life Period. After the end of the Useful Life Period, Owner shall review parking demand and other desirable and permitted zoning uses of the Property. Any replacement structure that Owner builds shall include a public parking component as determined by Owner.
6. Private Property. Owner shall have all rights of a private owner to control loitering or other disagreeable behavior on the Property. Owner shall have no obligation to repair or replace any part of the Property or Improvements in kind.
7. Captions. The headings or captions in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.
8. Controlling Law. This Agreement shall be construed in accordance with the laws of the State of Wisconsin.
9. Severability. If any one or more of the provisions of this Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction or by law, such determination will not render this Agreement invalid or unenforceable, and the remaining provisions hereof shall remain in full force and effect.
10. Construction. Owner and County agree that each party and its counsel have reviewed, and if necessary, revised this Agreement, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.
11. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.
12. Entire Agreement. This Agreement constitutes the entire and complete agreement between the parties relating to the operation of the Property, and all prior or contemporaneous agreements, understandings, representations, warranties, and statements, oral or written, are merged herein. No representation, warranty, covenant, agreement, or condition not expressed in this Agreement shall be binding upon the parties hereto or shall affect or be effective to interpret, change, or restrict the provisions of this Agreement.

**COUNTY:** **MILWAUKEE COUNTY**

By: \_\_\_\_\_  
Chris Abele, County Executive

By: \_\_\_\_\_  
Joseph Czarnezki, County Clerk

Reviewed:

By: \_\_\_\_\_  
Amy Pechacek, Risk Manager

Reviewed and Countersigned:

By: \_\_\_\_\_  
Paul Bargren, Corporation Counsel

Countersigned:

By: \_\_\_\_\_  
Scott Manske, Comptroller

**OWNER:** **THE NORTHWESTERN MUTUAL LIFE  
INSURANCE COMPANY**

By: \_\_\_\_\_

**EXHIBIT D**  
**EXISTING ENVIRONMENTAL REPORTS**

EXHIBIT E  
TENANT ESTOPPEL CERTIFICATE

RE: Lease dated \_\_\_\_\_ ("Lease") between \_\_\_\_\_, ("Landlord") and \_\_\_\_\_ ("Tenant") for Suite \_\_\_\_ ("Premises") in the building located at \_\_\_\_\_ ("Building").

The Tenant hereby certifies to Landlord, and to \_\_\_\_\_, a prospective purchaser of the Building, and its successors and assigns (collectively "Buyer"), that the following information with respect to the Lease is true and correct and will be relied upon by Buyer in making its decision to purchase the Building:

1. The Lease is in full force and effect and has not been modified or amended except as specifically set forth in Paragraph 4 below. There are no other agreements, understandings, contracts, or commitments of any kind whatsoever with respect to the Lease or the Premises except as expressly provided in the Lease or in any amendment or supplement set forth below.

2. The Tenant asserts no claim of default or offset or defense against the payment of rent or other charges payable by the Tenant and asserts no claim against the Landlord under the Lease in regard to the operation or maintenance of the property of which the Premises are a part. To the best of Tenant's knowledge and belief, there is no default by Landlord under the Lease and all commitments made to induce Tenant to enter into the Lease have been satisfied.

3. All fixed minimum rental has been paid to the end of the current calendar month, which is \_\_\_\_\_, 20\_\_\_\_, and no rent under the Lease has been paid more than one month in advance of its due date unless as modified by Paragraph No. 11 below regarding security deposits.

4. Dates of any Lease amendments or modifications: \_\_\_\_\_.

5. Current annual fixed minimum rental: \_\_\_\_\_.

6. Current estimated monthly additional rental:

7. Lease termination date: \_\_\_\_\_.

8. The Lease contains no option to renew, first right of refusal, option to expand, or option to terminate, except as follows: \_\_\_\_\_.

9. The Tenant has not assigned, transferred, or hypothecated its interest under the Lease, except as follows: \_\_\_\_\_.

10. Tenant is using the Premises only for those purposes specifically permitted under the Lease.

11. Landlord is holding Tenant's security deposit of \$\_\_\_\_\_.

12. Tenant is not in default under the Lease nor is there any condition, or any event which has occurred, which, with the passage of time or the giving of notice or both, would constitute a default or breach under the Lease. Tenant is current (i.e., to the extent billed by Landlord) in the payment of any taxes, utilities, common area maintenance payments, or other charges required to be paid by the undersigned, and there exists no dispute relative to any such amounts.

