

## AGREEMENT FOR PURCHASE AND SALE OF ASSETS

**THIS AGREEMENT FOR PURCHASE AND, SALE OF ASSETS**, dated as of \_\_\_\_\_, 2018 (the “*Agreement*”), is entered into by and among \_\_\_\_\_, (“*Purchaser*”) and LS Associates, LLC, not individually, but solely in its capacity as court-appointed receiver for the assets of Saint Catharine College, Inc. (the “*Seller*”).

### WITNESSETH:

**WHEREAS**, Saint Catharine College, Inc. (“*Saint Catharine*”) is a Kentucky non-profit corporation that, until July 31, 2016, operated in St. Catharine, Kentucky as an institution of higher learning;

**WHEREAS**, The Huntington National Bank is the Trustee (the “*Trustee*” or “*Huntington*”) for certain bonds issued for the benefit of Saint Catharine;

**WHEREAS**, on July 19, 2016, the Trustee commenced a civil action against Saint Catharine in the United States District Court for the Western District of Kentucky (the “*Court*”), styled *Huntington Nat’l Bank, Trustee v. Saint Catharine College, Inc.*, Case No. 16-cv-00465, (the “*Litigation*”);

**WHEREAS**, on July 26, 2016, the Court entered an Order appointing the Seller as receiver for Saint Catharine (the “*Receiver Order*”);

**WHEREAS**, pursuant to Section 5(m) of the Receiver Order, the Seller possesses the authority to sell all or part of the Property (as defined in the Receiver Order), subject to the approval of the Trustee and the Court;

**WHEREAS**, Purchaser desires to acquire from Seller certain of Saint Catharine’s assets as further specified in this Agreement;

**WHEREAS**, the Receiver, with the approval of the Trustee, has moved the Court to establish auction procedures to determine the highest and best bid for Saint Catharine’s assets; and

**WHEREAS**, to effect such purchase and sale, Purchaser and Seller are entering into this Agreement with Trustee’s approval, in good faith, and, in the event the Seller accepts this Agreement, promptly thereafter Seller shall seek approval from the Court.

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **1. PURCHASE AND SALE OF ASSETS**

1.1 **Purchase and Sale**. On the terms and subject to the conditions contained herein, Seller agrees to sell, transfer, convey, and assign to Purchaser, and Purchaser agrees to purchase and acquire from Seller, on the Closing Date (as hereinafter defined), all of Seller’s right, title, and interest in and to all of the tangible and intangible assets and properties of Seller listed in Schedule 1.1 (collectively, the “*Transferred Assets*”). Notwithstanding any representation or warranty by Seller,

the Transferred Assets that are being sold and transferred by the Seller (as identified in Schedule 1.1), shall be conveyed to and accepted by Purchaser in an “as is,” “where is” and “with all faults” condition, free of any warranties or representations whatsoever, whether express or implied, patent or latent, and Seller EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT THERETO.

1.2 **No Assumption of Liabilities**. Except for the executory obligations, but not the antecedent obligations, of Saint Catharine under those contracts listed on Schedule 1.2-A (the “*Assigned Contracts*”) and the assumed liabilities set forth on Schedule 1.2-B (the “*Assumed Liabilities*”), Purchaser will not assume any other liabilities or obligations of Saint Catharine, or of any affiliate or related person or entity of Saint Catharine, of any type or nature whatsoever. Notwithstanding anything in this Agreement to the contrary, Purchaser shall not assume any obligation or liability of Saint Catharine arising out of or relating to (a) any claim or counterclaim arising under the tort law of any jurisdiction, (b) any claim or counterclaim for breach by Saint Catharine of warranty or contract, (c) any debt owed to any governmental or regulatory entity, (d) the violation of any law, ordinance or regulation, (e) any liability of Saint Catharine, including for expenses or Taxes (as hereinafter defined), if any, in connection with, resulting from or arising out of this Agreement or the transactions contemplated herein, or (f) any liability of Saint Catharine for any other Taxes, all of which shall remain after Closing the obligation of Saint Catharine’s estate. Notwithstanding any other provision of this Agreement, the obligations of Seller and Saint Catharine pursuant to this Section 1.3 shall survive the Closing and the transactions contemplated herein.

1.3 **Sales Taxes**. Seller shall be responsible for the payment of all sales, use, excise, transfer, value added, and similar taxes imposed by any governmental authority in any jurisdiction in connection with the transactions contemplated herein, except insofar as both Seller and Purchaser are relieved of any responsibility for such taxes under the provisions of the Approval Order (as defined in Section 6.5).

1.4 **Purchase Price**. Purchaser shall pay a total of \_\_\_\_\_ for the Transferred Assets (the “*Total Purchase Price*”). The *Total Purchase Price* will be paid by Purchaser at the Closing. The Purchaser shall make an earnest money deposit (the “*Good Faith Deposit*”) of \_\_\_\_% of the Total Purchase Price, in cash, in the amount of \_\_\_\_\_ Dollars, (\$\_\_\_\_\_) which amount shall be deposited into the escrow account of \_\_\_\_\_ and shall be credited toward the Total Purchase Price at the Closing.

1.5 **Closing and Closing Date**. The consummation of the transactions contemplated in this Agreement (the “*Closing*”) shall take place at the offices of \_\_\_\_\_, located at \_\_\_\_\_ promptly following the issuance of the Approval Order, but in any event no later than ten days (10) days following the date that the Approval Order (as defined herein) is entered by the Court, provided no person or entity has obtained a stay of the Approval Order (the “*Closing Date*”).

1.6 **Obligations at Closing**.

