

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: 25

DATE:

March 25, 2014

**RECOMMENDATION
APPROVAL OF PURCHASE AGREEMENT FOR
SALE OF COOPER BUILDING**

ACTION REQUESTED

It is recommended that the Board of Regents Approve the attached purchase agreement for the sale of the Eastern Michigan University property at 2000 North Huron River Drive, Superior and Ypsilanti Townships, Michigan 48197 ("Cooper Building") and to authorize President Susan Martin to execute all appropriate purchase, transfer and closing documents necessary for the sale.

STAFF SUMMARY

The University has agreed to sell the Cooper Building to a private entity, Associated Retinal Consultants, P.C., in accordance with the terms set forth in the attached Purchase Agreement. The sale of the property is made on an "as-is" basis. The Purchaser is allowed a 75 day period, during which time it will be permitted to conduct such inspections, investigations, appraisals, tests, and determinations of the Property as Purchaser shall desire in order to determine that the condition of the Property is acceptable and that the Property is suitable for Purchaser's intended use.

The purchase price for the Property is One Million One Hundred Thousand and 00/100 (\$1,100,000.00) dollars.

FISCAL IMPLICATIONS

The cost of the property transferred is One Million One Hundred Thousand and 00/100 (\$1,100,000.00) dollars.

ADMINISTRATIVE RECOMMENDATION

The proposed Board action has been reviewed and is recommended for Board approval.

University Executive Officer
Gloria A. Hage

Date

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made March ____, 2014 by and between **EASTERN MICHIGAN UNIVERSITY**, a public body corporate organized and existing under the laws and Constitution of the State of Michigan, whose address is 11 Welch Hall, Ypsilanti, Michigan 48197, as seller ("Seller"), and **ASSOCIATED RETINAL CONSULTANTS, P.C.**, a Michigan professional corporation, whose address is 3535 W. 13 Mile Road, Suite 344, Royal Oak, MI 48073, as purchaser ("Purchaser").

A. Seller is the owner of certain real property, interests, and improvements located, in part, in the Townships of Ypsilanti and Superior, Washtenaw County, Michigan, consisting of approximately 2.30 acres, including an approximately 12,788 square foot building commonly known as 2000 North Huron River Drive, Superior and Ypsilanti Townships, Michigan 48197, and more particularly described in this Agreement; and

B. Seller is desirous of selling and Purchaser is desirous of purchasing said real property, interests, and improvements upon the terms and conditions stated in this Agreement; and

C. Seller and Purchaser desire to set forth the consideration, terms, and conditions upon which Seller shall sell and Purchaser shall purchase said real property, interests, and improvements.

NOW, THEREFORE, with consideration for the following mutual covenants, agreements and benefits, the receipt and adequacy of which are mutually acknowledged, Seller and Purchaser agree as follows:

1. PROPERTY. The term "Property" shall mean the real property described in Exhibit A attached hereto and incorporated herein, together with the following:

1.1 Any and all improvements, tenements, hereditaments, privileges, and appurtenances thereto belonging or in any way appertaining to the Property;

1.2 Any and all leasehold interests, fixtures, equipment and other items of personalty used in connection with the Property;

1.3 Any and all licenses and permits in any way appertaining to the Property;

1.4 Any and all of Seller's right, title and interest in any and all streets, roads or avenues, open or proposed, abutting, adjacent, contiguous, or adjoining the Property, to the center line thereof;

1.5 Any and all of Seller's right, title and interest, in any and all easements, strips, and rights-of-way whether or not of record, abutting, adjacent, contiguous, or adjoining the Property;

1.6 Any and all right, title, and interest of Seller in and to any and all air, mineral, oil, gas, timber, and riparian rights in any way appertaining to the Property;

1.7 All divisions or redivisions retained by Seller regarding the Property; and

1.8 All warranties, bonds, assurances of payment or performance, rights, if any, arising under construction contracts and subcontracts and all other rights and remedies arising out of or existing in favor of Seller with respect to the construction, improvement, maintenance and/or repair of the Property and all improvements.

2. SALE AND CONVEYANCE. On the terms and subject to the conditions set forth in this Agreement, Seller agrees to sell, warrant, and convey to Purchaser by covenant deed, and Purchaser agrees to buy from Seller, the Property, for the Purchase Price as hereinafter defined, subject only to the Permitted Exceptions as hereinafter defined.