13. The improvements and space required to be furnished according to the Lease have been duly delivered by Landlord and accepted by Tenant. All design allowances, construction allowances or other allowances to which Tenant may now or hereafter be entitled under the Lease have been paid in full, except as follows: None

14. Under the Lease, the Tenant is entitled to the use of \_\_\_\_\_ parking spaces.

15. Tenant has no options to purchase the Premises or the Building, no rights to lease additional space within the Building and no rights of first offer or rights of first refusal with respect thereto, except as follows:

16. There are no actions, whether voluntary or otherwise, contemplated by, pending or, to the knowledge of Tenant, threatened against Tenant under the bankruptcy laws of the United States or any state thereof. Tenant has not requested any accommodations from any of its creditors.

17. Landlord and Buyer and their respective successors and assigns may rely on this certificate in connection with the purchase and sale of the Premises.

18. Tenant's current address for all notices to be given to it under the Lease is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned has all requisite authority to execute this Estoppel Certificate on behalf of Tenant.

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



EXHIBIT F

CERTIFICATE OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by \_\_\_\_\_, the undersigned hereby certifies the following on behalf of \_\_\_\_\_.

- 1. \_\_\_\_\_ is a \_\_\_\_\_ and is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
- 2. \_\_\_\_\_'s U.S. employer identification number is \_\_\_\_\_; and
- 3. \_\_\_\_\_ office address is \_\_\_\_\_.

\_\_\_\_\_ understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of \_\_\_\_\_.

Dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT G

BILL OF SALE AND ASSIGNMENT

THIS BILL OF SALE AND ASSIGNMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, a \_\_\_\_\_ ("Seller") to THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation ("Buyer").

WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged:

A. Seller hereby sells and conveys unto Buyer, its successors and assigns all of the tangible personal property owned by Seller and located at the property described on Exhibit "A" attached hereto (the "Property") including specifically the items set forth on Exhibit "B" attached hereto.

TO HAVE AND TO HOLD the same unto Buyer, its successors and assigns forever. Seller does hereby covenant and agree with Buyer that Seller is the lawful owner of said tangible personal property, that the same is free from all encumbrances and that Seller has good right to sell the interest in the same as aforesaid, and will warrant and defend said interest in the tangible personal property hereby sold unto Buyer, its successors and assigns, against the claims and demands of all persons.

B. Seller hereby assigns to Buyer all of its right, title, and interest, if any, in and to all existing and transferable licenses, permits, approvals, certificates, and agreements with or from all boards, agencies and departments, governmental or otherwise, relating, directly or indirectly, to the ownership, use, operation, and maintenance of the Premises, heretofore issued or executed, together with all renewals, extensions, and amendments thereto and thereof (collectively, the "Licenses").

C. Seller represents and warrants that:  
(a) it has the right, power, and authority to execute and deliver this Bill of Sale and Assignment.  
(b) it has made no prior assignment of the Licenses.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale and Assignment as of the day and year first hereinabove written.

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_

EXHIBIT H

SELLER'S CERTIFICATE

**THIS CERTIFICATE** (this "Certificate") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ ("Seller") in favor of THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY ("Buyer").

**RECITALS:**

Seller and Buyer entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") with an Effective Date of \_\_\_\_\_, 20 \_\_, with respect to the purchase and sale of property commonly known as \_\_\_\_\_, located at \_\_\_\_\_, in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, described therein, and the Agreement provides that all of the representations, warranties, and covenants of Seller in the Agreement shall be reaffirmed by Seller at Closing.

Therefore, Seller hereby certifies to Buyer as follows:

1. As of the date hereof, all of Seller's representations and warranties set forth in the Agreement, including, but not limited to, those set forth in Section 10.1 of the Agreement, were true, correct, and complete on the date of the Agreement, and remain true, correct, and complete on the date hereof, without exception **or {except as set forth on Exhibit "A" attached hereto }**.
2. All capitalized terms used in this Certificate without separate definition shall have the same meanings assigned to them in the Agreement.

**IN WITNESS WHEREOF**, this Certificate has been executed by the duly authorized representative of Seller the day and year first above written.

**SELLER:**

\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Its:\_\_\_\_\_

EXHIBIT I

BUYER'S CERTIFICATE

THIS CERTIFICATE (this "Certificate") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY ("Buyer"), in favor of \_\_\_\_\_("Seller").

RECITALS:

Seller and Buyer entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") with an Effective Date of \_\_\_\_\_, 20 \_\_, with respect to the purchase and sale of property commonly known as \_\_\_\_\_, located at \_\_\_\_\_, in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, described therein, and the Agreement provides that all of the representations, warranties, and covenants of Seller in the Agreement shall be reaffirmed by Seller at Closing.

