

## AGREEMENT FOR PURCHASE OF 75 x 100 BIGTOP STRUCTURE

This Agreement for Purchase of a 75ft x 100ft BigTop Structure (“Agreement”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between Walla Walla School District No. 140, a Washington state municipal corporation (“District”) and \_\_\_\_\_, a (“Buyer”).

WHEREAS, the District desires to sell a BigTop structure located on its real property, exclusive of the real property, and Buyer wishes to buy the structure and remove it for their desired use.

NOW, THEREFORE, in consideration of the mutual promises described below, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. BigTop Structure. Understanding the need to remove the structure, the Buyer agrees to purchase the structure. The structure is located at: 450 Bridge St. Walla Walla, Washington 99362 (“Building”). The Building shall not be allowed to remain at its current location. The structure does not include the concrete slab, nor is it the Buyer’s responsibility to repair or demolish the slab.
2. Price. The parties agree that the Buyer shall pay to the District, within ten (10) calendar days of acceptance of this Agreement by the District, the sum of \$ \_\_\_\_\_ as consideration for the Building, plus Washington state sales tax.
3. Real Property.
  - 3.1 Buyer acknowledges that this Agreement is for purchase of the Building only, and that the Buyer shall not have any interest in the real property as a result of this transaction, other than the limited access authorized below.
  - 3.2 Buyer shall have the following limited right of entry upon the real property and access to the Building: only such access and entry, which is reasonably necessary to inspect the Building, remove the Building as provided by this Agreement, restore any disturbed real property as provided by this Agreement, and clean-up the real property as required by this Agreement. Buyer’s access to the Building and right of entry upon the real property shall be limited to the dates specified herein and shall terminate with this Agreement, but in any event no later than **4:00 p.m. Friday, February 25, 2022**. Buyer shall only be entitled access to the real property for purposes of disassembly and removal.
  - 3.3 Buyer agrees not to commit or permit any waste, damage, or injury to the real property and to keep the real property in a safe condition at all times.
  - 3.4 Buyer shall pay for all materials adjoined or affixed to the Building, and pay in full all persons who perform labor upon the real property and will not suffer any mechanic’s or materialman’s liens of any kind to be enforced against the real property for any work done, or materials furnished, at the Buyer’s insistence, request, for the benefit of the Buyer, or in relation to the Building’s removal efforts. If any such liens are filed thereon, Buyer agrees to remove same at Buyer’s own cost and expense and to pay any judgment which may be entered. Should the Buyer fail, neglect or refuse to do so, the District shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought, and to pay any judgment entered, and the Buyer shall be liable to the District for all costs, damages, and reasonable attorneys’ fees,

and any amounts expended in defending any proceedings, or in the payment of any said liens or any judgment obtained.

4. Transfer of Ownership. Ownership of the Building shall transfer from the District to the Buyer after payment of the purchase price while the Building is still located upon the real property. Commencing with transfer of ownership, and in addition to the insuring obligations set forth below, Buyer shall have in force, at its own expense, liability insurance related to the Building (including, without limitation, premises liability coverage), and its own all-risk property and casualty coverage covering the Building. Upon and commencing with transfer of ownership, Buyer shall bear all costs and risks associated with the Building, and any and all liabilities relating to or arising from the location, removal, transport, or condition of the Building pursuant to this Agreement.
5. Taxes. The District shall pay all applicable sales tax to the Washington state Department of Revenue.
6. Removal. In order to retain ownership of the Building after payment of the purchase price, the Buyer shall, at its sole risk and expense, by **Friday, February 25, 2022** remove the Building from the real property. The Buyer shall also, at its sole cost and expense, restore any real property damaged or disturbed by the removal process, and remove any debris left by the Building or the removal process no later than **Friday, February 25, 2022**. At all times during the removal process, Buyer shall be responsible to obtain all permits, licenses, or approvals, which are necessary for the removal. Buyer shall also be solely responsible for compliance with all municipal, local, state, or federal laws or regulations regarding the removal of the Building.
7. Destruction. If the Building is destroyed or damaged prior to transfer of ownership to the Buyer, the Agreement shall automatically terminate. After transfer of ownership of the Building to Buyer, the Buyer bears all risks of loss should the Building be damaged or destroyed by any means whatsoever. In addition, in the event the Building is damaged or destroyed after transfer of ownership to Buyer, the Buyer has a continuing obligation to remove the Building and any debris from the real property and restore the real property to a reasonably safe condition.
8. Buyer's Default. In the event that Buyer fails to satisfy the terms and conditions of this Agreement, the District shall be entitled to the following remedies, in addition to any other remedies authorized by law:
  - 8.1 In the event that the Buyer has not removed the Building from the real property on or before **Friday, February 25, 2022**, for any reason whatsoever, ownership of the Building and all of the contents of the Building shall automatically revert back to the District, and the District will not return the Buyer's purchase price. The Buyer hereby acknowledges that the District, at the District's option, will then be entitled to resell the Building and its contents, or begin a demolition process of the Building and that the Buyer shall have no recourse against the District for such actions.
  - 8.2 In the event that the Buyer has not responsibly restored the real property to a reasonably safe condition, or has failed to remove any debris left by the Building or the removal efforts by the **Friday, February 25, 2022** deadline, the District, at its sole discretion, shall be entitled to require specific performance by the Buyer or the District shall be entitled to cure the Buyer's default. Buyer shall then be obligated to reimburse the District any costs associated with restoring the real property to a reasonably safe condition, and removing any of the above described debris.