3. PURCHASE PRICE. The purchase price for the Property shall be One Million One Hundred Thousand and 00/100 (\$1,100,000.00) U.S. Dollars ("Purchase Price"). The Purchase Price shall be payable in full at Closing as hereinafter defined, by cashier's check, certified check, or wire transfer, minus the Deposit as hereinafter defined, and plus or minus the net amount of any prorations and adjustments made pursuant to this Agreement.

4. DEPOSIT. Within two (2) business days of the execution of this Agreement by Seller, Purchaser shall deliver to Title Company, as defined below, an earnest money deposit in the amount of Ten Thousand and 00/100 (\$10,000.00) U.S. Dollars, which, together with any interest earned thereon shall be referred to as the "Deposit." If Purchaser shall fail to so make the Deposit in the time and manner required by this Agreement, this Agreement shall be null and void at the option of Seller. The Deposit shall be held by the Title Company in an interest-bearing account. The Deposit shall be paid to Seller at Closing as hereinafter defined or otherwise refunded to Purchaser or disposed of as provided for in this Agreement. At Closing, Purchaser shall receive a credit against the Purchase Price for the Deposit. Seller and Purchaser acknowledge and agree that the Title Company is acting in this capacity as an accommodation to them and Seller and Purchaser agree to hold Title Company harmless from any liability or claim with respect to the Deposit, other than claims arising or resulting from Title Company's gross negligence or willful misconduct. Seller and Purchaser agree that in the event of any dispute or disagreement with respect to the Deposit, Title Company may begin an interpleader action in and tender the Deposit to the Clerk of the Circuit Court for Washtenaw County, Michigan, and Title Company shall thereafter be relieved of any and all obligations with respect to the Deposit.

5. EVIDENCE OF TITLE.

5.1 As evidence of title to the Property, Seller shall furnish at Seller's expense, and in no case later than fifteen (15) days from the date of Seller's execution of this Agreement, a commitment for an owner's policy of title insurance, without standard exceptions, issued by Seaver Title Agency ("Title Company") in the amount of the Purchase Price, dated on or after the date of this Agreement ("Title Commitment") undertaking to insure marketable fee simple title to the Property in Purchaser. The Title Commitment shall also include, at Seller's expense, one copy of all recorded liens, encumbrances, mortgages, restrictions, or exceptions shown on the Title Commitment.

5.2 If the Title Commitment shall show any liens, encumbrances, mortgages, restrictions, or exceptions, or if the Survey reveals any conditions, which, in the opinion of Purchaser and/or Purchaser's counsel, may interfere with Purchaser's use or ownership of the Property or does not provide for a marketable fee simple title to the Property, Purchaser shall

object thereto and notify Seller thereof in writing within twenty (20) days of the date on which Purchaser received both the Title Commitment, including copies of all liens, encumbrances, restrictions and exceptions, and the Survey, but in no event more than sixty (60) days after Purchaser has received the Title Commitment, and the Seller shall thereafter have ten (10) days from the date of such notice to either: (i) eliminate such liens, encumbrances, mortgages, restrictions, or exceptions, excluding liens and mortgages which can be satisfied and discharged through payment by Seller at Closing; or (ii) terminate this Agreement, whereupon the Deposit shall be immediately returned to Purchaser, and this Agreement shall thereafter be of no further force or effect; provided, however, that Seller shall be obligated to discharge any lien or mortgage at Closing which is liquidated in amount and may be discharged by the payment of money; and further provided that prior to Seller's right to terminate, Purchaser shall have the right to waive the objections or terminate as provided in Section 5.3.

5.3 With respect to any liens, encumbrances, mortgages, restrictions, or exceptions which Seller may not eliminate, Purchaser may, in Purchaser's sole discretion:

(a) In writing, consent to and waive its objections to and accept title subject to such liens, encumbrances, mortgages, restrictions, and/or exceptions; or

(b) If mutually agreed to by Seller, in writing, consent to Seller obtaining specific title insurance, at Seller's sole cost and expense, insuring over the objectionable liens, encumbrances, mortgages, restrictions, or exceptions, and waive any further objection; or

(c) Terminate this Agreement, whereupon the Deposit shall be immediately returned to Purchaser, and this Agreement shall thereafter be of no further force or effect.

The liens, encumbrances, mortgages, restrictions, or exceptions to title shown on the Title Commitment which are so insured or to which Purchaser so consents, are referred to in this Agreement as "Permitted Exceptions."