Therefore, Buyer hereby certifies to Seller as follows:

- 1. As of the date hereof, all of Buyer's representations and warranties set forth in the Agreement, including, but not limited to, those set forth in Section 10.2 of the Agreement, were true, correct, and complete on the date of the Agreement, and remain true, correct, and complete on the date hereof, without exception **or {except as set forth on Exhibit A attached hereto }**.
- 2. All capitalized terms used in this Certificate without separate definition shall have the same meanings assigned to them in the Agreement.

**IN WITNESS WHEREOF**, this Certificate has been executed by the duly authorized representative of Buyer the day and year first above written.

**BUYER:** THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation

By: \_\_\_\_\_

EXHIBIT J

ASSIGNMENT AND ASSUMPTION OF LEASES

THIS ASSIGNMENT AND ASSUMPTION OF LEASES ("Assignment") is made and entered into as of this \_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ ("Assignor"), and The Northwestern Mutual Life Insurance Company, a Wisconsin corporation ("Assignee").

RECITALS

Assignor, as Seller, and Assignee, as Buyer, entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") with an Effective Date of \_\_\_\_\_, 20\_\_, for the purchase and sale of the real estate commonly known as \_\_\_\_\_, which is legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").

Assignor desires to assign the rights, and Assignee desires to assume, the duties, obligations, and liabilities, of Assignor as landlord under the leases described on Exhibit "B" attached hereto and incorporated herein (the "Leases"), to be effective upon the closing of the sale contemplated under the terms of the Agreement.

All capitalized terms used in this Assignment without separate definition shall have the same meanings assigned to them in the Agreement.

NOW, THEREFORE, in consideration of the recitals set forth above, which are made a part of this Assignment, the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment of Leases and Security Deposits. Subject to the terms, covenants, conditions, and provisions of the Leases and this Assignment, Assignor hereby transfers, conveys, and assigns to Assignee all of its right, title, and interest as landlord in, to and under the Leases, and the security deposits under the Leases held by Assignor (the "Security Deposits").

2. Assumption of Leases and Security Deposits. Assignee hereby accepts the transfer, conveyance, and assignment of the Leases and Security Deposits from Assignor and, subject to the terms of the Agreement, assumes all rights, duties, obligations, and liabilities of Assignor under the Leases accruing after the Closing (as defined in the Agreement).

3. Assignor Indemnification. Assignor hereby agrees to indemnify, defend, and hold Assignee harmless from any cost, claim, liability, damage, or expense (including reasonable attorney's fees and costs) arising from any cause of action whatsoever relating to the Leases if and to the extent that cost, claim, liability, damage, or expense relates to acts or omissions occurring prior to the date of this Assignment.

4. Assignee Indemnification. Assignee hereby agrees to indemnify, defend, and hold Assignor harmless from any cost, claim, liability, damage, or expense (including attorneys' fees and costs) arising from any cause of action whatsoever relating to the Leases if and to the extent that cost, claim, liability, damage, or expense relates to acts or omissions occurring after the date of this Assignment.

5. No Merger. This Assignment shall not merge with or limit or restrict any provision of the Agreement, and the provisions of the Agreement shall govern and control the rights and obligations of Assignor and Assignee with respect to all matters described therein, including, without limitation, representations and warranties, the apportionment of payment obligations, and indemnification obligations.

6. Binding Effect. This Assignment shall be binding upon and shall inure to the benefit of Assignor, Assignee, and their respective legal representatives, [heirs], successors, and assigns.

7. Counterparts. This Assignment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the day and year first above written.

ASSIGNOR: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ASSIGNEE: **THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY**, a Wisconsin corporation

By: \_\_\_\_\_

EXHIBIT K

ASSIGNMENT AND ASSUMPTION OF CONTRACTS  
AND OTHER OBLIGATIONS

THIS ASSIGNMENT AND ASSUMPTION (this "Assignment") is executed as of the \_\_\_\_ day of \_\_\_\_, 20\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ ("Assignor"), and THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, a Wisconsin corporation ("Assignee"), and.

RECITALS

A. Assignor, as Seller, and Assignee, as Buyer, entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") with an Effective Date of \_\_\_\_\_, 20\_\_, for the purchase and sale of the real estate commonly known as \_\_\_\_\_, which is legally described in Schedule 1 attached hereto and incorporated herein (the "Property").

B. In connection with the conveyance of the Property, Assignor desires to assign to Assignee all the service, maintenance and other contracts respecting the use, maintenance, development, sale, or operation of the Property or any portion thereof and all transferable guarantees and warranties for the Property and Assignee desires to accept said assignment and assume certain obligations of Assignor under said contracts upon the terms, covenants, and conditions set forth in this Assignment.

