

DONATION AGREEMENT

This Donation Agreement (the “Donation Agreement”) for certain real property defined herein is dated and effective as of this __ day of May, 2023, by and between Parkdale Mills, Incorporated, a North Carolina corporation (“Donor”) and the Town of Landis, a North Carolina municipality (“Donee”).

RECITALS

This Donation Agreement is made and entered into on the basis of the following facts and understandings of the parties hereto:

Donor is the owner of that certain real property located near Main Street and Rice Street in the Town of Landis, North Carolina, and identified as Parcel Number 106 087, PIN 5625-09-07-1202, Rowan County GIS (the “Property”).

Donor did not construct any of the improvements on the Property and Donor has not occupied the Property for its own use.

Due to Donor's lack of familiarity with the Property, Donor is unwilling to make any representations or warranties whatsoever regarding the Property and Donor is only willing to grant Donee the Property on an “as is, where is” and “with all faults” basis.

Donee has been given a full and complete opportunity to conduct its own investigation as to any matter, fact or issue that might influence Donee's decision to accept the Property from Donor. Accordingly, Donee is willing to accept the Property from Donor without any representations or warranties whatsoever regarding the Property and on an “as is, where is” and “with all faults” basis.

AGREEMENT

1. DONATION.

1.1 Transfer. Donor agrees to donate the Property to Donee and Donee agrees to accept the Property from Donor on the terms and subject to the conditions set forth herein. In consideration of Donor's transfer of the Property to Donee, Donee shall perform all of Donee's obligations hereunder including but not limited to the release and indemnity set forth in Section 2.2 of this Donation Agreement.

1.2 Title. Title shall be transferred on the Closing Date via a nonwarranty deed or its equivalent.

1.3 Further Assurances. Donee and Donor agree to execute all instruments and documents and to take all actions reasonably necessary and appropriate to consummate the transfer and donation of the Property and shall use their best efforts to close in a timely manner.

2. **ACKNOWLEDGEMENTS; RELEASE AND INDEMNITY.**

2.1 **DONEE'S ACKNOWLEDGMENTS.** DONEE ACKNOWLEDGES THAT DONEE IS ACCEPTING THE PROPERTY SOLELY IN RELIANCE ON DONEE'S OWN INVESTIGATION, AND THE PROPERTY IS IN "AS IS, WHERE IS" CONDITION WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE. DONEE EXPRESSLY ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENT OF DONOR HEREIN, AND EXCEPT AS OTHERWISE SPECIFIED HEREIN, DONOR MAKES AND HAS MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, WITH RESPECT TO ANY PROPERTY OR ANY MATTER RELATED THERETO, OR (WITHOUT LIMITATION) TO ANY OF THE FOLLOWING MATTERS:

(a) Soils. Etc. Soils, seismic, hydrological, geological and topographical conditions and configurations.

(b) Hazardous Materials. Hazardous Materials and other environmental conditions, including without limitation, lead-based paint, asbestos and mold.

(c) Physical Defects. Physical and mechanical defects in or on any Property, including without limitation, the plumbing, heating, air conditioning and electrical systems and the roof, floor, ceilings, walls and other internal structural components of any buildings or improvements.

(d) Land and Floor Area. The area of the land and the square footage contained in any buildings or improvements.

(e) Utilities, Schools. Etc. Availability of adequate utilities, water, schools, public access, and fire and police protection.

(f) Assessment Districts. The status and nature of any assessment districts and the amount of any assessment liability.

(g) Planning and Zoning. Present, past or future conformity of any Property with planning, building, zoning, subdivision and development statutes, ordinances, regulations and permits, the general plan and the specific plan.

(h) Development Fees. The character and amount of any fee, charge or other consideration which must be paid by Donee to develop any Property.

(i) Title. The condition of title to any Property, including but not limited to the existence of any easement, license or encroachment whether or not a matter of public record, and whether or not visible upon inspection of such Property.

(j) Taxes. The status of any general or special real property taxes or assessments or personal property taxes or any other taxes and assessments applicable to the Property.

(k) Other Matters. Any other matter relating to any Property or to the development or operation of any Property, including, but not limited to, value, feasibility, cost, governmental permissions or entitlements, marketability and investment return.