5.4 Purchaser may require the Title Company to mark-up the Title Commitment at Closing to make the Title Commitment effective immediately after the Closing, and to delete such requirements of the Title Commitment and such liens, encumbrances, mortgages, restrictions, and exceptions as are satisfied at Closing. At Closing, Seller shall deliver to the Title Company a standard form of owner's affidavit and, if required, owner's indemnity as the Title Company shall reasonably require in order to delete the standard exceptions to the Title Commitment. Moreover, if desired by Purchaser, the Title Commitment shall also include such additional insurance by a zoning endorsement, access endorsement, contiguity endorsement, comprehensive endorsement, boundary/restrictions endorsement, or other endorsement, each if and as available, as Purchaser may reasonably request, but in each case, the cost of such endorsement shall be paid by Purchaser.

5.5 After Closing, a final policy of title insurance issued pursuant to the Title Commitment, in the form of an American Land Title Association Owner's Policy, Standard Form B, effective as of the time of Closing, in the amount of the Purchase Price, shall be delivered to Purchaser at Seller's cost (except Purchaser shall be responsible for the cost of endorsements as provided in Section 5.4 hereof) insuring marketable fee simple title to the Property in Purchaser, subject only to the Permitted Exceptions.

6. SURVEY. Purchaser may, at its option and expense, procure a ALTA boundary survey of the Property and all buildings, structures, and improvements thereon prepared by a registered land surveyor licensed in the State of Michigan and certified not earlier than the date of this Agreement to Purchaser, the Title Company, and Purchaser's mortgage lender, if any ("Survey"). The Survey shall be in such form and content as is acceptable to Purchaser in Purchaser's sole discretion. At any time during the title comment period referred to in Section 5.2 above, Purchaser may, in Purchaser's sole discretion, determine that the condition of the Property as reflected on the Survey is not acceptable and terminate the Agreement by written notice to the Seller. Thereupon, the Deposit shall be immediately returned to Purchaser, and this Agreement thereafter shall be of no further force or effect. Within ten (10) days from the date of Seller's execution of this Agreement, Seller shall provide Purchaser with a copy of all boundary surveys of the Property in Seller's possession, if any, that have not previously been provided to Purchaser.

7. INSPECTION PERIOD.

7.1 Upon Seller's execution of this Agreement, Purchaser and Purchaser's agents, employees, contractors, and consultants shall have a period of Seventy-Five (75) days, as hereinafter provided, to conduct such inspections, investigations, appraisals, tests, and determinations of the Property as Purchaser shall desire in order to determine, in Purchaser's sole opinion, that the condition of the Property is acceptable and that the Property is suitable for Purchaser's intended use (as such period may be extended under this Agreement, the "Inspection Period"). Purchaser agrees to provide twenty-four (24) hours' notice to Seller of its intent to enter upon the Property for the purposes of such inspections, investigations, appraisals, tests, and determinations. Such inspections, investigations, appraisals, tests and determinations of the Property during the Inspection Period shall include, but shall not be limited to, inspecting structural, mechanical and electrical systems, inquiring as to the existence of utility services, public services, and access; inquiring as to applicable zoning ordinances, use regulations, and business codes; conducting soil tests of the Property, borings, and other engineering and architectural tests; investigating the environmental conditions which exist at the Property (including, a wetland survey, a Phase I and Phase II environmental assessment and a baseline environmental assessment with due care plan, if necessary) and the Property's compliance with all applicable state and federal environmental laws and regulations; determining the availability of any governmental approvals or permits; applying for and obtaining financing for the purchase; and having the value of the Property appraised. The cost of any and all such inspections, investigations, appraisals, tests, and determinations shall be paid for by the Purchaser.

Prior to entering upon the Property, Purchaser shall obtain, maintain and provide Seller, or shall cause any consultant, contractor or other person entering the Property to obtain, maintain and provide Seller, with proof of comprehensive general liability insurance in the amount of at least \$1,000,000 per occurrence and \$2,000,000.00 in the aggregate and with coverages reasonably satisfactory to Seller. Purchaser shall indemnify, defend and hold Seller, its officers, directors, agents and employees, harmless for, from and against any and all claims, damages, costs, liabilities and losses (including from construction liens, property damage and personal injury, including death) to the extent arising out of or resulting from any entry onto the Property by Purchaser or its agents, consultants, contractors, designees or representatives. This indemnity obligation of Purchaser shall survive any termination of this Agreement.

7.2 Within ten (10) days after Seller's execution of this Agreement, Seller shall provide Purchaser with a copy of any results or reports of any such inspections, investigations, appraisals, tests, and determinations of the Property in its possession. Seller acknowledges that during the Inspection Period or at any time before or after Closing, if the Property is determined to be a "Facility," Purchaser may prepare and file with the Michigan Department of Environmental Quality ("MDEQ") a baseline environmental assessment (with due care plan) ("BEA").

7.3 The initial Inspection Period may be extended for an additional period of Thirty (30) days by Purchaser providing Seller with written notice thereof within the initial Inspection Period, if: (a) Purchaser determines that such inspections, investigations, tests or evaluations of the environmental conditions which exist at the Property cannot be completed to Purchaser's reasonable satisfaction during the initial Inspection Period or if Purchaser is unable to complete, prepare and file, in a form reasonably satisfactory to Purchaser, the BEA with the MDEQ; or (b) Purchaser has not received all necessary or desirable municipal and other regulatory approvals for any zoning, use, site plan or other regulatory modifications or applications which Purchaser may elect to pursue, including without limitation seeking to have the Property rezoned for medical use.

7.4 At any time during the Inspection Period, Purchaser may, in Purchaser's sole opinion, determine that the condition of the Property is not acceptable or that the Property is not suitable for Purchaser's intended use by providing Seller with written notice thereof. Thereupon, Purchaser may, in Purchaser's sole discretion, terminate this Agreement whereupon the Deposit shall be immediately returned to Purchaser and this Agreement shall thereafter be of no further force or effect. If Purchaser shall fail to provide such written notice to Seller prior to the expiration of the Inspection Period, Purchaser shall be deemed to have accepted the condition of the Property and Purchaser shall be obligated to proceed with Closing in accordance with the other terms and conditions of this Agreement.

8. COVENANTS OF SELLER. Seller covenants with Purchaser that during the term of this Agreement:

8.1 Seller shall not sell, transfer, assign, convey, or dispose of any of its rights under this Agreement or in the Property.

8.2 Seller shall not grant any lien or encumbrance on or permit any lien or encumbrance on the Property.

8.3 Seller shall not grant any easement or right-of-way in or on the Property.

8.4 Seller shall not grant or modify (other than to terminate) any lease, license, or other right to use or occupy the Property to any person other than an entity affiliated with Seller that is terminable at or prior to the Closing.

8.5 Seller shall maintain the Property in its existing condition, except for fire or any other casualty occurring to the Property in which Purchaser takes an assignment of the proceeds pursuant to Section 15.

8.6 Seller, or its tenant, shall not materially modify the use of the Property from its

existing use.

8.7 Seller shall not alter, modify, improve, or impair any structure on the Property in any respect.

8.8 Seller shall continue to insure the Property, including all buildings and improvements, for the replacement cost of the buildings and improvements, against loss or damage under a policy or policies of fire and extended coverage insurance, including additional perils.

8.9 Seller shall pay all real and personal property taxes and assessments levied against the Property during the term of this Agreement.

8.10 In connection with Purchaser's investigation of the environmental condition of the Property, Seller shall reasonably cooperate with Purchaser's environmental consultant and timely complete and provide Purchaser and its consultant with a customary environmental disclosure with regard to Seller's knowledge concerning the environmental condition of the Property. To the extent there is any change in Seller's response/disclosure during the term of this Agreement, Seller shall promptly inform Purchaser and update Seller's disclosure.

9. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller represents and warrants to Purchaser as of the date of this Agreement that:

9.1 To Seller's actual knowledge, there are no unrecorded liens, encumbrances, mortgages, restrictions or easements on or against the Property which are not of record.

9.2 To Seller's actual knowledge, no fact or condition exists that would result in the termination or impairment of access to the Property or the discontinuation of necessary utilities or services.

9.3 There are no pending or, to Seller's actual knowledge, threatened actions, suits, claims, or proceedings against Seller, the Property, or otherwise affecting the Property at law or in equity or before any federal, state, or local governmental department or agency.

9.4 Seller has not received notice that the Property or the operation of the Property violates any law, ordinance or regulation.