C. All capitalized terms used in this Assignment without separate definition shall have the same meanings assigned to them in the Agreement.

NOW, THEREFORE, in consideration of the recitals set forth above, which are made a part of this Assignment, the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment of Service Contracts. Assignor hereby assigns, conveys, transfers, and sets over unto Assignee all of Assignor's right, title, and interest in, to and under those certain service, maintenance, and other contracts and concessions respecting the use, maintenance, development, sale, or operation of the Property or any portion thereof, and all transferable guarantees and warranties for the Property, which are set forth on Schedule 2 attached hereto and incorporated herein, together with all amendments, extensions, renewals, and modifications thereto, to the extent assignable (collectively, the "Service Contracts"), together with all rights and privileges and subject to the covenants and conditions therein mentioned, including any warranties or guaranties with respect to any work performed pursuant to the Service Contracts, to have and to hold the same unto Assignee, its successors and assigns.

2. Assumption of Service Contracts. As of the Closing Date (as defined in the Agreement), Assignee accepts said assignment of the Service Contracts and, subject to the terms

of the Agreement, assumes all of Assignor's obligations under the Service Contracts for the balance of the terms thereof following the Closing Date.

3. Assignor Indemnification. Assignor hereby agrees to indemnify, defend, and hold Assignee harmless from any cost, claim, liability, damage, or expense (including reasonable attorney's fees and costs) arising from any cause of action whatsoever relating to the Contracts (or otherwise with respect to the Property) if and to the extent that cost, claim, liability, damage, or expense relates to acts or omissions occurring prior to the date of this Assignment.

4. Assignee Indemnification. Assignee hereby agrees to indemnify, defend, and hold Assignor harmless from any cost, claim, liability, damage, or expense (including attorneys' fees and costs) arising from any cause of action whatsoever relating to the Contracts if and to the extent that cost, claim, liability, damage, or expense relates to acts or omissions occurring after the date of this Assignment.

5. No Merger. This Assignment shall not merge with or limit or restrict any provision of the Agreement, and the provisions of the Agreement shall govern and control the rights and obligations of Assignor and Assignee with respect to all matters described therein, including, without limitation, representations and warranties, the apportionment of payment obligations and indemnification obligations.

6. Binding Effect. This Assignment shall be binding upon and inure to the benefit of the Assignor and Assignee and each of their respective successors and assigns.

7. Counterparts. This Assignment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have executed these presents as of the day and year first hereinabove written.

Assignor: \_\_\_\_\_  
\_\_\_\_\_

By:

Its:

Assignee:

THE NORTHWESTERN MUTUAL LIFE INSURANCE  
COMPANY, a Wisconsin corporation



**DRAFT OF 7/08/14**

**EXHIBIT L  
TENANT NOTICE**

**EXHIBIT M**  
**EXCEPTIONS TO SELLER'S REPRESENTATIONS AND WARRANTIES**

**Pending Litigation:**

*Jared C Kellner et. al. vs. Advance Cast Stone Co et. al.*, Milwaukee County Case  
Number 2011CV001007

**Leases:**

Claims of default under lease with Betty Brinn Children's Museum, Inc., dated August  
3, 1998, as amended September 1, 2008; and subject to MOU dated September 1, 2008.

**EXHIBIT N  
TENANT LIST**

1. Betty Brinn Children's Museum, Inc.
2. Grandview Management, Inc.

EXHIBIT O

**ESCROW AGREEMENT**

This Escrow Agreement (“**Escrow Agreement**”) is made and entered into as of \_\_\_\_\_, 2014, between Milwaukee County (“**Seller**”), The Northwestern Mutual Life Insurance Company (“**Buyer**”), and Chicago Title Insurance Company (“**Escrow Agent**”). This Escrow Agreement is executed pursuant to the terms of that certain Real Estate Purchase and Sale Agreement (the “**Purchase Agreement**”) between Seller and Buyer pertaining to the sale and purchase of certain real property and improvements located at 910 E. Michigan Street, Milwaukee, Wisconsin (collectively, the “**Property**”).