(a) At the Closing:

(i) Seller shall convey to Purchaser all of Saint Catharine's right, title and interest in and to the respective Transferred Assets, free and clear of liens, claims, interests, charges, encumbrances, assessments, security and other interests, leases, licenses, and restrictions of any kind or character (collectively, "**Liens**"), except such Liens as may be expressly permitted by Purchaser, real estate taxes which are a lien on the Transferred Assets but which are not yet due and payable; easements and restrictions of record which do not interfere with Purchaser's intended use and zoning ordinances, legal highways and public rights-of-way which do not interfere with Purchaser's intended use of the Transferred Assets (the "**Permitted Liens**"), and in furtherance thereof Seller shall deliver to Purchaser a General Assignment, and Bill of Sale in customary form for transactions of this type (the "**Bill of Sale**"), together with such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as Purchaser and its legal counsel shall reasonably request; and

(ii) Upon such deliveries by Seller and Purchaser, Purchaser shall pay the Cash Purchase Price at Closing by delivering to Seller the Cash Purchase Price by wire transfer of immediately available funds to an account specified by Seller.

(b) All deliveries, payments, and other transactions and documents relating to the Closing shall be interdependent, and none shall be effective unless and until all are effective (except to the extent that the party entitled to the benefit thereof has waived satisfaction or performance thereof as a condition precedent to Closing).

(c) Each party shall, at the request of another party from time to time and at any time, whether on or after the Closing Date, and without further consideration, execute and deliver such assignments, transfers, assumptions, conveyances, powers of attorney, receipts, acknowledgments, acceptances and assurances as may be reasonably necessary to procure for the party so requesting, and its successors and assigns, or for aiding and assisting in collecting and reducing to possession, any and all of the Transferred Assets, or otherwise to satisfy and perform the obligations of the parties hereunder.

## **2. ADDITIONAL AGREEMENTS**

2.1 **Cooperation; Court Approvals.** The parties shall cooperate fully with each other and with their respective legal counsel and accountants in connection with any steps required to be taken as part of their respective obligations under this Agreement (including, without limitation, the obtaining of the approval of the Court for the transactions contemplated herein), and all parties shall use their best efforts to consummate the transactions contemplated herein and to fulfill their obligations hereunder. Purchaser and Seller each agrees to use its commercially reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper, or advisable to satisfy the conditions to the other parties' obligation to consummate and make effective the transactions contemplated by this Agreement.

2.2 **Expenses.** Unless otherwise set forth in this Agreement, all expenses incurred by Purchaser in connection with the authorization, preparation, execution, and performance of this Agreement, including, without limitation, all fees and expenses of agents, representatives, counsel, and accountants for Purchaser, shall be paid by Purchaser. All expenses incurred by Seller in connection with the authorization, preparation, execution, and performance of this Agreement,

including, without limitation, all fees and expenses of agents, representatives, counsel, and accountants for Seller shall be paid by Seller, from the assets of Saint Catharine.

2.3 **Brokers**. Except as described on Schedule 2.3, each party hereto represents and warrants to the other party that no broker or finder has acted on its behalf in connection with this Agreement or the transactions contemplated herein. Seller shall indemnify Purchaser and hold Purchaser harmless from and against any and all claims or demands for commissions or other compensation by any broker, finder or similar agent claiming to have been employed by or on behalf of Seller. Purchaser shall indemnify Seller and hold Seller harmless from and against any and all claims or demands for commissions or other compensation by any broker, finder or similar agent claiming to have been employed by or on behalf of Purchaser.

2.4 **Cooperation**. Each party hereto shall diligently and in good faith cooperate with the other parties hereto, and take all action necessary, to transfer the Transferred Assets to Purchaser in accordance with the terms and conditions of this Agreement.

### **3. ADDITIONAL AGREEMENTS**

To induce Purchaser to enter into this Agreement and to purchase the Transferred Assets, Seller represents, warrants, and covenants to Purchaser as follows:

3.1 **Organization and Compliance**. Seller is the receiver for Saint Catharine, a non-profit corporation duly organized under the laws of the Commonwealth of Kentucky. Under the Receiver Order, Seller has authority to (i) operate Saint Catharine in accordance with the Receiver Order and (ii) sell or otherwise dispose of the Transferred Assets, subject to Court approval. Seller does not own, and does not have any right or obligation to acquire, any equity interest in Saint Catharine, and Saint Catharine, being a non-profit corporation, has issued no equity interests.

3.2 **Enforceability of Agreement**. Subject to the entry of the Approval Order, Seller has the full authority to enter into and execute this Agreement and the other Transaction Documents (as hereinafter defined) and to carry out the transactions contemplated hereby and thereby in accordance with their respective terms. No outstanding contracts, demands, commitments, or other agreements or arrangements exist under which Seller is or may become obligated to sell, transfer or assign any of the Transferred Assets. This Agreement and the other Transaction Documents and all transactions required hereunder and thereunder to be performed by Seller will, in accordance with the Approval Order, have been duly and validly authorized and approved by Seller and the Trustee. Subject to the Approval Order, each of this Agreement and the other Transaction Documents constitutes the valid and legally binding obligation of Seller and Saint Catharine, and is enforceable against Seller and Saint Catharine in accordance with its terms. "Transaction Documents" means this Agreement, the Bill of Sale, Deeds and all other agreements, instruments, documents and certificates to be executed and/or delivered pursuant to this Agreement or in connection with the transactions contemplated hereby as to which Seller is a party.

3.4 **Title**. Saint Catharine has good and marketable title to all of the Transferred Assets and, pursuant to the Receiver Order and the Approval Order, Seller is authorized to sell such Transferred Assets free and clear of any and all Liens, except Permitted Liens. From and after the

Closing, upon issuance of the Approval Order, no entity or individual other than Purchaser will possess any right, title or interest in or to any of the Transferred Assets.

#### **4. REPRESENTATIONS AND WARRANTIES OF PURCHASER**

As an inducement to Seller to enter into this Agreement and to sell the Transferred Assets to Purchaser, Purchaser hereby represents, warrants, and covenants as follows:

4.1 **Organization.** Purchaser is a \_\_\_\_\_ duly organized and validly existing under the laws of \_\_\_\_\_.