2.2 **RELEASE AND INDEMNITY.**

(a) **RELEASE. DONEE FULLY RELEASES AND DISCHARGES DONOR FROM AND RELINQUISHES ALL RIGHTS, CLAIMS AND ACTIONS THAT DONEE MAY HAVE OR ACQUIRE AGAINST DONOR WHICH ARISE OUT OF OR ARE IN ANY WAY CONNECTED WITH THE CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION (A) ANY MATTER SET FORTH IN SECTION 2.1 ABOVE, (B) THE PRESENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT ANY PROPERTY (INCLUDING BUT NOT LIMITED TO ANY UNDISCOVERED HAZARDOUS MATERIALS LOCATED BENEATH THE SURFACE OF THE PROPERTY) AND (C) VIOLATIONS OF ANY HAZARDOUS MATERIALS LAWS PERTAINING TO THE PROPERTY OR THE ACTIVITIES THEREON. THIS RELEASE APPLIES TO ALL DESCRIBED RIGHTS, CLAIMS AND ACTIONS, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, PRESENT OR FUTURE.**

(b) **MEANING. FOR PURPOSES OF TIDS SECTION 2.2, ALL REFERENCES TO "DONOR" SHALL INCLUDE: (A) DONOR'S PARENT, SUBSIDIARY AND AFFILIATE CORPORATIONS, (B) DONOR'S DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES AND AGENTS, AND (C) THE HEIRS, SUCCESSORS, PERSONAL REPRESENTATIVES AND ASSIGNS OF DONOR'S DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES AND AGENTS.**

(c) **EFFECTIVENESS. THE PROVISIONS OF THIS SECTION 2.2 SHALL BE EFFECTIVE AS OF THE CLOSING DATE AND SHALL SURVIVE THE CLOSING DATE OR TERMINATION OF TIDS DONATION AGREEMENT.**

3. CLOSING.

3.1 Donor Deliveries. At Closing, the Donor shall deliver or cause to be delivered to the Donee the following:

(a) A Non-Warranty Deed (the “Deed”) in the form attached hereto as Exhibit A, conveying all of Donor’s right, title, and interest in and to the Property to the Donee, subject to all easements, restrictions, reservations, and matters of record or as would be disclosed by an accurate survey;

(b) Such affidavits or certificates as may be required by any title company proposing to issue a title policy to Donee (the “Title Company”);

(c) Evidence reasonably satisfactory to the Title Company and Donee of the authority of the persons executing this Agreement, the Deed and any other documentation executed and delivered by the Donor hereunder; and

(d) Such other documents or instruments as may be required to consummate the transaction as contemplated by the terms and conditions of this Agreement.

3.2 Donee Deliveries. At Closing, the Donee shall deliver or cause to be delivered to Donor the following:

(a) A gift acknowledgement, in form and substance reasonably acceptable to Donor, acknowledging receipt of the Property and setting forth its value as determined by a qualified appraisal (within the meaning of 26 CFR § 1.170A-17); and

(b) Evidence reasonably satisfactory to the Title Company and Donee of the authority of the persons executing this Agreement and the other documentation to be executed and delivered by Donee hereunder; and

(c) Such other documents or instruments as may be required to consummate the transaction as contemplated by the terms and conditions of this Agreement.

3.3 Prorations and Adjustments. All revenues and expenses of the Property, including, without limitation, operating expenses, real property taxes, special taxes, assessments and utility fees and deposits will be prorated and apportioned between the Donor and Donee as of 12:01 a.m. on the Closing Date (as defined below) such that Donor bears all expenses of the Property prior to and including the date immediately preceding the Closing Date and the Donee bears all expenses thereafter. To the extent that such prorations or adjustments are not ascertainable as of the Closing Date, the parties agree that prorations will be based upon the parties’ reasonable estimates and shall be recomputed when actual tax statements for the year of Closing are received, and either party owing the other party a sum of money based upon such subsequent proration adjustment will promptly pay said sum to the other party and, if payment is not promptly made after deliver of an invoice therefor, will pay interest thereon at the annual rate equal to the lesser of 10% per annum or the highest rate permitted by applicable law.

3.4 IF THE CLOSING DATE DOES NOT TIMELY OCCUR DUE TO THE DEFAULT OF DONEE, (A) DONEE SHALL HAVE NO FURTHER RIGHT TO RECEIVE THE PROPERTY AND (B) DONOR SHALL BE FREE TO DISPOSE OF THE PROPERTY IN ANY WAY IT SEES FIT.

3.5 Closing Costs. Notwithstanding anything to the contrary set forth herein, closing costs will be paid as follows:

- (a) By Donor:
1. All excise tax, revenue stamps, transfer tax, or documentary stamps applicable to the transfer of the Property to the Donee.
 2. Recording fees for the Deed.
 3. One half of the escrow fee, if any.
 4. Donor's legal expenses.
- (b) By Donee:
1. The cost of the premium for any title policy, plus any title examination or related fees.
 2. One half of the escrow fee, if any.
 3. Donee's legal expenses.

4. GENERAL PROVISIONS

4.1 Successors and Assigns. This Donation Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties. Notwithstanding the foregoing, Donee may not transfer, assign or encumber Donee's rights under this Donation Agreement without Donor's prior written approval.