The parties hereto hereby agree as follows:

1. Buyer and Seller shall deposit with Escrow Agent, pursuant to the terms of the Purchase Agreement, those documents set forth therein.
2. Buyer and Seller shall deposit with Escrow Agent, pursuant to the terms of the Purchase Agreement, the closing funds set forth therein.
3. At the closing of the transaction contemplated by the Purchase Agreement, the Escrow Agent shall conduct the closing and disburse the funds and documents as set forth in the Purchase Agreement.
4. Buyer shall indemnify and hold harmless Escrow Agent with respect to all costs and expenses incurred by Escrow Agent including reasonable attorneys’ fees by reason of Escrow Agent being a party to this Escrow Agreement, except any such costs and expenses (a) incurred by Escrow Agent as a result of any failure by Escrow Agent to perform its obligations under this Escrow Agreement or (b) arising out of the gross negligence or willful misconduct of Escrow Agent.
5. In the event of any disagreement between Seller and Buyer or among them and any other person resulting in adverse claims and demands being made in connection with, or for, any documents or funds held pursuant to the terms of this Escrow Agreement, Escrow Agent shall refuse to comply with the claims or demands as long as such disagreement shall continue, and in so refusing, Escrow Agent shall not deliver or disburse said documents or funds, and shall not be liable in any way to any person for its failure or refusal to comply with conflicting or adverse demands. Escrow Agent shall be entitled to continue to refrain from acting and refusing to act until it receives authorization as follows:
  - a. authorization executed by all parties to the disagreement; or
  - b. a certified or file-stamped copy of a court order resolving the disagreement or directing a specific distribution of all or any portion of the documents and funds.

Upon receipt of any of the above, Escrow Agent shall promptly act according to its terms, and shall be relieved from any duty, responsibility, or liability arising from the adverse claims, demands, or from the terms of this Escrow Agreement.

6. In the event of any disagreement between Seller and Buyer or among them and any other person resulting in adverse claims and demands being made in connection with the funds and documents, Escrow Agent may commence an interpleader action and deposit the funds and documents with a court of competent jurisdiction and in such event shall be relieved of any and all further liability to Buyer and Seller. Buyer and Seller shall jointly reimburse Escrow Agent for any and all expense, including reasonable attorneys' fees and other costs and expenses, incurred by Escrow Agent relating to the commencement of an interpleader action.

7. Upon completion of the disbursement of the funds and documents, Escrow Agent shall be released and discharged of its escrow obligations under this Escrow Agreement.

8. In the event of any conflict between this Escrow Agreement and the Purchase Agreement, as between Seller and Buyer, the Purchase Agreement shall govern; however, Escrow Agent shall be entitled at all times to rely solely on and act in accordance with the provisions of this Escrow Agreement.

9. Any notice, demand or request, consent or approval (“**Notice**”) that may be permitted, required, or desired to be given in connection with this Escrow Agreement shall be given in writing to Seller, Buyer and Escrow Agent as follows:

If to Seller: Milwaukee County Economic Development Division  
2711 W Wells Street  
Milwaukee, WI 53208  
Attn: Teig Whaley-Smith

with a copy to: Milwaukee County Corporation Counsel  
Milwaukee County Courthouse, Room 303  
901 N. 9th Street  
Milwaukee, WI 53233  
Attn: Paul Bargren

If to Buyer: The Northwestern Mutual Life Insurance Company  
720 East Wisconsin Avenue  
Milwaukee, WI 53202  
Attn: Steven M. Radke

with a copy to: The Northwestern Mutual Life Insurance Company  
720 East Wisconsin Avenue  
Milwaukee, WI 53202  
Attn: Catherine M. Young

Escrow Agent: Chicago Title Insurance Company  
20900 Swenson Drive, Suite 900  
Waukesha, WI 53186  
Attn: Michele Schmid

All Notices given pursuant to this Escrow Agreement shall be in writing and shall be deemed to have been duly delivered, (i) when hand delivered to the addressee; (ii) one (1) business day after having been deposited, properly addressed and prepaid for guaranteed next-business-day delivery with a nationally recognized, overnight courier service (e.g., FedEx, or U.S. Express Mail); or (iii) when received via electronic mail transmission (provided an original is sent concurrently by one of the other methods of delivery permitted herein).

10. This Escrow Agreement may be executed in multiple counterparts, each of which shall constitute and original, and together shall constitute the Escrow Agreement.

IN WITNESS WHEREOF, the parties have executed this Escrow Agreement as of the date first written above.

- **SELLER** MILWAUKEE COUNTY  
By: \_\_\_\_\_  
Name: \_\_\_\_\_
  
- **BUYER:** THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY  
By: \_\_\_\_\_  
Name: Catherine M. Young  
Assistant General Counsel and Assistant Secretary
  
- **ESCROW AGENT:** CHICAGO TITLE INSURANCE COMPANY  
By: \_\_\_\_\_  
Name: \_\_\_\_\_