4.2 **Authorization; No Inconsistent Agreements.** Purchaser has full corporate power and authority to enter into and execute this Agreement and the other Transaction Documents to which it is a party and the transactions contemplated hereby and thereby. This Agreement and such Transaction Documents and all transactions required hereunder and hereunder to be performed by Purchaser have been duly and validly authorized and approved by all necessary action on the part of Purchaser. This Agreement and such other Transaction Documents have been duly and validly executed and delivered on behalf of Purchaser by its duly authorized officers, and constitute the valid and legally binding obligations of Purchaser and are enforceable, subject to general equity principles, in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, or similar laws affecting the rights of creditors generally. Neither the execution and delivery of this Agreement or such Transaction Documents nor the consummation of the transactions hereby or thereby contemplated will constitute a violation or breach of any provision of any contract or other instrument to which Purchaser is a party or by which any of the assets of Purchaser may be affected or secured, or any order, writ, injunction, decree, statute, rule, or regulation to which Purchaser is subject, or will result in the creation of any lien, charge, or encumbrance on any of the assets of Purchaser or acceleration of any debt.

4.3 **No Inconsistent Obligations.** Neither the execution and delivery of this Agreement or any other Transaction Document and any other security documents required hereunder or related hereto, nor the consummation of the transactions contemplated herein or therein, will result in a violation or breach of, or constitute a default under (a) the certificate of incorporation, as amended, the bylaws, or other organizational instruments of Purchaser, (b) any term or provision of any indenture, note, mortgage, bond, security agreement, loan agreement, guaranty, pledge, or other instrument, contract, agreement, or commitment of Purchaser, (c) any writ, order, judgment, decree, law, rule, regulation, or ordinance, (d) any applicable ruling or order of any administrative or governmental body, or (e) any other commitment or restriction to which Purchaser is a party; nor will such actions result in (i) the creation of any lien, (ii) the acceleration or creation of any obligation of Purchaser, or (iii) the forfeiture of any material right or privilege of Purchaser.

4.4 **Consents.** The execution and delivery by Purchaser of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby in accordance with the Approval Order, (a) do not require the consent, approval or action of, or any filing with or notice to, any Person or any public, governmental, judicial, or regulatory authority, other than the Court, and (b) do not require the consent or approval of members of the board of directors or shareholders of Purchaser pursuant to any business combination, takeover, or

other similar law, rule, regulation or ordinance except for those that have been or will be obtained prior to Closing.

4.5 **No Litigation**. There are no actions, suits, claims, investigations, hearings, or proceedings of any type pending (or, to the knowledge of Purchaser, threatened), at law or in equity, that might affect Purchaser's ability to close the transactions contemplated hereby.

4.6 **Road Access and Water Line Usage Rights for Sprinkler System**. Currently, the Dominican Sisters of Peace appear to own the land upon which certain of the existing roadways and pavements are constructed which are used for ingress, egress and access to some or all of the structures on the campus. Also, The Dominican Sisters of Peace maintain the water supply and a portion of the system that is located outside of the college buildings that services the interior sprinkler systems for the college buildings. Prior to Closing, Purchaser shall have obtained the agreement of the Dominican Sisters of Peace sufficient to convey to Purchaser for a term of no less than one (1) year: access and usage rights from the public roadways and the interior driveways and passways adjacent to each building and parking area owned by Seller on the Saint Catharine campus; and (ii) access and usage rights to the water source, pumping system, and water lines that, as of the date hereof, currently service the interior sprinkler and fire suppression systems in the buildings on the Saint Catharine campus.

## **5. SELLER COVENANTS**

Seller covenants and agrees that, except as may otherwise be provided herein, unless Purchaser otherwise consents or except as may otherwise be prescribed herein, between the date hereof and the earlier of (i) the Closing Date or (ii) the termination of this Agreement in accordance with its terms:

5.1 **Preservation of Assets**. Except as otherwise may be ordered by the Court, Seller shall preserve the Transferred Assets in the ordinary and usual course of business, consistent with prior practices.

5.2 **No Material Changes in Transferred Assets**. Except as otherwise may be ordered by the Court, no action shall be taken by Seller that shall effect the Transferred Assets in any material adverse respect, or Purchaser's use or operation of the Transferred Assets after the Closing.

## **6. CONDITIONS TO OBLIGATIONS OF PURCHASER**

All obligations of Purchaser under this Agreement are subject to the fulfillment and satisfaction of each and every of the following conditions on or prior to the Closing, any or all of which may be waived in whole or in part by Purchaser:

6.1 **Proceedings and Documents**. All proceedings taken in connection with the consummation of the transactions contemplated herein and all documents and papers reasonably required in connection therewith shall have been timely performed by Seller and delivered to Purchaser.

6.2 **Representations and Covenants**. Any representations and covenants of Seller contained in this Agreement, the Schedules and in any certificate, instrument, agreement, or other writing delivered by or on behalf of Seller pursuant to this Agreement shall be true, correct, and complete to the best of Seller's knowledge as of the date when made and, except where such representations

and warranties are made with specific reference to a particular date, and then as to such particular date, shall (a) be deemed to be made again at and as of the Closing Date and (b) be true, correct, and complete at and as of such time, except when such representations and covenants are made with specific reference to a particular date, and then as to such particular date.

6.3 **Compliance with Agreements, Covenants and Conditions**. Seller shall have performed and complied with all agreements, covenants and conditions required by this Agreement to be performed or complied with by Seller prior to or on the Closing Date.

6.4 **Certificates of Seller**. Seller shall have delivered to Purchaser a certificate, executed by an authorized officer of Seller, which shall be dated as of the Closing Date, certifying in such detail as Purchaser may reasonably request as to the fulfillment and satisfaction of the conditions by Seller specified in Section 6.2 and Section 6.3 above.

6.5 **Court Approval**. The Court shall have entered the Auction Procedures Order and the Approval Order (as hereinafter defined) and the Approval Order shall be in full force and effect, and shall not be stayed, modified, vacated or reversed.

The term “*Approval Order*” means an order, in form and substance reasonably satisfactory to Purchaser, approving the consummation by Seller of the transactions set forth herein, including the sale of the Transferred Assets free and clear of all of the Liens, except for any Permitted Liens, the execution and delivery of this Agreement and the Transaction Documents, and all other actions by Seller that are reasonable or necessary to effectuate the transactions contemplated hereby.

6.6 **Approval of Huntington**. Huntington shall have consented to Seller’s execution of this Agreement in a separate writing executed by an authorized representative of Huntington.