4.2 Entire Agreement. This Donation Agreement contains the entire agreement between the parties concerning the Donation and sale of the property, and supersedes all prior written or oral agreements between the parties to this Donation Agreement. No addition to or modification of any term or provision shall be effective unless in writing, signed by both Donor and Donee.

4.3 Time of Essence. Donor and Donee hereby acknowledge and agree that time is strictly of the essence with respect to each term and condition of this Donation Agreement and that the failure to timely perform any of the terms and conditions by either party shall constitute a breach and default under this Donation Agreement by the party failing to so perform.

4.4 Partial Invalidity. If any portion of this Donation Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, that portion shall be deemed severed from this Donation Agreement and the remaining parts shall remain in full force as fully as though the invalid, illegal or unenforceable portion had never been part of this Donation Agreement.

4.5 Governing Law. The parties intend and agree that this Donation Agreement shall

be governed by and construed in accordance with the laws of the state in which the Property is located.

4.6 No Third Parties Benefits. No person other than Donor and Donee, and their permitted successors and assigns, shall have any right of action under this Donation Agreement.

4.7 Waivers. No waiver by either party of any provision shall be deemed a waiver of any other provision or of any subsequent breach by either party of the same or any other provision.

4.8 Captions. The captions and Section numbers of this Donation Agreement are for convenience and in no way define or limit the scope or intent of the Sections of this Donation Agreement.

4.9 Counterparts. To facilitate execution, this Donation Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this instrument to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

4.10 No Presumption. All the parties hereto and their attorneys have had full opportunity to review and participate in the drafting of the final form of this Donation Agreement and all documents attached as exhibits. Accordingly, such documents shall be construed without regard to any presumption or other rule of construction whereby any ambiguities within this Donation Agreement would be construed or interpreted against the party causing the document to be drafted.

4.11 Notices. Any notices or other communication required or permitted under this Donation Agreement shall be in writing, and shall be (a) personally delivered, or (b) sent by certified or registered United States mail, postage prepaid, return receipt requested, or (c) by overnight delivery by a reputable courier to the address of the party set forth in this Section or (d) sent via electronic mail to the email address the party set forth in this Section. Such notice or communication shall be deemed given (i) if sent by personal delivery or by overnight courier, when delivered in person, (ii) if sent by email, when evidence of successful transmission has been received by sender or, (iii) in the case of mailed notice, forty-eight (48) hours following deposit in the United States mail. Notice of change of address shall be given by written notice in the manner detailed in this Section.

If to the Donor:

Parkdale Mills, Incorporated
531 Cotton Blossom Circle
Gastonia, NC 28054

Attention: Anderson D. Warlick

With a copy to:
Parkdale Mills, Incorporated
531 Cotton Blossom Circle
Gastonia, NC 28054
Attention: General Counsel

If to the Donee:

Town of Landis
Michael D. Ambrose
Interim Town Manager
Town of Landis
312 S. Main St.
Landis, NC 28088

4.12 Joint and Several. If more than one person or entity has executed this Donation Agreement as Donee, the obligations of all such persons or entities hereunder shall be joint and several.

[Signatures on the next page]

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

DONOR:

PARKDALE MILLS, INCORPORATED

By: _____

Name:

Title:

DONEE:

TOWN OF LANDIS, NC

By: _____

Name:

Title:

ATTEST:

By: _____

Name:

Title:

EXHIBIT A
FORM OF NONWARRANTY DEED

**NORTH CAROLINA
NON-WARRANTY DEED**

Excise Tax: \$

Recording Time, Book and Page

Tax Map No.

Parcel Identifier No.

Mail after recording to:

This instrument was prepared by:

THIS DEED made this _____ day of _____, _____ by and between

GRANTOR

Mailing Address:

GRANTEE

Mailing Address:

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of _____, _____ Township, _____ County, North Carolina, and more particularly described as follows:

The property hereinabove described was acquired by Grantor by instrument recorded in Book _____, Page _____.

A map showing the above described property is recorded in Plat Book _____, Page _____.

(Remove if Not Applicable) *The above described property does include the primary residence of the Grantor.*

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

Grantor makes no warranty, express or implied, as to the title to the property hereinabove described.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, or, if corporate, has caused this Deed to be executed by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

_____(SEAL)

_____(SEAL)

NORTH CAROLINA _____ COUNTY

I, certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____, Grantor(s). Witness my hand and official stamp or seal, this the _____ day of _____, _____.

My Commission Expires: _____

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Notary Public

Print Notary Name:

NORTH CAROLINA _____ COUNTY

I, certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____, Grantor(s). Witness my hand and official stamp or seal, this the _____ day of _____, _____.

My Commission Expires: _____

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Notary Public

Print Notary Name:
