

DEVELOPMENT CONTRACT

THIS DEVELOPMENT CONTRACT (this “Contract”) is entered into this _____ day of January, 2023 (the “Effective Date”) by and between the **DOWNTOWN DEVELOPMENT AUTHORITY OF AVONDALE ESTATES, GEORGIA**, a public body corporate and politic created and existing under the laws of the State of Georgia (the “DDA”) and **ATG PARTNERS, LLC**, a Georgia limited liability company or its permitted assigns (“Developer”). The DDA and Developer are collectively called the “Parties” and individually called a “Party.”

RECITALS

WHEREAS, the CITY OF AVONDALE ESTATES, GEORGIA, a municipality existing under the laws of the State of Georgia (the “City”) is the governing municipality for the City of Avondale Estates, Georgia pursuant to the Charter of the City of Avondale Estates, Georgia, and promotes the health, prosperity, comfort, safety, security, good order, welfare, and proper government of the City of Avondale Estates, Georgia and for the benefit of its citizens;

WHEREAS, the DDA is a body corporate and politic of the State of Georgia pursuant to the provisions of the Downtown Development Authorities Law (O.C.G.A. Section 36-42-1 et seq.), as amended (the “Act”); and it is now existing and operating and its members have been duly appointed and entered into their duties;

WHEREAS, under the Act, the mission and purpose of the DDA is to facilitate the revitalization and redevelopment of the central business district of the City of Avondale Estates, Georgia and to thereby “develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities” (O.C.G.A. § 34-42-2);

WHEREAS, under the Act, the DDA possesses certain skills, qualifications, and experience which may be put to use to facilitate the revitalization and redevelopment of the central business district of the City of Avondale Estates, Georgia;

WHEREAS, under the Act, the DDA has, among others, the power to acquire, construct, install, modify, renovate, or rehab land, interests in land, buildings, structures, facilities, or other improvements and the power to acquire, construct, install, modify, renovate, or rehab, furnish fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, all for the essential purpose of development of trade, commerce, industry, and employment opportunities in the City of Avondale Estates, Georgia, as part of any “Project” and to loan money for paying the costs of “Projects” (as defined in the Act);

WHEREAS, the DDA is authorized under the Act to make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the DDA or to further the public purpose for which the DDA is created that will revitalize and redevelop the City’s downtown commercial business district;

WHEREAS, the DDA is authorized under the Act to finance (by loan, grant, lease, or otherwise), operate, or manage projects and to pay the cost of any Project from the proceeds of the DDA or any other funds of the DDA, or from any contributions or loans by persons, corporations, partnerships, or other entities, all of which the DDA is authorized to receive, accept, and use;

WHEREAS, the DDA is authorized under the Act to extend credit or make loans to any person, corporation, partnership (whether limited or general), or other entity for the costs of any Project or any part of the costs of any project, which credit or loans may be evidenced or secured by loan agreements, notes, or such other instruments;

WHEREAS, the City and DDA entered into that certain *Intergovernmental Agreement for the Redevelopment of Certain N. Avondale Properties* (the “IGA”) on May 11, 2022 to work cooperatively together to facilitate the revitalization and redevelopment of certain properties in the central business district of the City of Avondale Estates, Georgia, including specifically the development of limited certain portions of 64 N. Avondale Road (Tax Parcel Id No. 15 249 16 008), 68 N. Avondale Road (Tax Parcel Id No. 15 249 16 002), and 70 N. Avondale Road (Tax Parcel Id No. 15 249 16 001) to be verified by a boundary line survey obtained by the DDA for the Town Green Mixed-Use Market development (the “Mixed-Use Property”) as a multi-tenanted ground level neighborhood restaurant and retail row along and facing N. Avondale Road connecting downtown with existing pedestrian energy and targeted to chef-driven full-service restaurants and catalytic destination local retail with complimentary second-floor office uses (the “Town Green Mixed-Use Project”);

WHEREAS, the Town Green Mixed-Use Project is adjacent to and shall be integrated into the park owned by the City of Avondale Estates located on the real property described on Exhibit A (“Town Green Park”).

WHEREAS, Developer desires to partner with the DDA to implement the Town Green Mixed-Use Project and to construct the multi-tenanted ground level neighborhood restaurant and retail row buildings and related improvements (the “Town Green Buildings”) consistent with the artistic rendering and plans depicted in the *Avondale Town Green Mixed-Use Schematic Design Phase 11/01/2022*, Sheets G1.00, C-3.0, C-5.0, A.1.10, A1.20A, A.1.50A, A.200A, A2.01, A2.02, A3.01, 1 East Building-Level 2-Office Suites Plan, A1.20B, A1.50B, A2.00B, and 1 East Building Level 2-Event Space Plan, collectively attached herein and incorporated herewith as Exhibit B (collectively, the “Conceptual Plans”);

WHEREAS, the DDA desires to partner with Developer to implement the Town Green Mixed-Use Project and to construct the Town Green Buildings as set forth in this Contract;

WHEREAS, the DDA selects Developer as the developer of its choice to implement the Town Green Mixed-Use Project and construct the Town Green Buildings as set forth in this Contract.

NOW, THEREFORE, in consideration of the mutual and reciprocal promises and covenants set forth in this Contract and other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged by each of the Parties hereto, the Parties agree as follows:

CONTRACT

1. **Incorporation by Reference.** The foregoing provisions and recitals are true and correct and incorporated in this Contract as integral hereto.

2. **Definitions.** Unless the context clearly requires a different meaning, the terms set forth in Exhibit C are used in this Contract with the definitions ascribed thereto in Exhibit C.

3. **Purchase and Sale.** The Parties have on the Effective Date executed and deliver the Purchase and Sale Agreement attached hereto as Exhibit D (the “Purchase Agreement”). Termination of Developer’s obligations under the Purchase Agreement in accordance with its terms shall constitute termination of Developer’s obligations under this Contract.

4. **Construction Loan.** At Closing DDA shall extend the Construction Loan to Developer on the terms set forth in the Loan Documents and Developer will execute and deliver the Loan Documents.

5. **Appointment of Developer.** DDA hereby appoints Developer to render services for the DDA, in supervising and overseeing the implementation of the Town Green Mixed- Use Project and construction of the Town Green Buildings as herein contemplated. Subject to the terms of this Contract, Developer accepts the obligations established by this Contract and covenants with the DDA to fulfill those obligations, to exercise Developer’s skill and judgment to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and; to perform the Work in an expeditious and economical manner consistent with the Loan Documents. From and after Closing Developer shall supervise and oversee the implementation of the Town Green Mixed-Use Project and construction of the Town Green Buildings as herein contemplated. The DDA’s Representative authorized to act and receive notice on its behalf with respect to the Town Green Mixed-Use Project is Shannon Powell, Assistant City Manager, 21 North Avondale Plaza, Avondale Estates, Georgia 30002, Tel: (404) 294-5400, Email: spowell@avondalestates.org. Developer’s Representative authorized to act and receive notice on its behalf with respect to the Town Green Mixed-Use Project is Jerrold L. Miller, 403 W. Ponce de Leon, Suite 104, Decatur, Georgia 30030, Tel: (404) 275-3980, Email: jmiller@fabricdevelopers.com.

6. **Authority of Developer.** Developer shall have the authority and the obligation under this Contract to perform the following services:

a. Provide an evaluation of the Town Green Mixed-Use Project, construction schedule, and budget requirements, each in terms of the other; advise the DDA on proposed site use and improvements, selection of materials and building systems and equipment; provide recommendations to the DDA, consistent with the Town Green Mixed-Use Project requirements, on design, constructability, availability of materials and labor, time requirements for procurement, installation and construction; and, advise the DDA on factors related to cost including but not

limited to costs of alternative designs or materials, budgets, life-cycle data and possible cost reductions;

b. Prepare and provide a schedule of the Town Green Mixed-Use Project and for the construction of the Town Green Buildings (the “Project Schedule”), which shall coordinate and integrate Developer’s services, the construction contractor’s services, the Authority’s responsibilities, ordering and delivery of products and materials, and the Authority’s completion requirements.

c. Prepare and provide monthly schedule updates of the Town Green Mixed-Use Project to the DDA;

d. Prepare and provide monthly estimate updates as to the construction to the DDA for the costs necessarily incurred in the proper performance of the construction of Town Green Buildings and completion of the Town Green Mixed-Use Project;

e. Negotiate all necessary construction contract(s) by and between Developer and any general contractor for the construction of the Town Green Buildings (the “Construction Contract”) to obtain terms satisfactory to Developer in its sole discretion subject to the terms and conditions of this Contract;

f. Act on behalf of the DDA in its relations with any governmental agency or authority with respect to all matters relating to the Town Green Mixed-Use Project and construction of the Town Green Buildings;

g. Choose the products and materials necessary to equip the Town Green Mixed-Use Project in a manner which satisfies all requirements of this Contract;

h. Monitor disbursement and payment of amounts owed to the general contractor pursuant to the terms of the Construction Contract;

i. Subject to DDA’s making disbursements of the Loan as required by the Loan Documents, ensure that the Town Green Buildings are constructed free and clear of all mechanics’ and materialmen’s liens;

j. In collaboration with the general contractor establish and implement procedures for expediting the processing and approval of shop drawings and samples;

k. Secure and obtain all permits, licenses, building code approvals, and certificates of occupancy for the Town Green Buildings;

l. Cause the construction of the Town Green Buildings to be completed in accordance with the Construction Loan Agreement and coordinate the work of the general contractor to complete construction of the Town Green Buildings, consistent with good workmanship, and in compliance with the following:

- i. The approved Conceptual Plans and the approved Project Schedule, as they may be amended in accordance with this Contract or by the written agreement of the Parties;
 - ii. Any and all zoning regulations, county ordinances, including health, fire and safety regulations, and any other requirements of federal, state, and local permits, special use permits licenses, codes, laws, rules, regulations, and ordinances applicable to the design, construction, or use of the Town Green Mixed-Use Project (“Applicable Laws”);
 - iii. the Loan Documents; and
 - iv. the Construction Contracts.
- m. Administer and supervise the Construction Contract;
- n. In accordance with generally accepted construction practice, and subject to the obligations of the contractors under the Construction Contracts, Developer will be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the Work and adequacy of the safety measures, in, on, or near the construction site;
- o. Keep, or cause to be kept, accounts, cost records, and systems as to the design and construction of the Town Green Buildings satisfactory to the DDA, which records shall be preserved for three (3) years after final payment under this Contract or for such longer period as may be required by law, and exercise such controls as may be necessary for proper financial management of the Town Green Mixed-Use Project;
- p. Maintain, or cause to be maintained, at Developer’s expense, all office and accounting facilities and equipment necessary to adequately perform the accounting and financial responsibilities under this Contract;
- q. Make available to the DDA at Developer’s office, during normal business hours and upon the DDA’s written request, copies of all material contracts, subcontracts, contracts, and other agreements relating to the Town Green Mixed-Use Project;
- r. Coordinate delivery of all materials and equipment intended for and necessary to the Town Green Mixed-Use Project and expedite such delivery as reasonably possible;
- s. Include in the Construction Contracts applicable requirements, if any, that the contractors comply with and provide evidence to Developer of such compliance with O.C.G.A. § 13-10-91 and Georgia D.O.L. Rule 300-10-1.02;

t. Obtain the necessary certificates that construction of the Town Green Buildings is substantially complete as required by the Construction Loan Agreement, and cause inspection of the same;

u. Provide regular monitoring of the Project Schedule as design and construction progress, identify potential delays, review the schedule for work not started or incomplete, recommend to the DDA adjustments in the Project Schedule if necessary to address anticipated delays, provide monthly summary reports of such monitoring, and document all delays and changes in the Project Schedule;

v. Promptly report to the DDA Developer's decision when requirements of material contracts, subcontracts, contracts, and other agreements relating to the Town Green Mixed-Use Project are not being fulfilled;

w. Regularly monitor the approved construction budget and develop cash flow reports and forecasts as needed;

x. Show actual costs for activities in process and estimates for uncompleted tasks, identify variances between actual and approved costs and advise the DDA whenever projected costs exceed approved budgets;

y. Without additional expense to the DDA, pay all applicable Federal, State and local sales and other taxes associated with the Town Green Mixed-Use Project, including ad valorem taxes and assessments;

z. Develop and implement a procedure for the review and processing of applications by the general contractor for progress and final payments;

aa. Deliver to the DDA at the completion of the Town Green Mixed-Use Project an as-built survey of the real property and as-built drawings of the Town Green Buildings; and

bb. Record the progress of the Town Green Mixed-Use Project and submit monthly written progress reports to the DDA.

7. **Changes to Conceptual Plans.** Developer may implement changes to the Conceptual Plans from time to time. Any change that does not constitute a Material Change shall not require DDA's consent. Any Material Change to the Conceptual Plans are subject to DDA's consent, which may not be unreasonably withheld, conditioned, or delayed. Developer will in writing request DDA's consent to a Material Change to the Conceptual Plans. The request will include supporting documentation sufficient to enable DDA review, including but not limited to the cost, and any delay, estimated to result from the requested change. The requested Material Change will be deemed approved by DDA if DDA fails to disapprove the request in writing to Developer within seven (7) days after delivery of the request by Developer.

8. **Commencement and Completion of the Work; DDA Right to Repurchase.**

Developer agrees to commence construction and pursue completion with commercial diligence of the Town Green Mixed-Use Project and same shall be accomplished in a good and workmanlike manner. Developer shall commence construction of the Town Green Buildings within sixty (60) days after Closing and shall exert diligent, commercially reasonable efforts to complete construction in accordance with the Construction Loan Agreement. Developer may elect to delay commencement of construction of the Town Green Buildings for up to sixty (60) days by delivering written notice to DDA within sixty (60) days after Closing. Developer agrees to diligently pursue through completion the development of the Town Green Mixed-Use Project in accordance herewith. In the event that construction should be halted or delayed for ninety (90) days or more for reasons unrelated to Force Majeure, the DDA shall give Developer notice to recommence construction and construction shall be recommenced within thirty (30) days thereafter. If Developer fails to recommence construction within the thirty (30) day period, then the DDA shall have the right to repurchase the Building Project Site on the following terms:

(a) DDA shall give Developer at least twenty (20) days' written notice of the DDA's election to exercise the repurchase right. The notice shall state the date upon which the closing of the repurchase shall occur.

(b) The purchase price to be paid by the DDA shall be an amount equal to the sum of \$100,000 plus all expenses incurred by Developer for the design, construction, and management of the Town Green Mixed-Use Project, as evidenced by receipts, invoices, and other supporting documentation reasonably required by DDA. The purchase price shall be paid in immediately available funds at closing.

(c) At the closing Developer will convey its interest in the Town Green Mixed-Use Project to DDA by limited warranty deed, subject to any leases thereof.

Notwithstanding anything to the contrary herein, the DDA and Developer agree and stipulate that Developer is not required to commence implementation of the Town Green Mixed-Use Project or construction of the Town Green Buildings until and unless the Parking Contingency, as defined below, is satisfied. Developer may at its sole election, however, elect to commence construction of the Town Green Buildings prior to satisfaction of the Parking Contingency. The Parking Contingency is solely for the benefit of Developer.

9. **Parking Contingency.** The DDA and Developer agree as a condition to Developer's obligations under this Contract that the DDA shall cause parking spaces to be dedicated for the public use for area visitors including those patronizing the Town Green Mixed-Use Project by either: (a) establishing a minimum of Forty (40) parking spaces on the same or a nearby parcel to the Mixed-Use Property and/or (b) a wrapped parking garage deck to be constructed on certain portions of 90 N. Avondale Road (Tax Parcel Id No. 15 249 15 009), 88 N. Avondale Road (Tax Parcel Id No. 15 249 15 010), 84 N. Avondale Road (Tax Parcel Id No. 15 249 15 007), and 4 Lake Street (Tax Parcel Id No. 15 249 15 005) that will include up to Two Hundred (200) parking spaces with a minimum of One Hundred Twenty (120) of those parking spaces dedicated for the public use for area visitors including those patronizing the Town Green

Mixed-Use Project, including the Town Green Buildings (collectively, the “Parking Contingency”).

10. **Public Restrooms and Common Areas.** The DDA and Developer agree that the Town Green Buildings shall include restroom facilities available to the public, adequate to serve the uses of the Town Green Park and accessible to the public (the “Public Restrooms”). The Public Restrooms shall be open and available to the public during all normal business hours of the Town Green Park. The Public Restrooms will be constructed as part of the Town Green Buildings and Work at the sole cost and expense of Developer. The Public Restrooms shall be available for use by patrons of the Town Green Park on terms and conditions set forth in the OEA.

11. **Accounts and Records.** Developer, on behalf of the DDA, shall keep such books of account and other records as may be required and approved by the DDA, including, but not limited to, records relating to insurance, invoices, material supplies, and soft costs associated with the Town Green Mixed-Use Project. Developer shall keep vouchers, statements, receipted bills and invoices and all other records, in the form approved by the DDA, covering all collections, if any, disbursements and other data in connection with the Town Green Mixed-Use Project prior to final completion of construction of the Town Green Buildings.

12. **Representations and Warranties of Developer.** Developer hereby represents and warrants to the DDA that:

- a. **Organization and Authority.** Developer is a limited liability company, in good standing and authorized to transact business in the State of Georgia. Developer has the requisite power and authority to execute and deliver this Contract, to incur and perform its obligations hereunder, and to carry out the transactions contemplated by this Contract. The person executing this Contract on behalf of Developer is authorized to do so.
- b. **Licenses.** Developer agrees to exert diligent efforts to obtain the licenses and permits with respect to the Town Green Mixed-Use Project, without known conflict with any rights of others. The DDA shall work in good faith to expedite licenses and permits under the purview of the City of Avondale Estates.
- c. **Due Authorization, Execution, and Delivery.** The execution, delivery, and performance of this Contract has been duly authorized by all necessary action and proceedings by or on behalf of Developer and no further approvals or filings of any kind, including approval of or filing with any governmental authority, are required by or on behalf of Developer as a condition to the valid execution, delivery, and performance by it of this Contract. This Contract, when duly executed and delivered by each Party hereto, will be the valid, binding and enforceable obligation of Developer in accordance with its terms, subject to matters and laws affecting creditors' rights generally and to general principles of equity. Developer will comply in all material respects with (a) all Applicable Laws, (b) all agreements and instruments by which it or any of its properties may be bound, and all restrictions, covenants, and easements affecting the Town Green Mixed-Use Project, (c) all applicable decrees, orders, and judgments applicable to Developer, and (d) all licenses and permits required by Applicable Laws and

regulations for the conduct of its business or the ownership, use, or operation of its properties.

- d. Organizational Documents. Developer's organizational documents are in full force and effect and have not been modified or supplemented from those submitted to the DDA, and no fact or circumstance has occurred that, by itself or with the giving of notice of the passage of time or both, would constitute a default thereunder.
- e. Bankruptcy. No Act of Bankruptcy has occurred with respect to Developer that in any way materially affects Developer's ability to fulfill its obligations under this Contract.
- f. No Litigation. There is no action, suit or proceeding pending or, to the knowledge of Developer, threatened against or affecting Developer in any court, before any arbitrator or by any governmental body which (i) in any manner raises any question affecting the validity or enforceability of this Contract, (ii) could materially and adversely affect the business, financial position or results of operations of Developer, or (iii) could materially and adversely affect the ability of Developer to perform its obligations hereunder.
- g. No Undisclosed Liabilities. Developer is not subject to any material liability or obligation, including contingent liabilities. Developer is not in default under or in breach of any material contract or agreement, and no event has occurred which, with the passage of time or giving of notice (or both) would constitute such a default, which has a material adverse effect on the ability of Developer to perform its obligations under this Contract.

13. **Representations and Warranties of the DDA**. The DDA hereby represents and warrants to, and covenants with, the Developer as follows:

- a. Organization and DDA. The DDA is a municipal authority duly created and existing under the laws of the State of Georgia. The DDA has been authorized by the City and has the requisite power and authority to execute and deliver this Contract, to incur and perform its obligations hereunder, and to carry out the transactions contemplated by this Contract.
- b. Due Authorization, Execution, and Delivery. The execution, delivery, and performance of this Contract has been duly authorized by all necessary action and proceedings by or on behalf of the DDA and no further approvals or filings of any kind, including approval of or filing with any governmental authority, are required by or on behalf of the DDA as a condition to the valid execution, delivery, and performance by it of this contract. This Contract, when duly executed and delivered by each party hereto, will be the valid, binding and enforceable obligation of the DDA in accordance with its terms and to general principles of equity.
- c. Organizational Documents. The DDA's organizational documents are in full force and effect and have not been modified or supplemented from those submitted to Developer,

and no fact or circumstance has occurred that, by itself or with the giving of notice of the passage of time or both, would constitute a default thereunder.

- d. **Conceptual Plans.** The design of the Town Green Mixed-Use Project as shown in the Conceptual Plans complies with all Applicable Laws.

14. **Storefront Design and Use Restrictions.** The DDA and Developer agree that the Town Green Mixed-Use Project, including, but not limited to any and all occupancy and leasing of the Town Green Buildings, shall be consistent with this Contract and subject to all applicable provisions of the Avondale Estates Zoning Ordinance, Sec. 21-1.1.1 et seq.; Recommended Storefront Design Guidelines attached hereto and incorporated herein as Exhibit E; and, Prohibited Use Restrictions attached hereto and incorporated herein as Exhibit F.

15. **Default by Developer.** Developer shall be in default of this Contract should any of the following occur, subject to notice and cure provisions set forth below:

- a. Developer fails to comply with any provision under this Contract;
- b. Developer abandons the Town Green Mixed-Use Project, including, but not limited to construction of the Town Green Buildings, subject to Force Majeure;
- c. Developer fails to maintain its operating status with the Georgia Secretary of State's Office; or
- d. The occurrence of an Act of Bankruptcy as to Developer.

If a default by Developer occurs and is continuing 30 days after receipt of written notice to Developer from the DDA specifying the existence of such default (or a reasonable time thereafter if such default cannot reasonably be cured within such 30-day period and Developer begins to diligently pursue the cure of such default within such 30-day period), the default will become an "Event of Default," and the DDA will be entitled to elect any or all of the following remedies: (i) terminate this Contract, (ii) seek refunding of all or a portion of prior contributions of financing, if warranted due to a reduction of the Building Project's value caused by the Event of Default; (iii) reduce the remaining unpaid portion of the Loan by an amount proportional to the reduction of the value of the Town Green Mixed-Use Project caused by the Event of Default; (iv) repurchase the Town Green Mixed-Use Project in accordance with Section 8; (v) enforce its remedies under the Loan Documents; (vi) seek any remedy at law or in equity that may be available as a consequence of the Event of Default; (vii) pursue specific performance of this Contract or injunctive relief; (viii) waive such Event of Default. An Event of Default under this Contract shall constitute an "Event of Default under and as defined in the Loan Documents. All amounts so withheld by the DDA under this Section 15 shall be promptly released to Developer only after Developer has cured the Event of Default justifying the withholding, as demonstrated by evidence reasonably acceptable to the DDA.

16. **No Lien Filings.** The Developer hereby represents, warrants, and covenants that it shall not file a mechanic's lien, materialmen's lien or other lien against the Town Green Mixed-

Use Project, any Town Green Buildings, or any other assets of the DDA, and hereby waives and releases any right it may have or may hereafter acquire to file such a lien against the Town Green Mixed-Use Project, any Town Green Buildings, or any other assets of the DDA. Developer shall indemnify and hold harmless the DDA from any losses, damages, and/or liabilities, to or as a result of a breach of this provision. The foregoing provision of this Section 16 shall not prohibit the filing of judgment liens upon Developer's obtaining judgment against DDA in any legal action. This Section 16 shall survive expiration or termination of this Contract.