6.7 **Ownership of Assets**. Saint Catharine shall continue to own and have all rights, powers, and authority necessary to transfer all of its rights, title, and interest in and to the Transferred Assets, free and clear of the Liens, except the Permitted Liens.

6.8 **No Litigation**. No known material litigation, legal action, or other governmental action shall have been commenced and remain in effect and no judicial or administrative order shall have been issued or adopted and remain in effect that would prevent or adversely affect the transactions contemplated hereby.

## **7. CONDITIONS TO OBLIGATIONS OF SELLER**

All of the obligations of Seller under this Agreement are subject to the fulfillment and satisfaction of each and every of the following conditions on or prior to the Closing, any or all of which may be waived in whole or in part by Seller.

7.1 **Representations and Warranties**. The representations and warranties of Purchaser contained in this Agreement, the Schedules and in any certificate, instrument, agreement, or other writing delivered by or on behalf of Purchaser pursuant to this Agreement shall be true, correct, and complete as of the date when made and, except where such representations and warranties are made with specific reference to a particular date, and then as to such particular date, shall (a) be deemed to be made again at and as of the Closing Date and (b) be true, correct, and complete at

and as of such time, except when such representations and warranties are made with specific reference to a particular date, and then as to such particular date. As of the Closing Date, Purchaser shall have performed, and not be in breach of, its covenants contained in this Agreement.

7.2 **Compliance with Agreements and Conditions.** Purchaser shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Purchaser prior to or on the Closing Date.

7.3 **Certificates of Purchaser.** Purchaser shall have delivered to Seller a certificate, executed by an authorized officer of Purchaser, which shall be dated as of the Closing Date, certifying in such detail as Seller may reasonably request as to the fulfillment and satisfaction of the conditions by Purchaser specified in Section 7.1 and Section 7.2 above.

7.4 **Court Approval.** The Court shall have entered the Auction Procedures Order and the Approved Order shall be in full force and effect, and shall not be stayed, modified, vacated or reversed. Seller's obligations hereunder are contingent on entry of the Approval Order.

7.5 **No Litigation.** No material litigation, legal action, or other governmental action shall have been commenced and remain in effect and no judicial or administrative order shall have been issued or adopted and remain in effect prohibiting the transactions contemplated by this Agreement.

## **8. SURVIVAL OF SAINT CATHARINE'S LIABILITY**

Saint Catharine shall remain liable for all liabilities and obligations of Saint Catharine that precede the Closing Date, including, without limitation, the liabilities and obligations referred to in Section 1.3, except for the Assumed Liabilities and the executory obligations of Saint Catharine under the Assigned Contracts. All liabilities and obligations following the Closing Date are the sole obligation of Purchaser, and Saint Catharine shall have no liability for post-Closing Date liabilities and obligations.

## **9. TERMINATION**

### **9.1 Termination**

(a) This Agreement may be terminated at any time prior to or on the Closing Date as follows:

(i) By mutual consent of the parties;

(ii) By Seller, if an Approval Order is obtained but Closing fails to occur by the Closing Date, except that Seller may not invoke this basis for termination if it is unable to close on or before the Closing Date.

(iii) By Seller, if Purchaser breaches in any material respect its representations or fails to perform in any material respect its covenants or agreements set forth in this Agreement, subject to prior notice and a seven (7) calendar day cure period.



(iv) By Purchaser, if Seller breaches its representations or fails to perform its covenants or agreements set forth in this Agreement, subject to prior notice and a seven (7) calendar day cure period;

(b) Upon any termination of this Agreement for any reason other than subsection (iv) of this Section 9.1, or by the Seller following a default by Purchaser under this Agreement, Purchaser shall forfeit its Good Faith Deposit.

## **10. MISCELLANEOUS**

10.1 **Notices**. (a) All notices, demands or other communications required or permitted to be given or made hereunder shall be in writing and delivered personally or sent by pre-paid, first class, certified or registered air mail (or the functional equivalent in any country), return receipt requested, or by facsimile transmission to the intended recipient thereof at its address, or facsimile number set out below, or by electronic mail, read receipt requested. Any such notice, demand or communication shall be deemed to have been duly given immediately (if given or made by confirmed facsimile or electronic mail), or three days after mailing (if given or made by letter addressed to a location within the country in which it is posted) or seven days after mailing (if made or given by letter addressed to a location outside the country in which it is posted), and in proving same it shall be sufficient to show that the envelope containing the same was duly addressed, stamped and posted, or that receipt of a facsimile or electronic mail was confirmed by the recipient. The contact information of the parties for purposes of this Agreement is:

If to Purchaser: \_\_\_\_\_

With a copy to: \_\_\_\_\_

If to Seller: *LS Associates as Receiver for  
Saint Catharine College  
462 S. 4<sup>th</sup> Street, Suite 1770  
Louisville, KY 40202*

With a copy to: *Brian H. Meldrum*  
*Kaplan Johnson Abate & Bird LLP*  
*710 W. Main Street, 4<sup>th</sup> Floor*  
*Louisville, KY 40202*  
*bmeldrum@kaplanjohnsonlaw.com*

(b) Any party may change the address to which notices, requests, demands or other communications to such party shall be delivered or mailed by giving notice thereof to the other parties hereto in the manner provided herein.

10.2 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. Facsimile signatures shall constitute original signatures for all purposes of this Agreement.

10.3 **Governing Law**. The validity and effect of this Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Kentucky without regard to rules of such State relating to the conflict of laws. The parties hereby submit to personal jurisdiction of the United States District Court for the Western District of Kentucky for all disputes arising out of this Agreement.

10.4 **Successors and Assigns**. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, legal representatives, successors and assigns. This Agreement may not be assigned, or the obligations hereunder delegated, by Seller or Purchaser, without the prior written consent of the other parties, which consent shall not be unreasonably withheld; provided however, that Purchaser may assign its rights and obligations under this Agreement to any entity directly or indirectly controlling, controlled by or under common control with Purchaser (each such Person, an "*Affiliated Party*") without the prior written consent of Seller, but in the event of such a transfer by Purchaser to an Affiliated Party, Purchaser shall remain liable to Seller for all of its obligations hereunder.

10.5 **Partial Invalidity and Severability**. All rights and restrictions contained herein may be exercised and shall be applicable and binding only to the extent that they do not violate any applicable laws, and are intended to be limited to the extent necessary to render this Agreement legal, valid and enforceable. If any term of this Agreement, or part thereof, not essential to the commercial purpose of this Agreement shall be held to be illegal, invalid or unenforceable by a court of competent jurisdiction, it is the intention of the parties that the remaining terms hereof, or part thereof shall constitute their agreement with respect to the subject matter hereof and all such remaining terms, or parts thereof, shall remain in full force and effect. To the extent legally permissible, any illegal, invalid or unenforceable provision of this Agreement shall be replaced by a valid provision which will implement the commercial purpose of the illegal, invalid or unenforceable provision.

10.6 **Waiver**. Any term or condition of this Agreement may be waived at any time by the party which is entitled to the benefit thereof, but only if such waiver is evidenced by a writing signed by such party. No failure on the part of any party hereto to exercise, and no delay in exercising any

right, power or remedy created hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy by any such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver by any party hereto of any breach of or default in any term or condition of this Agreement shall constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition hereof.

10.7 **Headings**. The headings of particular provisions of this Agreement are inserted for convenience only and shall not be construed as a part of this Agreement or serve as a limitation on or enlargement of the scope of any term or provision of this Agreement.

10.8 **Number and Gender**. Where the context requires, the use of the singular form herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include any and all genders.

10.9 **Time of Performance**. Time is of the essence.

10.10 **Definition of Knowledge**. The words “known,” “to the knowledge of,” “to the best knowledge of,” “aware” or words of similar import employed in this Agreement with reference to any individual or entity shall be conclusively presumed to mean that the Person has made reasonable and diligent efforts under the circumstances to become knowledgeable, except where reference is made to the “actual knowledge” of such Person; in the case of any Person other than a natural person, the “knowledge” of such Person shall be deemed to be the knowledge of its directors and senior officers.

10.11 **Counsel**. Each party hereto warrants and represents that such party has been afforded the opportunity to be represented by counsel of its choice in connection with the execution of this Agreement and has had ample opportunity to read, review and understand the provisions of this Agreement.

10.12 **Auction Procedures**. The Purchaser understands and agrees that the transactions described above shall be subject to both the Auction Procedures Order and the Auction Procedures, which it has had an opportunity to review. Unless otherwise defined, capitalized terms in this paragraph have the meaning ascribed to them in the Auction Procedures Order and/or the Auction Procedures. To the extent that this Agreement is determined by the Receiver to constitute a Qualifying Bid, the bid represented by this Agreement (including to the extent increased at the Auction) shall remain open and irrevocable by the Purchaser until the conclusion of the Auction Sale Hearing. To the extent that the Purchaser is determined to by the Receiver to be the High Bid or the Second Highest Bid at the Auction, the bid represented by this Agreement (including to the extend increased at the Auction) shall remain open and irrevocable until the closing of the transaction that is the subject the bid represented by this Agreement.

10.13 **No Construction Against Preparer**. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party’s having or being deemed to have prepared or imposed such provision.

10.14 **Entire Agreement**. This Agreement supersedes all prior discussions and agreements between the parties with respect to the subject matter hereof, and this Agreement contains the sole

and entire agreement among the parties with respect to the matters covered hereby. This Agreement shall not be altered or amended except by an instrument in writing signed by or on behalf of the party entitled to the benefit of the provision against whom enforcement is sought.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

**PURCHASER:**

\_\_\_\_\_, a \_\_\_\_\_

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

**SELLER:**

LS Associates, LLC,  
Solely as court-appointed Receiver  
for Saint Catharine College, Inc.

\_\_\_\_\_  
By: Robert W. Leasure, Jr.  
Its: Managing Member

## **Schedule 1.1**

### **Transferred Assets**

The “*Transferred Assets*” shall consist of the following, except to the extent any of the following constitutes an Excluded Asset:

- (i) All of Saint Catharine’s rights, title and interest in the real estate more particularly described in on Exhibit A, including any easements, driveways, and rights of way that are apparent, in use, and are the property of Saint Catharine, or over which Saint Catharine may have rights, including, but not limited to, prescriptive easements;
- (ii) All transferable permits, licenses, certificates, authorizations, accreditations, orders, ratings and approvals of all federal, state, or local governmental or regulatory authorities which relate to Saint Catharine, but only to the extent the same are transferable;
- (iii) All of Saint Catharine’s operating assets located on or in the real property described on Exhibit A (the “Conveyed Records”), including, records and/or documents relating to and/or necessary for the ownership and operation of the Transferred Assets, including those relating to: real estate, buildings, architecture, engineering, security, energy, water and HVAC;
- (iv) All of Saint Catharine’s rights, title and interest in the Assigned Contracts, if any.

**Schedule 1.2-A**

**Assigned Contracts**

**Schedule 1.2-B**

**Assumed Liabilities**

## **Schedule 2.3**

### **Brokers**

The term "***Brokers***" shall include:

- (i) CBRE Group, Inc.
- (ii) Keen-Summit Capital Partners LLC



## EXHIBIT A

### LEGAL DESCRIPTION

PARCEL I:  
PARCEL NO. 11-034.02

Tract One:  
(34.963 acres)

Located in Washington County, Kentucky, to-wit:

Beginning at a rebar (found) on the south R.O.W. of US. 150 and northeast corner to Habitat for Humanity Lot (surveyed 10/15/1997). Thence leaving Habitat Lot and with R.O.W., S60°14'38"E 731.39 feet to a concrete R/W marker, and S60°51'31"E 254.42 feet to a rebar (set) at fenced corner to St. Catharine College Campus. Thence leaving R.O.W. and with line as fenced to College, S39°10'53"W 520.06 feet to a post; S17°56'26"W 183.01 feet to a corner rebar (set), and S60°25' 41"W 430.97 feet to a corner rebar (set) in line of remaining St. Catharine Farm. Thence with remaining farm as fenced, N61°20'17"W 1623.31 feet to a corner rebar (set) in line of Mike Abell (DB 194 PG 199). Thence with Abell as fenced, N11°41'42"W 101.45 feet to corner post; N70°57'00"E 459.43 feet to a post, and N70°06'18"E 595.74 feet to steelpost (found) and west corner to Habitat Lot. Thence with Habitat Lot, S 63°00'08"E 290.69 feet to a corner rebar (found), and N27°50/59"E 201.43 feet to the beginning. Containing 34.9630 ACRES by survey of Reed Spaulding III; PLS #3066. dated 12/24/1997 with plat attached.

The ABOVE DESCRIBED 34.9630 ACRE TRACT is subject to R.O.W. EASEMENT. Said easement is 25 feet in width and parallel to northwest property line from US 150 bearing S 27 Degrees 50' 59" W 201.43 feet; N 63 Degrees 00' 08" W 290.69 feet; S 70 Degrees 06' 18" W 595.74 feet; S 11 Degrees 41' 42" E 101.45 feet to entry at remaining St. Catharine Farm.

Being the same property conveyed to St. Catharine College, Inc. per Deed dated July 27, 1998 and recorded August 5, 1998 in Deed Book 253, Page 148, and by Deed of Correction dated October 14, 2003, and recorded in Deed Book 287, Page 547, in the records of the Clerk of Washington County, Kentucky.

LESS AND EXCEPTING THE FOLLOWING PARCEL NO. 4, TRACTS A, B AND C

Parcel No. 4 Tract A

Being a tract of land lying in Washington County along the Proposed US 150 Bypass approximately 0.44 miles west of intersection of the Proposed US 150 Bypass and U.S. 150 Connector and more particularly described as follows:

Beginning at a point in the existing right of way line, 65.62 feet right of US 150 Bypass at Station 3002+79.45; thence with the existing right of way line, South 64 degrees 30 minutes 38 seconds East a distance of 378.25 feet to a point in the proposed access control and right of way line, 93.63 feet right of US 150 Bypass at Station 3006+47.17; thence with the proposed access control and right of way line, North 75 degrees 28 minutes 21 seconds West a distance of 22.91 feet to a point in the proposed access control and right of way line, 95.00 feet right of US 150 Bypass at Station 3006+25.00; thence with the proposed access control and right of way line, North 65 degrees 24 minutes 22 seconds West a distance of 180.70 feet to a point in the proposed access control and right of way line, 80.00 feet right of US 150 Bypass at Station 3004+50.00; thence with the proposed access control and right of way line, North 74 degrees 21 minutes 02 seconds West a distance of 177.05 feet to a point in the west property line of Saint Catharine College, Inc., 103.06 feet right of US 150 Bypass at Station 3002+79.59; thence with the west property line, North 24 degrees 31 minutes 44 seconds East a distance of 37.44 feet to the point of beginning.

The above described parcel contains 0.12 acres (4,995 sq. ft.) of right of way. It is understood between the parties hereto and made a covenant herein that the above described property is conveyed in fee simple.

Parcel No. 4 Tract B

Being a tract of land lying in Washington County along the Proposed US 150 Bypass approximately 0.44 miles west of the intersection of the Proposed US 150 Bypass and U.S. 150 Connector and more particularly described as follows:

Beginning at a point in the proposed access control and right of way line, 103.06 feet right of US 150 Bypass at Station 3002+79.59; thence with the proposed access control and right of way line, South 74 degrees 21 minutes 02 seconds East a distance of 10.87 feet to a point in the proposed easement line, 101.36 feet right of US 150 Bypass at Station 3002+90.00; thence with the proposed easement line, South 24 degrees 33 minutes 20 seconds West a distance of 58.64 feet to a point in the proposed easement line, 160.00 feet right of US 150 Bypass at Station 3002+90.00; thence with the proposed easement line, North 64 degrees 53 minutes 17 seconds West a distance of 10.71 feet to a point in the west property line of Saint Catharine College, Inc., 159.91 feet right of US 150 Bypass at Station 3002+79.78; thence with the west property line, North 24 degrees 31 minutes 44 seconds East a distance of 56.85 feet to the point of beginning.

The above described parcel contains 0.01 acres (619 sq. ft.) of temporary easement for building removal. It is the specific intention of the grantors herein to convey a temporary easement to the property described above for the purpose of building removal; said easement terminates and reverts upon completion of same.

Parcel No. 4 Tract C

Being a tract of land lying in Washington County along the Proposed US 150 Bypass approximately 0.38 miles west of the intersection of the Proposed US 150 Bypass and U.S. 150 Connector and more particularly described as follows:

Beginning at a point in the proposed access control and right of way line, 95.00 feet right of US 150 Bypass at Station 3006+25.00; thence with the proposed access control and right of way line, South 75 degrees 28 minutes 21 seconds East a distance of 22.91 feet to a point in the existing right of way line, 93.63 feet right of US 150 Bypass at Station 3006+47.17; thence with the existing right of way line, South 64 degrees 30 minutes 38 seconds East a distance of 364.17 feet to a point in the existing right of way line, 163.39 feet right of US 150 Bypass at Station 3009+90.13; thence with the existing right of way line, South 62 degrees 39 minutes 40 seconds East a distance of 121.96 feet to a point in the proposed easement line, 199.46 feet right of US 150 Bypass at Station 3011+00.00; thence with the proposed easement line, North 74 degrees 20 minutes 15 seconds West a distance of 266.44 feet to a point in the proposed easement line, 180.00 feet right of US 150 Bypass at Station 3008+50.00; thence with the proposed easement line, North 70 degrees 10 minutes 28 seconds West a distance of 116.84 feet to a point in the proposed easement line, 170.00 feet right of US 150 Bypass at Station 3007+40.00; thence with the proposed easement line, North 88 degrees 51 minutes 21 seconds West a distance of 110.32 feet to a point in the proposed easement line, 200.00 feet right of US 150 Bypass at Station 3006+40.00; thence with the proposed easement line, North 9 degrees 29 minutes 45 seconds East a distance of 106.17 feet to the point of beginning.

The above described parcel contains 0.53 acres (23,160 sq. ft.) of temporary easement for parking area construction. It is the specific intention of the grantors herein to convey a temporary easement to the property described above for the purpose of parking area construction; said easement terminates and reverts upon completion of same.

Being the same property conveyed to Commonwealth of Kentucky for the use and benefit of the Transportation Cabinet, Department of Highways, per Deed of Conveyance dated January 12, 2009 and recorded February 11, 2009 in Deed Book 319, Page 192, in the records of the Clerk of Washington County, Kentucky.

Tract Two:  
(6.3020 acres)

A certain tract or parcel of land being a part of St. Catharine of Siena - Lourdes Hall Tract located at 2645 Bardstown Road, St. Catharine, Washington County, Kentucky and being more particularly bounded and described as follows:

All reference to rebar (Set) are 1/2" x 18" rebar, I.D. capped PLS #3066.

Beginning at rebar (found) on the south r/w of US 150 and northeast corner to St. Catharine College 34.963 ACRE Tract (DB 252 PG 148). Thence leaving St. Catharine College and with US 150 r/w, S 61 07' 23" E 81.15 feet to corner rebar (Set) 3 feet west of west edge of Callahan Drive pavement as witnessed by power pole at S 74 49' 11" E 10.56 feet. Thence leaving US 150 r/w and with new lines 3 feet west of west edge of Callahan Drive pavement, S 21 11' 09" W 78.20 feet to rebar (Set) at north junction of road to Spalding Hall; S 16 28' 30" W 100.71 feet to rebar (Set); S 08 49' 24" W 100.47 feet to rebar (Set); S 00 52' 32" W 100.44 feet to rebar (Set) at edge of parking lot; S 08 14' 37" E 187.09 feet to rebar (Set) at grass median; S 26 51' 46" E 72.42 feet to rebar (Set), S 06 00' 36" E 73.86 feet to rebar (Set) 3 feet north of north edge of pavement of road leaving to the rear of Lourdes Hall and ground level Spalding Hall. Thence continuing with new lines 3 feet north of north edge of pavement of Lourdes and Spalding Hall Road, S 31 38' 37" W 32.05 feet to rebar (Set) S 61 26' 04" W 37.78 feet to rebar (Set); S 77 30' 41" W 54.83 feet to rebar (Set); S 67 43' 22" W 41.12 feet to rebar (Set); S 54 09' 07" W 116.95 feet to rebar (Set). Thence S 78 16' 05" W 58.61 feet crossing the road to rebar (Set) in west intersection of Garvel Farm Road and Lourdes and Spalding Hall Road. Thence with new lines on the south side of Lourdes Hall and Spalding Hall Road (15 feet from centerline). N 59 44' 30" W 45.26 feet to rebar (Set); S 88 36' 00" W 28.88 feet to rebar (Set); N 73 04' 52" W 37.63 feet to rebar (Set); N 57 37' 24" W 162.51 feet to rebar (Set) at curve. Thence leaving road and with new line N 56 07' 51" W 136.62 feet to corner rebar (Set) at post and end of fence in line of St. Catharine College Inc. 34.963 ACRE Tract as witnessed by rebar (found) at pullpost at southwest corner of 34.963 ACRE Tract S 60 25' 41" W 203.00 feet. Thence with 34.963 ACRE Tract, N 60 25' 41" E 227.68 feet to rebar (found); N 18 17' 32" E 182.32 feet to called for post (bulldozed), and N 39 10' 53" E 520.06 feet to the beginning. Containing 06.3020 ACRES by survey of Reed Spaulding PLS #3066 as performed 5/30/02 and as shown on plat by same entitled "A Part of St. Catharine of Siena - Lourdes Hall Tract" dated 6/5/02.

Being the same property conveyed to St. Catharine College, Inc., per Deed dated August 30, 2002 and recorded August 30, 2002 in Deed Book 279, Page 708, in the records of the Clerk of Washington County, Kentucky.

PARCEL II:  
PARCEL NO. 11-034.02

Tract Three:  
(6.926 acres)

Tract Four:  
(2.201 acres)

TWO TRACTS OR PARCELS OF LAND being parts of St. Catharine of Sienna, additions to St. Catharine College, Inc., located at St. Catharine, Washington County, Kentucky, described as follows:

All reference to rebar (Set or found) are 1/2"X18" rebar, I.D. capped PLS #3066.

TRACT #3- A ridge area and continuous to 34.963 Acre College Tract #1.

Beginning at rebar (found) at treated post; southwest corner to St. Catherine College Inc. 34.963 Acre ball-soccer fields, Spalding Hall and Health Care Building Tract (DB 287 PG 547) in wire woven farm fence line of Michael Abell (DB 194 PG 199). Thence leaving Abell and with 34.963 Acre Tract as fenced, S61

degrees 20'17"E 1428.23 feet to 5" treated post and corner to remaining St. Catherine of Sienna Farm. Thence leaving 34.963 Acre College Tract and with new lines to remaining St. Catharine of Sienna Farm, S47 degrees 46'59"W 00.30 feet to witness rebar (Set) and S47 degrees 46'59"W 259.37 feet over the ridge to corner rebar (Set); N57 degrees 54'24"W 782.35 feet to rebar (Set), and N81 degrees 11'07"W 329.25 feet to corner rebar (Set) in wire woven farm fence line of Abell at 48" Hackberry. Thence leaving remaining St. Catharine of Sienna Farm and with Abell as wire woven fenced, N10 degrees 29'11"W 400.15 feet to the beginning. Containing 06.926 ACRES more or less.

TRACT #4 - Parking area and acreage off Lourdes and Spalding Hall Road; continuous to 34.963 Acre Tract #1 and Lourdes Hall, day care building and parking areas 06.302 Acre Tract #2.