9. Insurance. Buyer shall procure and maintain, at Buyer's sole cost and expense, the following insurance to cover all damages, destruction, bodily injury, losses or casualties, to persons or property, that may occur in connection with, during, or incidental to preparation of the Building for removal or in connection with, during, or incidental to transportation of the Building: General Liability Insurance on an occurrence basis, with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. Such policy shall include, without limitation, premises and operations, independent contractors, products and completed operations, personal injury liability, and contractual liability coverage for the defense, indemnity, and hold harmless obligations provided under this Agreement.

There shall be no cancellation, material change, or reduction of limits or intent not to renew insurance coverage(s) without thirty (30) calendar days' written notice from Buyer or its insurer(s) to the District. The District shall be listed as Certificate Holder on Buyer's general liability Certificate of Insurance and shall be endorsed as an Additional Insured under said policy for all activities or risks that may arise from the subject matter of this Agreement, and the Buyer shall provide the District with current certificates of insurance evidencing the Buyer's compliance with this section five (5) calendar days prior to the payment of the purchase price. The Buyer shall also assure that the policy of general liability insurance shall serve as primary-level insurance coverage with respect to any insurance separately procured and maintained by the District, which shall be excess-level insurance. Such certificates shall include applicable policy endorsements, the thirty (30) calendar day cancellation clause, and the deduction or retention level. Insuring companies or entities are subject to the District's acceptance. The Buyer shall be financially responsible for all insurance policy deductibles, self-insured retentions, and/or self-insurance. In addition, Buyer shall be solely responsible for insuring the Building for liability and damages, whether to the Building, or persons, or property of others, after payment of the purchase price while the Building is still located upon the real property.

10. Indemnification/Release. Buyer agrees to indemnify, defend, and hold the District harmless from any and all claims, actions, damages, costs, or liabilities whatsoever, arising out of, resulting from or pertaining to any and all acts or omissions of Buyer, its officers, agents, employees or contractors, pertaining to this Agreement, including without limitation claims made against the District for damages, destruction, bodily injury, losses or casualties, to persons or property, that may occur in connection with, during, or incidental to preparation of the Building for removal or in connection with, during, or incidental to transportation or removal of the Building. In the event such a claim, action, damage, cost or liability arises from the concurrent negligence of both the District and Buyer, Buyer shall be responsible for its percentage share of fault for the claimant's damages. Insofar as claims, actions, damages, costs, or liabilities falling within the scope of Buyer's promises in this paragraph are made by employees of the Buyer or of the moving contractor against the District, Buyer hereby expressly waives any Title 51 RCW workers compensation immunity that otherwise might apply in its favor. Buyer also irrevocably represents and warrants that this waiver was expressly negotiated between the parties. Buyer hereby releases, and forever discharges the District of and from all actions, causes of actions, claims, charges, obligations, demands, damages, fines, judgments, losses, known or unknown, on account of or arising in any way out of the sale, removal, transport, or use of the Building.

11. Obligation of Buyer. In addition to payment of the purchase price set forth above, and completion of all obligations under this Agreement, the Buyer shall produce satisfactory evidence that all insurance required by this Agreement is in full force and effect. In the event that Buyer fails to submit the purchase price or fails to provide proof of insurance five (5) calendar days prior to the payment of the purchase price, this Agreement shall terminate, the District shall be entitled to resell the Building or make any other disposition of the Building and their contents in the District's sole discretion. Disconnection and relocation of all utilities to the property shall be the responsibility of Buyer. Buyer shall complete all obligations

under this Agreement by **Friday, February 25, 2022**, including, but not limited to, (1) removal of the Building on the real property, and (2) the real property shall be left in a clean and safe condition.

12. No Warranty or Representation As to Condition of Building or Feasibility of Removal: "AS IS". Buyer has conducted its own investigation of the Building and the feasibility of removing the Building, including compliance with municipal, state, or federal laws or ordinances as well as the condition of the Building, including but not limited to the roof, structure, and electrical system. It is understood and agreed that Buyer is taking ownership of the Building "AS IS" without warranty or representation as to its condition or its ability to be successfully removed to another site. Buyer acknowledges that it has personally inspected the Building and that it is not purchasing said Building as the result of any representations by District. Buyer offers to purchase the Building in their present condition on the terms noted. The District makes no representations or warranties and shall not in any way be liable for any representations or warranties with respect to: (1) the condition of the Building or the suitability of the Building for habitation or for Buyer's intended use or for any use whatsoever; (2) the condition or existence of any items of personal property or fixtures in/or on the Building, will not be replaced after the date of the execution of this Agreement by both parties; or (3) the presence of any hazardous materials in or on the Building. Buyer acknowledges to the District that Buyer has fully inspected the Building, or has waived its opportunity to do so, and Buyer assumes the responsibility and risks of all defects and conditions, including such defects and conditions, if any, that cannot be observed by casual inspection.
13. Relationship of the Parties. Nothing contained in this Agreement shall be construed to create the relationship of principal and agent, partnership, joint venture, or any other relationship between the parties hereto other than the relationship of buyer and seller.
14. Notices. All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and shall be hand delivered or sent by United States mail to the individuals signing this Agreement at the addresses listed below or to such other addresses as any party may notify the other party hereto by notice duly given in writing. Notices shall be deemed given when delivered or three (3) days after mailing.
15. Time of the Essence. Time is of the essence with respect to this Agreement and every undertaking contained herein.
16. Attorneys' Fees. In the event legal action becomes necessary to enforce any term or condition of this Agreement the prevailing party in any legal action shall be entitled to recover reasonable attorneys' fees and costs incurred in such action, as determined by the court. In the event of any appeals from such actions, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in such appeals, and determined by the court(s). The term "costs" shall include, in addition to statutory costs and disbursements, all costs associated with discovery depositions, expert witness fees, and out-of-pocket costs incurred by the prevailing party in the prosecution or defense of the action. For the purpose of this paragraph, the term "action" shall be deemed to include any proceeding commenced in the bankruptcy courts of the United States.
17. Governing Law/Venue. The terms of this Agreement shall be governed by the laws of the State of Washington. In the event that legal action is commenced to resolve a dispute arising out of this Agreement, the venue of such action shall be in Walla Walla County, Washington.
18. Nonmerger/Survival. The terms and provisions of this Agreement shall not merge in, but shall survive, the completion of the transaction contemplated hereunder. All of the agreements, covenants,

representations, and warranties of the parties set forth in this Agreement shall survive the completion of the transaction contemplated by and provided for in this Agreement.

- 19. Successors. The covenants, agreements and conditions herein contained shall extend to and be obligatory upon and inure to the benefit not only of the Buyer and the District, but also upon their successors and assigns.
- 20. Authority. The District and Buyer each warrant and represent that they have the authority to enter into this Agreement.
- 21. Entire Agreement. This document contains the entire agreement of the parties and may not be modified except in writing and signed by both parties.

This Agreement is conditioned upon approval by the Superintendent of Walla Walla School District No. 140.

DISTRICT:

WALLA WALLA SCHOOL DISTRICT NO. 140  
364 S. Park Street  
Walla Walla, Washington 99362

BUYER:

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

By: \_\_\_\_\_  
Dr. Wade Smith  
Title: Superintendent

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