17. **Indemnity.** To the fullest extent permitted by law, Developer agrees to defend, indemnify and hold harmless the DDA and its directors, officers, employees, agents, contractors and affiliates (individually, an "Indemnitee") from all actions, suits, claims, demands and proceedings ("Claims"), and any judgments, damages, losses, debts, liabilities, penalties, fines, costs and expenses (including attorneys' fees and expenses reasonably and actually incurred) resulting therefrom, sustained in connection with or incidental to Developer's activities pursuant to this Contract in regard to the development of the Town Green Mixed-Use Project, including but not limited to enforcement of the terms of this Contract, whether brought or commenced by any person or entity against any Indemnitee for the recovery of damages, including but not limited to, the injury, illness and/or death of any person, or loss of use of or damage to property, arising out of or alleged to have arisen out of the negligence or intentional misconduct of Developer, regardless of whether or not such claim is caused in part by an Indemnitee; provided, however, that Developer's indemnification obligations hereunder shall not apply to the extent that Claims are caused by the negligence of the Indemnitee seeking indemnification. The terms of this Section 17 shall survive expiration or termination of this Contract.

18. **Litigation.** Developer will notify the DDA in writing, within five (5) days of its having knowledge thereof, of any actual, pending, or threatened litigation or adversarial proceeding in which a claim is made against Developer or against the Town Green Mixed-Use Project or any portion thereof and of any judgment rendered against Developer.

19. **Insurance.** During all phases of the Town Green Mixed-Use Project and extending through completion of the Town Green Buildings as evidenced upon the issuance of a *Certificate of Occupancy* by the City, Developer shall purchase and maintain insurance of the types and in the amounts set forth on Exhibit G, attached hereto and incorporated herein, purchased from insurance companies lawfully authorized to issue insurance in the State of Georgia. The DDA shall be named as an additional insured under Developer's commercial general liability policy. The DDA and Developer waive all rights against each other for damages to the extent such damages are covered by insurance required by this Contract, except such rights as they have to proceeds of such insurance.

20. **Dispute Resolution.** Claims, disputes and other matters in question arising out of or relating to the Work (a "Dispute") shall be subject to mediation as a condition precedent to binding dispute resolution; provided, however, that if the Dispute relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines. The Parties shall endeavor to resolve their disputes by mediation. Demand for mediation shall be made in writing delivered to the other party and filed with the person or entity administering the mediation.

21. **Attorneys' Fees.** Should either party employ an attorney to enforce any of the provisions hereof, the party losing in any final, non-appealable judgment agrees to pay the prevailing party all reasonable costs, charges, and expenses, including attorneys' fees, expended or incurred in connection therewith.

22. [INTENTIONALLY DELETED].

23. **Successors and Assigns.** This Contract shall be binding on the Parties, their heirs, successors, and assigns. However, this Contract may not be assigned by either Party without the written consent of the other at its sole discretion.

24. **Separability of Provisions.** Each provision of this Contract shall be considered separable and if for any reason any provision which is not essential to the effectuation of the basic purposes of this Contract is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Contract which are valid. E-mail signatures or signatures sent by other electronic means appearing hereon shall be deemed originals. The Effective Date of this Contract shall be date that the last Party executes this Contract.

25. **Counterparts.** This Contract may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all Parties, notwithstanding that all the Parties shall not have signed the same counterpart. An electronic or PDF signature on this Contract shall be equivalent to, and shall have the same force and effect as, an original, wet signature for all purposes.

26. **No Continuing Waiver.** The waiver by any party of any requirement, right, or breach of this Contract shall not operate or be construed to be a waiver of any subsequent requirement, right, or breach.

27. **Applicable Law.** This Contract shall be construed and enforced in accordance with the laws of the State of Georgia. Venue for any action arising herefrom shall lie exclusively in the state courts of DeKalb County, Georgia.

27. **Amendment.** This Contract may not be amended without the written consent of the DDA and Developer.

28. **Entire Agreement and Contract.** This Contract, including all exhibits attached hereto and the agreements to be executed between DDA and Developer in accordance with this Contract, represent the entire agreement between the DDA and Developer and supersede all prior negotiations, representations, and agreements.

29. **Time of the Essence.** Time is of the essence of this Contract.

[SIGNATURES COMMENCE ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused this instrument to be duly executed as of the first stated above.

**DOWNTOWN DEVELOPMENT AUTHORITY
OF AVONDALE ESTATES, GEORGIA**, by its
Board of Directors:

Dave Deiters, Chair

Attest:

Shannon Powell, Executive Director

Approved as to form:

R. Kyle Williams, General Counsel

ATG Partners, LLC, a Georgia Limited
Liability Company

By: Fabric Developers Avondale, LLC, a
Georgia limited liability company, as
manager

By: _____ (SEAL)
Jerrold L. Miller, as Manager

By: HWP Avondale, LLC, a Georgia limited
Liability company, as manager

By: Healey Weatherholtz Properties,
LLC, a Georgia limited liability
company, as manager

By: _____
Name: _____
Title: _____

Exhibits

- A Town Green Park**
- B Conceptual Plans**
- C Definitions**
- D Purchase Agreement**
- E Recommended Storefront Design Guidelines**
- F Prohibited Use Restrictions**
- G Insurance Requirements**

Exhibit A
Town Green Park

[see following pages]

Exhibit B
Conceptual Plans

[see following pages]

Exhibit C
Definitions

[see following pages]

EXHIBIT C
DEFINITIONS

“Act” has the definition ascribed thereto in the recitals of the Contract.

"Act of Bankruptcy" means the making of an assignment for the benefit of creditors, the filing of a petition in bankruptcy, the petitioning or application to any tribunal for any receiver or any trustee of the applicable Person or any substantial part of its property, the commencement of any proceeding relating to the applicable Person under any reorganization, arrangement, readjustments of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or if, within 60 days after the filing of a bankruptcy petition or the commencement of any proceeding against the applicable Person seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, the proceedings have not been dismissed, or, if, within 60 days after the appointment, without the consent or acquiescence of the applicable Person, of any trustee, receiver or liquidator of the applicable Person or of the land owned by the applicable Person, the appointment has not been vacated

“Applicable Laws” has the definition ascribed thereto in Section 5.1.ii.

“City” means the City of Avondale Estates, Georgia, a municipality existing under the laws of the State of Georgia.

“Closing” has the definition ascribed thereto in the Purchase Agreement.

“Conceptual Plans” means the renderings and plans defined in the recitals of the Contract, as may be changed in accordance with the Development Contract and the Construction Loan Agreement.

“Construction Contract” has the definition ascribed thereto in Section 5.e. of the Contract.

“Construction Loan” means the construction loan up to a maximum principal amount of \$4,200,000 from DDA to Developer to be made at Closing on terms stated in the Loan Documents.

“Construction Loan Agreement” means the Construction Loan Agreement constituting one of the Loan Documents.

“Contract” means Development Contract dated _____, 2023 between the Parties.

“DDA” means Downtown Development Authority Of Avondale Estates, Georgia, a public body corporate and politic created and existing under the laws of the State of Georgia.

“Developer” means ATG Partners, LLC, a Georgia limited liability company or its permitted assigns.

“Effective Date” means the date stated in the opening paragraph of the Contract.

“Force Majeure” means an event or circumstance which is beyond the control and without the fault or negligence of the Party affected and which by the exercise of reasonable diligence the

party affected was unable to prevent, provided that event or circumstance is limited to the following: (a) a result of Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), (b) acts of war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, (c) nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service, (d) as to Developer, refusal or failure by the City to issue, or delay in issuing, required permits or approvals on a timely basis, or (e) delays caused by governmental or quasigovernmental entity, shortages or unavailability of materials, natural resources or labor; inclement weather, governmental prohibitions or regulations including or causing administrative delays in obtaining building permits or otherwise, and restrictive governmental laws or regulations including shelter in place, quarantine or other pandemic-related restrictions.

“IGA” means the *Intergovernmental Agreement for the Redevelopment of Certain N. Avondale Properties* dated May 11, 2022 between the City and DDA to work cooperatively together to facilitate the revitalization and redevelopment of certain properties in the central business district of the City of Avondale Estates, Georgia, including specifically the development of the Mixed-Use Property.

“Loan” means the indebtedness outstanding from DDA to Developer evidenced by the Loan Documents.

“Loan Agreement” means the Construction Loan Agreement constituting one of the Loan Documents.

“Loan Documents” means collectively the Promissory Note, the Construction Loan Agreement and the Deed to Secure Debt and Security Agreement to be executed and delivered by Developer pursuant to the Purchase Agreement.

“Material Change” means any change (a) that substantially alters the general appearance or structural integrity of exterior walls and elevations, coverage or floor area ratio or number of floors; (b) to the colors and uses of exterior finishing materials from those shown and specified in the Conceptual Plans; (c) in landscape planning and design or to exterior lighting and other exterior site features from the Conceptual Plans; (d) that affects the number of tenant spaces; (e) that increases or decreases the size of a tenant space by ten percent (10%) or more from the Plans; (f) that requires additional zoning approvals; (g) that would increase the cost of the Town Green Mixed-Use Project by more than five percent (5%); or (h) that would delay substantial completion of the Town Green Mixed-Use Project by more than 5 days.

“Mixed-Use Property” means the land described in the recitals of the Contract.

“OEA” means an operation and easement agreement between DDA and Developer in which DDA grants to Developer, for the benefit of the Town Green Mixed-Use Project, easements to utilize outdoor common space such as patios, yards, and other such uses incidental to the Town Green Mixed-Use Project to serve as outdoor dining and amenity spaces and, further, to provide

for the provision of sanitation, garbage, deliveries, and other such services for the Town Green Mixed-Use Project, as more fully described in the Purchase Agreement.

“Parking Contingency” means the condition stated in Section 7 of the Contract.

“Parties” has the definition ascribed thereto in the first (1st) paragraph of the Contract.

“Party” has the definition ascribed thereto in the first (1st) paragraph of the Contract.

“Project” and “Projects” have the definitions ascribed thereto in the fifth (5th) recitals of the Contract.

“Project Schedule” has the meaning ascribed thereto in Section 5.b. of the Contract.

“Public Restrooms” has the meaning ascribed therein in Section 8 of the Contract.

“Purchase Agreement” has the definition ascribed thereto in Section 3 of the Contract.

“Town Green Buildings” has the definition ascribed thereto in the recitals of the Contract.

“Town Green Mixed-Use Project” has the definition ascribed thereto in the recitals of the Contract.

“Town Green Park” has the definition ascribed thereto in the recitals of the Contract.

“Work” has the definition ascribed thereto in the Conceptual Plans.

Exhibit D
Purchase Agreement

[see following pages]

CONTRACT FOR PURCHASE AND SALE

THIS CONTRACT FOR PURCHASE AND SALE (this "Contract") is entered into this ___ day of _____, 202__ (the "Effective Date") by and the DOWNTOWN DEVELOPMENT AUTHORITY OF AVONDALE ESTATES, GEORGIA, a public body corporate and politic created and existing under the laws of the State of Georgia (hereinafter called "Seller"), and ATG PARTNERS, LLC, a Georgia limited liability company (hereinafter called "Buyer"). Buyer and Seller are sometimes herein individually referred to as a "Party" and collectively, the "Parties."

WHEREAS, Seller is the owner of portions of 64 N. Avondale Road (Tax Parcel Id No. 15 249 16 008), 68 N. Avondale Road (Tax Parcel Id No. 15 249 16 002), and 70 N. Avondale Road (Tax Parcel Id No. 15 249 16 001) located in the City of Avondale Estates, Georgia and more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, together with (a) all improvements, fixtures, plants, trees and shrubbery thereon, (b) all rights, easements and appurtenances pertaining thereto (whether now or hereafter existing), (c) all right, title and interest of Seller (if any) in and to any streets, alleys or rights-of-way (whether open, closed or proposed), within or adjacent thereto, and (d) all right, title and interest of Seller with respect to any easements, covenants, agreements, rights, privileges, tenements, hereditaments and appurtenances that now or hereafter benefit or burden the land (collectively, the "Property").

WHEREAS, Buyer desires to purchase from Seller, and Seller desires to sell and convey to Buyer, the Property pursuant and subject to the terms and conditions of this Contract.

WHEREAS, Buyer and Seller (collectively, the "Parties;" singularly, a "Party") execute and deliver this Contract pursuant to the Development Contract between them dated the Effective Date (the "Development Contract"), and this Contract is the "Purchase Contract" defined in the Development Contract.

NOW, THEREFORE, in consideration of the amounts set forth herein, the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree that the foregoing provisions are true and correct and incorporated in this Contract as integral hereto and further as follows:

1. Agreement to Buy and Sell/Definitions.

(a) Seller hereby agrees to sell to Buyer and Buyer hereby agrees to buy from Seller the Property (as hereinafter defined).

(b) For all intents and purposes under this Contract, the following terms shall have the following meanings:

"Closing" means the consummation of the purchase and sale contemplated by this Contract by the deliveries required hereunder.

"Closing Date" means December 29, 2023, or such earlier date as Buyer shall notify Seller by written notice at least twenty (20) days prior to the designated date.

"Inspection Period" means the period commencing on the Effective Date and expiring sixty (60) days thereafter, as may be extended as set forth below.

2. Purchase Price.

(a) The purchase price for the Property shall be One Hundred Thousand and 00/100 Dollars (\$100,000.00) (the "Purchase Price").

(b) The Purchase Price shall be paid in cash at closing via wire transfer or other immediately available funds.

3. Seller's Warranties and Representations.

(a) Seller hereby warrants, represents and covenants (which warranties, representations and covenants shall be effective as of the Effective Date and the Closing Date) the following:

(i) Seller has good, insurable and marketable title to the Property, free and clear of all liens, encumbrances and restrictive covenants other than zoning ordinances affecting the Property, those matters identified in Exhibit B attached hereto and incorporated herein by reference, and general utility easements serving the Property.

(ii) there are no special assessments against or relating to the Property; and to the actual knowledge of Seller, no assessments for public improvements have been made against the Property which are unpaid, including without limitation, those for construction of sewer and water lines, streets, sidewalks and curbs; and Seller has not received any notice of any possible future improvements that might create an assessment against any part of the Property.

(iii) no goods or services have been contracted for or furnished to the Property which might give rise to any mechanic's liens affecting all or any part of the Property.

(iv) Seller has not entered into any outstanding agreements of sale, leases, options or other rights of third parties to acquire an interest in the Property other than disclosed herein. There are no agreements to which Seller is a party, or to the best of Seller's knowledge, binding on Seller which is in conflict with this Contract. There is no action or proceeding pending or, to Seller's knowledge, threatened against the Property, including condemnation proceedings, or against the Seller which challenges or impairs Seller's ability to execute or perform its obligations under this Contract.

(v) Seller shall not further encumber the Property or allow an encumbrance upon the title to the Property or modify the terms or conditions of any existing leases, contracts or encumbrances, if any, without the written consent of Buyer.

(vi) Seller shall not enter into or accept any other agreements or contracts for the sale or conveyance of the Property;

(vii) Seller has not entered into any agreements with any state, county or local governmental authority or agency, other than those disclosed in writing to Buyer.

(viii) there are no encroachments upon the Property.

(ix) Seller has full power to sell, convey, transfer and assign the Property and has obtained any and all consents required to enter into this Contract and to consummate the transactions contemplated hereby. This Contract has been, and all of the documents to be delivered by Seller at the Closing will be, authorized and properly executed, and constitute, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms subject to rules of law and principals of equity generally applicable to the enforceability of legal obligations, including without limitation, bankruptcy, reorganization and other debtor relief laws.

(x) Seller has not received written notice of any pending condemnation proceedings relating to the Property and has no actual knowledge of any pending condemnation proceedings relating to the Property.

(xi) Seller shall use commercially reasonable efforts to maintain in existence all licenses, permits and approvals that are now in existence with respect to, and are required for, the ownership, operation, development or improvement of the Property.

(b) Each of the representations, warranties and covenants made by Seller in this Contract hereof shall not merge into the deed or other closing documents but shall survive Closing for a period of twelve (12) months thereafter. On the date that is exactly twelve (12) months after Closing, all such representations, warranties and covenants of Seller, shall terminate and expire and shall thereafter be of no further force or effect.

4. Inspection Period.

(a) Within five (5) business days after the Effective Date, Seller will deliver to Buyer copies of all documentation in Seller's possession or in Seller's control regarding the Property, including but not limited to surveys; environmental reports; soils reports; geotechnical reports; engineering studies; surveys; and title documents, including but not limited to title certificates, title insurance policies, and copies of title exceptions.

(b) Within thirty (30) days after the Effective Date, Seller will, at Seller's cost and expense, deliver to Buyer (i) an ALTA survey of the Property certified to Buyer, Seller, and such title insurance Company as Buyer shall designate (the "Survey"); (ii) a metes and bound legal description of the Property; and, (iii) proof of filing with DeKalb County, Georgia a Subdivision Sketch Plat Application to establish the Property as a legal lot in accordance with Applicable Laws.

(c) At all reasonable times prior to the Closing hereunder Buyer and Buyer's engineers, surveyors, agents and representatives shall have the right to go on the Property to inspect, examine and survey the same and otherwise do what is reasonably necessary or prudent to determine the boundaries of the Property and to make all reasonably necessary or prudent (as determined by Buyer) tests to verify the accuracy of the warranties of Seller with respect to the condition of the Property and to determine the suitability of the property for Buyer's intended use. Buyer shall have the right to conduct such environmental testing as Buyer deems appropriate. Should an environmental problem be discovered requiring remediation, Buyer shall have the option of performing any remediation necessary or declaring the Contract null and void. Buyer shall indemnify and hold Seller harmless from all losses, claims, damages and suits resulting from Buyer or Buyer's agents inspecting or testing the Property pursuant to this paragraph. Should Buyer proceed with the purchase of the Property following the Inspection Period, Buyer agrees to accept the Property "AS IS" and to hold Seller harmless from any claim related to the condition of the Property, subject only to Section 7 below and Seller's representations and warranties that expressly survive Closing.

(d) Within the Inspection Period the Parties will agree upon an operation and easement agreement (the "OEA") in which (i) Seller grants to Buyer, for the benefit of the Property, easements to utilize outdoor common space such as patios, yards, and other such uses incidental to the Town Green Mixed-Use Project to serve as outdoor dining and amenity spaces and, further, (ii) Buyer or its designee assumes responsibility for the maintenance, repair, and cleaning of any and all patios, walkways, sidewalks, lawns, greenspace, streetscapes, and other public amenity areas and spaces within the Town Green Mixed-Use Project (including the "Public Restrooms" defined below), (iii) Seller agrees, in cooperation with the City of Avondale Estates, to provide security for the public areas of Town Green Park and Town Green Mixed-Use Project; (iv) the Parties agree on the protocols of coordination between Buyer's construction of the Town Green Mixed-Use Project and, if and as applicable, Seller's construction of the parking deck described in Section 8 of the Development Contract; and (v) Seller covenants to pay Buyer one-half (1/2) of all expenses incurred by Buyer to perform its maintenance, repair, and cleaning obligations in regard to the Public Restrooms. The OEA shall contain provisions relating to the public restroom facilities to be included in the "Town Green Buildings" as defined in the Development Contract (the "Public Restrooms"), including but not limited to the following provisions:

- (i) The Public Restrooms shall be open and available to the public during all normal business hours of the Town Green Park.

(ii) The Public Restrooms will be constructed as part of the Town Green Buildings at the sole cost and expense of Developer in accordance with the Development Contract and delivered upon completion of construction of the Town Green Buildings as evidenced upon the issuance of a *Certificate of Occupancy* by the City.

(e) Buyer has the right to extend the Inspection Period for two (2) periods of sixty (60) days each. Buyer shall exercise each extension right, if at all, not later than the expiration of the Inspection Period, as earlier extended if applicable.

(f) Buyer may in its sole discretion terminate this Contract by written notice to Seller within the Inspection Period, as extended, if Buyer determines that the Property is not suitable for development in accordance with the Development Contract.

5. Objections to Title.

(a) Buyer shall obtain an owner's title insurance commitment (collectively, with all updates thereto, the "Title Commitment") issued by a national title insurance company. Not later than the expiration of the Inspection Period, as may be extended, Buyer may deliver to Seller a statement of any objections to title and survey matters affecting the Property shown on the Title Commitment and the Survey. Within thirty (30) days after receipt of Buyer's objection notice, Seller shall deliver a notice to Buyer indicating whether Seller will cure each objection or take no further action with regard to each objection. If Seller fails timely to deliver its response, Seller shall be deemed to have elected to take no further action with regard to all of the objections. If Seller states in its response that Seller will cure an objection, Seller shall, as a condition of Buyer's obligation to close, cure the objection on or prior to Closing Date. If Seller elects (or is deemed to have elected) not to cure all objections set forth in Buyer's objection notice, Buyer may prior to Closing deliver notice to Seller that Purchaser elects to (i) terminate this Agreement, in which event all rights and obligations of the parties under this Agreement shall expire other than those that are expressly provided herein to survive the termination of this Contract and the Development Contract; or (ii) waive any such objections that Seller has not elected to cure and elect to close. If Buyer fails to deliver notice in accordance with the immediately preceding sentence, Buyer shall be deemed to have elected to proceed to Closing. Notwithstanding anything herein to the contrary, at or before Closing, Seller shall (a) cause to be released any mortgages, deeds of trust, or deeds to secure debt that encumber the Property and (b) cause to be cancelled and discharged any mechanics', contractors' or similar liens that encumber the Property regardless of whether Buyer objects thereto.

(b) Buyer shall have until Closing to obtain a re-examination of title of the Property, update the Survey and give Seller written notice of objection to any title or survey matters first disclosed by the updated title search or survey update. In such event Closing shall be automatically extended as reasonably necessary to allow Seller an opportunity to cure such

objections, but in no event shall the Closing be extended more than thirty (30) days. If Seller within thirty (30) days after Buyer's notice either elects not to cure or fails to respond, or if Seller is unable to cure all the new objections by Closing, then Buyer may prior to Closing deliver notice to Seller that Purchaser elects to (i) terminate this Agreement, in which event all rights and obligations of the parties under this Agreement shall expire other than those that are expressly provided herein to survive the termination of this Contract and the Development Contract; or (ii) waive any such objections that Seller has not elected to cure and elect to close. If Buyer fails to deliver notice in accordance with the immediately preceding sentence, Buyer shall be deemed to have elected to proceed to Closing.

(c) Notwithstanding anything herein to the contrary, at or before Closing, Seller shall, regardless of whether Buyer objects thereto, (i) cause to be released any mortgages, deeds of trust, or deeds to secure debt that encumber the Property and (ii) cause to be cancelled and discharged any mechanics', contractors' or similar liens that encumber the Property.

(d) Notwithstanding anything herein to the contrary, Buyer may object only to title and survey matters that would have a material adverse effect on the Property or Buyer's development, financing, or operation, thereof.

6. Closing.

(a) The purchase and sale hereunder shall be closed on or before the Closing Date, time being expressly made of the essence of this Contract. The Closing shall be conducted at a location in the Metro Atlanta, Georgia area and in accordance with a procedure to be agreed upon by the Parties.

(b) At Closing, Seller shall execute and deliver or cause to be delivered to Buyer the following:

(i) A Limited Warranty Deed sufficient to transfer and convey good, marketable, and insurable fee title to the Property to Buyer pursuant to the terms and provisions of this Contract, subject only to such exceptions as Buyer approves, and containing the re-purchase right of Seller stated in Section 7 of the Development Contract;

(ii) An Owner's Affidavit and additional documents as may be required by the Title Company in such form as is necessary to enable the Title Company to remove all standard exceptions, including, any liens and parties in possession exceptions. The Owner's Affidavit or such additional documents shall run to the benefit of the Buyer and the Title Company, shall be in such form and content acceptable to Buyer and the Title Company and shall contain without limitation the following information:

(A) there are no outstanding unrecorded contracts of sale, options, leases or other arrangements with respect to the Property to any person other than Buyer.

(B) the Property is being conveyed unencumbered except for the permitted exceptions stated therein, if any.

(C) no construction or repairs have been made by Seller nor any work done to or on the Property by Seller which have not been fully paid for, nor any contract entered into, nor anything done the consequence of which could result in a lien or a claim of lien to be made against the Property.

(D) there are no parties in possession of the Property being conveyed other than Seller.

(E) there are no filings in the office of the Clerk of the Courts of DeKalb County, nor in the office of the Secretary of State which indicate a lien or security interest in, on or under the Property which will not be released or terminated at Closing.

(iii) An Affidavit in compliance with the Foreign Investment in Real Property Tax Act of 1980, as amended, affirming that the Seller is not a "foreign person" as defined by the Internal Revenue Code;

(iv) An Affidavit of Seller's Residence pursuant to O.C.G.A. §48-7-128 establishing that Seller is a resident of Georgia;

(v) A settlement statement;

(vi) the OEA; and

(vii) All other documents as may be required to be executed and delivered to complete this transaction as contemplated hereunder.

At Closing, Seller shall cause the Property to be released from any and all deeds of trust, security agreements, financing statements and other security interests relating to any indebtedness, lien or encumbrance that is secured in whole or in part by the Property; and deliver possession and occupancy of the Property to Buyer.

(c) All closing costs involved in the purchase of this Property (other than attorney's fees incurred by Seller) shall be paid by Buyer.

7. Conditions to Closing. The obligation of Buyer under this Contract to purchase

the Property is hereby expressly made subject to satisfaction of each of the following conditions in Buyer's reasonable determination:

- (a) Each and every warranty or representation made by Seller in this Contract and in the Development Contract is true as of the Effective Date and as of the Closing Date of;
- (b) Seller delivers to Buyer all of the items required to be delivered to Buyer by Seller pursuant to the terms of this Contract, including but not limited to, those provided for in Section 6 (b);
- (c) Seller performs and observes, in all material respects, all covenants and agreements of this Contract and the Development Contract to be performed and observed by Seller;
- (d) Buyer obtains all permits and approvals required by Applicable Laws for development of the Town Green Mixed-Use Project, including but not limited to construction of the Town Green Buildings;
- (e) Developer obtains equity and debt commitments sufficient to finance the development of the Town Green Mixed-Use Project;
- (f) Title Company commits to issue to Buyer at Closing an owner's policy of title insurance in form and substance reasonably acceptable to Buyer; and
- (g) DDA satisfies the "Parking Contingency" set forth in the Development Contract unless waived by Buyer pursuant to this Contract.

In the event any of the foregoing conditions has not been satisfied by the Closing Date, Buyer shall have the right to terminate this Contract by written notice given to Seller on the Closing Date, whereupon the Parties shall have no further rights, duties or obligations hereunder, other than those that are expressly provided herein to survive the termination of this Contract and the Development Contract. The foregoing conditions are solely for Buyer's benefit.

8. No Broker.

Seller and Buyer hereby warrant and covenant to each other that no real estate brokers or agents are involved in this transaction, with the consequence that no real estate commission shall be paid as a result of the closing of this transaction. The warranty and representation in the immediately preceding sentence will survive Closing or earlier termination of this Agreement.

9. Notices.

All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered by hand (which may be by local courier), or sent prepaid by Federal Express (or a comparable overnight delivery service), at the addresses and with such copies as designated below and in all events with a copy of such notice, request, demand or other communication sent by email transmission at the same time such notice, request, demand or other communication is sent. Any notice, request, demand or other communication delivered or sent in the manner aforesaid shall be deemed given or made (as the case may be) upon the earlier of actual receipt or when actually transmitted by email to the intended recipient provided transmitted not later than 5 P.M. on a business day (otherwise deemed given or made on the business day following transmission) and any such notice, request, or demand may be given by Seller's or Buyer's counsel, as applicable.

If to Buyer: ATG Partners, LLC
 ATTN: Jerrold L. Miller
 403 W. Ponce de Leon, Suite 104
 Decatur, GA 30308
 jmiller@fabricdevelopers.com

And ATG Partners, LLC
 ATTN: Quill Healey II
 1952 Howell Mill Road, Suite 100
 Atlanta, GA 30318
 quill@hwproperties.com

With a copy to: FisherBroyles, LLP
 ATTN: John E Taylor, Sr.
 4880 Lower Roswell Road
 Suite 165 # 412
 Marietta, GA 30068
 John.taylor@fisherbroyles.com

If to Seller: Downtown Development Authority of Avondale Estates, Georgia
 ATTN: Shannon Powell, Executive Director
 City of Avondale Estates, Georgia
 21 North Avondale Plaza
 Avondale Estates, Georgia 30020
 spowell@avondaleestates.org

With copy to: Williams Teusink, LLC
ATTN: R. Kyle Williams
The Sycamore Building
312 Sycamore Street
Decatur, Georgia 30030
kwilliams@williamsteusink.com

or to such other address as the intended recipient may have specified in a notice to the other party. Any Party hereto may change its address or designate different or other persons or entities who receive copies by notifying the other Party in a manner described in this Section 9.

10. Miscellaneous.

(a) In this Contract the neuter gender includes the feminine and masculine, and the singular number includes the plural, and the words “person” and “party” include corporation, partnership, individual, form, trust, or association wherever the context so requires.

(b) In the event either Buyer or Seller brings an action at law or other proceeding to enforce any of the terms, covenants or conditions of this Contract, the prevailing Party in any such action or proceeding shall be entitled to recover its costs and expenses incurred in such action from the other Party, including without limitation attorney’s fees as determined by the court without a jury. As used herein, the term “prevailing party” shall mean as to the plaintiff, obtaining substantially all relief sought, and such term shall mean as to the defendant, denying the obtaining of substantially all relief sought by the plaintiff.

(c) Buyer and Seller hereby agree that this Contract was entered into with the understanding that time is of the essence, and time is of the essence of each provision of this Contract.

(d) In the event any provision, or any portion of any provision, of this Contract shall be deemed to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalid, illegal or unenforceable provision or portion of a provision shall not alter the remaining portion of any provision or any other provision, as each provision of this Contract shall be deemed to be severable from all other provisions.

(e) This Contract shall be binding upon and inure to the benefit of the successors and assigns, if any, of the respective parties hereto. This Contract may be assigned by Buyer to an affiliate or subsidiary of Buyer upon the written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed; provided, that any assignee of Buyer agrees in writing to assume Buyer’s obligations hereunder, including the provisions of this paragraph.

(f) No modification of this Contract shall be effective unless in writing and signed by the Parties hereto, and any waiver granted shall not be deemed effective except for the instance and in the circumstances particularly specified therein and unless in writing and executed by the Party against whom enforcement of the waiver is sought.

(g) The Development Contract and this Contract and exhibits attached hereto constitute the entire agreement between the Parties for the purchase, sale and development of the Property. All terms and conditions contained in any other writings previously executed by the parties, verbal discussions or otherwise regarding the Property, whether prior or contemporaneous, shall be deemed to be superseded, null and void.

(h) Each Party has participated in the drafting of this Contract and the provisions of this Contract shall not be construed against or in favor of either Party.

(i) The expiration of any period of time prescribed in this Contract shall occur at 5:00 p.m. Eastern Time on the last day of the period. Should any period of time specified herein end on a Saturday, Sunday or legal holiday in the State of Georgia, the period of time shall automatically be extended to 5:00 p.m. Eastern Time on the next full business day.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have executed this Contract under seal on the Effective Date.

BUYER:

ATG Partners, LLC, a Georgia Limited Liability Company

By: Fabric Developers Avondale, LLC, a Georgia limited liability company, as manager

By: _____ (SEAL)
Jerrold L. Miller, as Manager

By: HWP Avondale, LLC, a Georgia limited Liability company, as manager

By: Healey Weatherholtz Properties, LLC, a Georgia limited liability company, as manager

By: _____
Name: _____
Title: _____

SELLER:

DOWNTOWN DEVELOPMENT AUTHORITY OF AVONDALE ESTATES, GEORGIA, by its Board of Directors:

Dave Deiters, Chair

Attest:

Shannon Powell, Executive Director
Approved as to form:

R. Kyle Williams, General Counsel

Exhibit A

Property

[Legal Description of Property to be delivered by Seller in accordance with Section 4 (b) of the foregoing Contract].

Exhibit B

Title Encumbrances

1. Matters of record.
2. Matters as shown on the Survey to be delivered by Seller in accordance with Section 4 (b) of the foregoing Contract.

Exhibit E
Recommended Storefront Design Guidelines

[see following pages]

Recommended Storefront Guidelines

The following recommended Storefront Guidelines shall govern the Town Green Mixed Use Project, Townhome Project, and Hotel & Retail Project in addition to all applicable provisions of the Avondale Estates Zoning Ordinance, Sec. 21-1.1.1 et seq.:

General Design

- Avoid Monotonous design at ground level by breaking up retail bays
- Varied storefront materials are encouraged
- Storefronts should be distinctive from the floors above and allow easy transition from one retailer to another.
- Provide design flexibility for the unique branding needs of individual tenants
- The line-of-sight should be unobstructed from one retail bay to another.
- Entries should be recessed to allow doors to swing out
- Where appropriate, slide doors and windows allow for flexibility and activities may spill onto the sidewalks
- Clear glass fenestration TO allow for transparency.
Minimum of 65% fenestration on street frontage
- Fenestration must have a minimum height of 10-feet and must begin at a point not higher than 35-inches above the sidewalk.

Awnings

- When awnings are used, they should accept the top edge of ground floor windows and door frames
- Awnings should project no more than 6-feet from the building and mounted at least 8-feet above the sidewalk.
- Awnings should be constructed of high-quality materials; use of aluminum, vinyl, or other plastic materials is not recommended.
- Under-awning lights can be used to illuminate the sidewalk and storefront
- Internally illuminated awnings should not be used.

Lighting

- Indirect lighting is welcomed
- Floodlights and other security lighting should be hidden or shielded to avoid glare
- Decorative fixtures like sconces and facade up lighting on the storefront should be encouraged.
- Storefront displays should be well lit and stay on past store closing to activate the street.

Signage

- Custom and artistic signage are required rather than conventional acrylic and/or plastic faced signs that are internally lit
- Signage should be graphically oriented or three dimensional
- Signs should be lit with small, shielded light sources as opposed to floodlighting
- Signs should be limited in size and scale in keeping with a pedestrian environment
- The architectural elements of the façade should be considered when determining the size and location of the sign
- Signage should focus on creative under canopy signs, blade signs and window signs
- Blade signs are preferred.
- Blade signs should be mounted 8-feet above the sidewalk and hung perpendicular to the sidewalk.
 - a. Two-sided blade signs shall be permitted to be mounted perpendicular to the storefront.
 - b. No sign shall extend above the parapet wall of the storefront building.
 - c. Blade signs shall provide a minimum clearance of 4” between the storefront and sign face. Blade signs shall project a maximum of 48” from the storefront and shall have a maximum 44” width.
 - d. 7’-6” clearance shall be provided between the baseline of any sign and the sidewalk.
 - e. Blade signs shall have a maximum depth of 12” if located at a height less than 9’-0”, and a maximum depth of 18” if located at 9’-0” height or higher.
- Allow chalkboard and high-design sandwich board signs.

Curb Appeal

- Sidewalk merchandise displays and planting boxes are encouraged
- Tree well fencing and planting provide an opportunity to individualize at store

Window Displays

- Window displays should be simple and easy to understand
- Keep storefronts free of windows treatments to allow unobstructed views into the store
- Keep the back of the display window open to allow the store’s interior to be visible to passing people

Street Furniture

- Encourage high quality movable street furniture. Approval of street requirement should be given in advance.
- Street furniture (umbrellas, tables, chairs, benches) should not be locked up at the end of the day.
- Low fencing can be used to frame private dining space.

- Well maintained planters are encouraged.

Exhibit F
Prohibited Use Restrictions

[see following pages]

Prohibited Use Restrictions

The following uses are prohibited in regard to the Town Green Mixed Use Project, Townhome Project, and Hotel & Retail Project in addition to all applicable provisions of the Avondale Estates Zoning Ordinance, Sec. 21-1.1.1 et seq. unless otherwise excepted and agreed upon by the DDA upon request by the Developer:

1. Any "second hand" store, "surplus" store, used clothing or thrift store, pawn shop, or "consignment" store;
2. Any retail operation in which more than twenty percent (20%) of the sales area of such operation is used for the display and/or sale of clothing or goods commonly referred to as close outs, manufacturer's overruns, or excess inventory or manufacturer's seconds of imperfect merchandise;
3. Any "small-box discount store" conducting business operating as a Family Dollar Store, Dollar Tree, Dollar General, or similar retail store offering for sale a variety of convenience shopping goods and continuously offers the majority of items in their inventory for sale at a price lower than traditional retail stores;
4. Any "big-box retailer" occupying a floor area of more than five thousand (5,000) square feet;
5. Any bowling alley, poolhall, dance hall, or discotheque as the primary business of an establishment;
6. Any movie theater occupying a floor area of more than five thousand (5,000) square feet;
7. Any use which emits or results in strong or offensive odors, fumes, dust, or vapors, is a public or private nuisance, emits noise or sounds which are actionable under applicable codes or other regulation of the City due to intermittence, beat, frequency, shrillness, or loudness, creates a hazardous condition, or is used, in whole or in part, for warehousing or the dumping or disposing of garbage or refuse; provided however, this subsection shall not apply to the operation of a barbecue or other open-fire pit cooking installation or restaurant;
8. Any operation primarily used as a storage facility and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operations;
9. Any junkyard, stockyard, or any use for dumping, disposing, incineration, or reduction or garbage (exclusive of the areas specifically designated by the Design Review Committee for such purposes);
10. Any gasoline or service station, automobile, truck, trailer, or all-terrain recreational (ATV) vehicle sales, leasing, display, or body shop repair operations; provided however, this

subsection shall not apply to the operation of a bicycle sales or rental shop, including electric bicycles;

11. Any veterinary hospital, clinic, animal raising, or boarding facility;
12. Any mortuary or funeral home;
13. Any coin-operated laundry;
14. Any "pornographic use," which shall include, without limitation, a store displaying for sale or exhibition books, magazines, or other publications containing any combination of photographs, drawings, or sketches of a sexual nature, which are not primarily scientific or educational, or a store offering for exhibition, sale, or rental, video implements (such as DVDs, video cassettes, or such subsequent advances in technology) or other medium capable of projection, transmitting, or reproducing, independently or in conjunction with another device machine or equipment, an image or series of images, the content of which has been rated or advertised generally as NC-17 or X or unrated by the Motion Picture Rating Declarant, or any successor thereto; provided, however, the parties hereto acknowledge and agree that the sale of books, magazines, and other publications by a retailer of the type normally associated with the sale of books, magazines, and other publications and normally located in a first-class retail center shall not be deemed a pornographic use hereunder;
15. Any so-called "head shop" or other establishment primarily selling or exhibiting drug-related paraphernalia, including cannabis and cannabis-derived products;
16. Any gambling activities, facility, or operation, including, but not limited to an off-track or sports betting parlor; table games such as black-jack or poker; slot machines; video poker-black-jack/keno/slot machines or similar devise; or bingo hall;
17. Any gun or ammunition shop, shooting range, or gun range;
18. Any tattoo or piercing parlor;
19. Any massage parlor;
20. Any health or wellness spa unless located on the second floor and not constituting more than 25% of the total square footage of the second floor of the Town Green Buildings and so long as not more than one (1) such use in the Town Green Buildings;
21. Any carnival, amusement park, or circus;
22. Any amusement or video arcade as the primary business of the establishment;
23. Any car wash, gasoline station, automobile repair shop, or any business performing the service of motor vehicles, including, without limitation, any quick lube oil change service,

- tire center, or service station or facility;
24. Any dry-cleaning establishment;
 25. Any hair, barber, or nail salon unless located on the second floor and not constituting more than 25% of the total square footage of the second floor of the Town Green Buildings and so long as not more than one (1) such use in the Town Green Buildings;
 26. Any tobacco shop, smoke shop, or vape shop;
 27. Any athletic club, fitness center, or gym;
 28. Any yoga, specialty fitness, or personal training studio unless located on the second floor and not constituting more than 25% of the total square footage of the second floor of the Town Green Buildings and so long as not more than one (1) such use in the Town Green Buildings;
 29. Any club or lodge;
 30. Any daycare or educational services;
 31. Any place of worship;
 32. Any bank, credit union, brokerage, or investment services unless located on the second floor and not constituting more than 25% of the total square footage of the second floor of the Town Green Buildings and so long as not more than one (1) such use in the Town Green Buildings;
 33. Any medical service unless located on the second floor and not constituting more than 25% of the total square footage of the second floor of the Town Green Buildings and so long as not more than one (1) such use in the Town Green Buildings; and,
 34. Any consumer service (i.e., consumer maintenance and repair service, personal service, studio or instructional service).

Exhibit G
Insurance Requirements

[see following pages]