Beginning at rebar (found); southeast corner to Tract #2 on the south side of Lourdes and Spalding Hall Road at west side of Gravel Farm Road (DB 279 PG 708) in line of remaining St. Catharine of Sienna Farm. Thence leaving Tract #2 and with new lines to remaining St. Catharine of Sienna Farm on north side of farm road and south side of parking area, S58 degrees 18'16"W 229.95 feet to rebar (Set), and S60 degrees 54'58"W 174.95 feet to corner rebar (Set) at "T" post in wire woven farm fence. Thence continuing with St. Catharine of Sienna Farm as fenced, N24 degrees 32'16"W passing a pullpost at 348.06 feet and continuing with new line N24 degrees 32'16"W 05.56 feet to rebar (set) in line of 34.963 Acre Tract #1 (DB 287 PG 547). Thence leaving remaining St. Catharine of Sienna Farm and with 34.963 Acre Tract as fenced, N60 degrees 15'59"E 162.08 feet to rebar (found) at treated post and west corner to 06.302 Acre Tract #2 (DB 279 PG 708). Thence leaving 34.963 Acre Tract #1 and with 06.302 Acre Tract #2, S56 degrees 07'51" E 136.62 feet to rebar (found) at curve on the south side of Lourdes-Spalding Hall Road. Thence continuing with Tract #2 on the south side of road and parking area, S57 degrees 37'24" E 162.51 feet; S73 degrees 04'52"E 37.63 feet; N88 degrees 36'00" E 28.88 feet, and S59 degrees 44'30"E 45.26 feet to the beginning. Containing 02.201 Acres more or less.

The above described Tract #3 and #4 are by survey of Reed Spaulding PLS #3066 as performed 2/25/09 and as shown on plat by same dated 2/26/09.

Being the same property conveyed to St. Catharine College, Inc., a Kentucky corporation, per Deed dated February 27, 2009 and recorded February 27, 2009 in Deed Book 319, Page 398, in the records of the Clerk of Washington County, Kentucky.

PARCEL III:  
PARCEL NO. 11-034.03

Tract Five:  
(0.79 acres)

Tract Six:  
(0.08 acres)

Located in Washington County, Kentucky, to-wit:

TRACT #5 - Being a tract of land lying in Washington County along the Proposed US 150 Bypass approximately 0.46 miles west of the intersection of the Proposed US 150 Bypass and U.S. 150 Connector and more particularly described as follows:

Beginning at a point in the proposed access control and right of way line, 100.60 feet right of US 150 Bypass at Station 3001+48.79; thence with the proposed access control and right of way line, South 51 degrees 11 minutes 22 seconds East a distance of 63.15 feet to a point in the proposed access control and right of way line, 115.00 feet right of US 150 Bypass at Station 3002+10.00; thence with the proposed access control and right of way line, South 74 degrees 21 minutes 02 seconds East a distance of 72.07 feet to a point in the east property line of Brenda Sparrow, 103.06 feet right of US 150 Bypass at Station 3002+79.59; thence with the east property line, South 24 degrees 31 minutes 44 seconds West a distance of 163.99 feet to a point in the southeast property corner, 267.05 feet right of US 150 Bypass at Station

3002+80.13; thence with the south property line, North 66 degrees 18 minutes 11 seconds West a distance of 288.84 feet to a point in the southwest property corner, 276.28 feet right of US 150 Bypass at Station 2999+95.82; thence with the west property line, North 66 degrees 42 minutes 20 seconds East a distance of 232.95 feet to the point of beginning.

The above described parcel contains 0.79 acres (34,562 sq. ft.).

ALSO CONVEYED HEREIN IS:

TRACT #6 - Being a tract of land lying in Washington County along the Proposed US 150 Bypass approximately 0.46 miles west of the intersection of the Proposed US 150 Bypass and U.S. 150 Connector and more particularly described as follows:

Beginning at a point in the proposed access control and right of way line, 115.00 feet right of US 150 Bypass at Station 3002+10.00; thence with the proposed access control and right of way line, South 74 degrees 21 minutes 02 seconds East a distance of 72.07 feet to a point in the east property line of Brenda Sparrow, 103.06 feet right of US 150 Bypass at Station 3002+79.59; thence with the east property line, South 24 degrees 31 minutes 44 seconds West a distance of 56.85 feet to a point in the proposed easement line, 159.91 feet right of US 150 Bypass at Station 3002+79.78; thence with the proposed easement line, North 64 degrees 53 minutes 17 seconds West a distance of 71.99 feet to a point in the proposed easement line, 160.00 feet right of US 150 Bypass at Station 3002+10.00; thence with the proposed easement line, North 25 degrees 31 minutes 14 seconds East a distance of 45.00 feet to the point of beginning.

The above described parcel contains 0.08 acres (3,644 sq. ft.). Said tract is subject to a temporary easement for building removal which terminates and reverts to the Grantee upon completion of the removal as specifically stated in Deed Book 313, Page 318, and of record in the Office of the Clerk of the Washington County Court.

Tracts #5 and #6 being the same property conveyed to St. Catharine College, Inc., a Kentucky corporation, per Deed dated December 19, 2007 and recorded December 20, 2007 in Deed Book 313, Page 322, in the records of the Clerk of Washington County, Kentucky.

PARCEL VI:  
PARCEL NO. 11-038.02

Tract Nine:  
(4.793 acres)

Tract Ten:  
(22.63 acres)

Located in Washington County, Kentucky:

Tract 1 and 3 consisting of 27.423 +/- acres per Plat of record in Plat Cabinet B, Slide 171, in the Washington County Clerk's office.

Being the same property conveyed to St. Catharine College, Inc., a Kentucky corporation, per Deed dated December 21, 2011 and recorded December 21, 2011 in Deed Book 331, Page 288, in the records of the Clerk of Washington County, Kentucky.

Tract Eleven:  
(12.33 acres)

Located in Washington County, Kentucky:

Tract 2 consisting of 12.33 +/- acres per Plat of record in Plat Cabinet B, Slide 171, in the Washington County Clerk's office.

Being the same property conveyed to St. Catharine College, Inc., a Kentucky corporation, per Deed dated December 21, 2011 and recorded December 21, 2011 in Deed Book 331, Page 290, in the records of the Clerk of Washington County, Kentucky.