9.5 Subject to approval by the Board of Regents of Seller, Seller has duly and validly authorized and executed this Agreement and Seller has full power and authority to enter into and perform its obligations under this Agreement.

9.6 Seller is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and Seller is not categorized as a "specially designated national" by the Office of Foreign Assets Control.

9.7 Seller is not a party to or bound by any agreement of any kind whatsoever (including leases, licenses, options and rights of refusal or first offer), written or verbal, which might affect the Property, other than those that have been disclosed to Purchaser in writing or

are terminable at will by Seller or Purchaser without recourse or liability against Purchaser or the Property.

At the Closing Seller shall provide an update on the status of the foregoing as of the date of the Closing. The foregoing representations and warranties shall be continuing and shall survive the Closing for a period of twenty-four (24) months.

10. WARRANTIES AND REPRESENTATIONS OF PURCHASER. Purchaser represents and warrants to Seller as of the date of Closing that Purchaser (or if assigned by Purchaser to an entity to be formed, the assignee) shall have duly and validly authorized and executed this Agreement or ratified its earlier execution and that Purchaser has full power and authority to enter into and perform its obligations under this Agreement.

11. CLOSING. The consummation of the sale and purchase of the Property ("Closing") shall take place within Fifteen (15) days of the expiration of the Inspection Period, provided that all of the conditions precedent and contingencies to Closing as set forth in this Agreement have been satisfied or waived in writing by Purchaser; and provided further, that the Closing shall not occur before May 5, 2014 without the prior written consent of Seller. The Closing shall be held at Seller's offices or such other place as the parties may mutually select.

11.1 The Closing shall be consummated by the following, in form and content consistent with the requirements of this Agreement:

(a) The execution and delivery by Seller to Purchaser of a covenant deed, subject only to the Permitted Exceptions and including Seller's right to make further land divisions of the Property.

(b) The execution and delivery of a closing settlement statement duly executed by Seller and Purchaser providing for the prorations and adjustments required by this Agreement.

(c) The execution and delivery by Seller to Purchaser of an affidavit certifying that Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, which shall include Seller's federal employer identification number.

(d) Payment by Purchaser to Seller of the Purchase Price minus the Deposit and plus or minus the net amount of any prorations and adjustments required by this Agreement.

(e) The execution and delivery by Seller to Purchaser of a bill of sale.

(f) The execution and delivery by Seller of an owner's affidavit and, to the extent necessary for the removal of the standard exceptions, an owner's affidavit in the form(s) required by the Title Company for the removal of its standard exceptions.

(g) The execution and delivery by Seller to Purchaser of a resolution or other evidence of the Seller's authority and the authorization of the purchase.

(h) Seller shall furnish exclusive occupancy of the Property to Purchaser at Closing, subject to no tenants, licensees or other persons, and Seller shall provide satisfactory evidence that any and all leases have been terminated.

(i) The execution and delivery by Seller to Purchaser of any other Closing documents that Purchaser may reasonably require.

12. CONDITIONS PRECEDENT AND CONTINGENCIES TO PERFORMANCE OF AGREEMENT. Purchaser's obligation to consummate the purchase of the Property is absolutely contingent and conditional on the satisfaction of, or Purchaser's written waiver of, each of the following conditions precedent:

12.1 Seller shall be able to convey marketable fee simple to and possession of the Property in the condition required under this Agreement.

12.2 Purchaser shall not have terminated this Agreement pursuant to Section 7.4 above.

12.3 The representations and warranties of Seller under this Agreement are true and correct when made and as of the Closing.

12.4 Seller shall not be in default of this Agreement.

12.5 Seller shall have produced copies of all terminations of lease, if applicable, or terminations of other agreements relating to the Property. Seller shall also provide exclusive occupancy of the Property to Purchaser at Closing, and the Property shall be free of all rubbish, debris, obsolete equipment, inventory and supplies of the prior tenants/owners.

12.6 Seller shall have maintained the Property in the condition required hereunder during the term of this Agreement.

12.7 Seller shall deliver to Purchaser and Title Company, if required by the Title Company, evidence of resolutions adopted by its governing body authorizing the execution and performance of this Agreement, and the sale of the Property as contemplated under this Agreement.

12.8 If any of the foregoing conditions precedent or contingencies are neither satisfied nor waived by Purchaser in writing, in Purchaser's sole discretion, as of the Closing, Purchaser shall have the right to terminate this Agreement whereupon, the Deposit shall be immediately refunded to Purchaser, and this Agreement shall thereafter be of no further force or effect.

Seller's obligations under this Agreement, including the obligation to close, are absolutely contingent and conditional on the formal approval of this Agreement and the transaction contemplated hereby by Seller's Board of Regents during Seller's regularly scheduled Board of Regents meeting on March 25, 2014 ("Board Meeting"). If this condition and contingency is not satisfied as of the Board Meeting, Seller may terminate this Agreement within ten (10) business days after the Board Meeting. Upon any such termination, (i) the Deposit shall be immediately refunded to Purchaser, (ii) Seller shall reimburse Purchaser for

Purchaser's reasonable out of pocket expenses to third parties to date (exclusive of attorney's fee) relative to Purchaser's investigations of the Property promptly after Purchaser turns over the same to Seller (with an assignment of the rights to use the same, but without representation or warranty as to the completeness or accuracy thereof), and (iii) this Agreement shall be of no further force or effect.

13. PRORATIONS AND ADJUSTMENTS.

13.1 All taxes, penalties and interest on or otherwise affecting the Property for which bills have been issued prior to the date of Closing shall be paid by Seller and all taxes for which bills are issued after the date of Closing shall be paid by Purchaser notwithstanding the fact that such taxes may have become a lien upon or against the Property as a result of PA 80 and PA 219 of 1994. Current taxes, being the winter and summer tax bills issued for the Property within the twelve (12) months immediately preceding the Closing, shall be prorated and adjusted as of the date of Closing in accordance with the due date basis of the municipality or taxing unit in which the Property is located. If Seller is tax exempt, the foregoing proration of the ad valorem real property taxes shall not be applicable, and Purchaser shall pay all such taxes for which bills are issued after the date of Closing.

13.2 All assessments due, even if payable in installments, including any special, water, and sewer use charges, shall be prorated and adjusted as of the date of Closing. Seller shall escrow with the Title Company at Closing such amount estimated by Purchaser as being necessary to cover such water or sewage charges as of the Closing.

13.3 All state and county transfer taxes shall be paid by Seller at Closing. The cost of recording the covenant deed shall be paid by Purchaser.

13.4 Notwithstanding Sections 13.1 and 13.2 above, there will be no prorations until the date of possession if Seller continues to occupy the Property after the date of Closing (which is not intended to and does not permit Seller to retain possession).

13.5 Purchaser and Seller shall each pay one-half of any escrow fees or charges for the Title Company to close the transaction.

14. CONDEMNATION OF PROPERTY BEFORE CLOSING. If, at any time before Closing, any authority having the right of eminent domain shall commence any legal action for the temporary or permanent taking or acquisition of all or any part of the Property, Seller shall immediately give written notice thereof to Purchaser and, Purchaser shall have the right, upon providing Seller with written notice thereof, to consummate the purchase of the Property as provided by this Agreement with a reduction being made in the Purchase Price in an amount equal to any proceeds received by Seller prior to Closing resulting from a condemnation award or judgment and an assignment from Seller of the right to receive any and all future proceeds of any condemnation award or judgment. If Purchaser shall elect to not so consummate the purchase of the Property, upon written notice thereof to Seller, Purchaser may terminate this Agreement, whereupon the Deposit shall be immediately returned to Purchaser, and this Agreement shall thereafter be of no further force or effect.

15. DAMAGE OR DESTRUCTION OF PROPERTY BEFORE CLOSING. If, at any time before Closing, all or any part of the Property is damaged or destroyed by any casualty or loss

whatsoever, Seller shall immediately notify Purchaser in writing of such damage, and Purchaser shall have the right, upon providing written notice thereof to Seller to either consummate the purchase of the Property as provided in this Agreement whereupon Purchaser shall take the proceeds of any insurance covering such damage or destruction of the Property or terminate this Agreement whereupon the Deposit shall be immediately returned to Purchaser, and this Agreement shall thereafter be of no further force or effect.

16. DEFAULT.

16.1 If Purchaser defaults under this Agreement, provided Seller is also not in default, then Seller's sole and exclusive remedy, after notice to Purchaser and reasonable opportunity to cure, shall be to terminate this Agreement by giving written notice thereof to Purchaser, whereupon the Deposit shall be retained by Seller as liquidated damages, as Seller's sole and exclusive remedy on account of such default hereunder by Purchaser, and neither party shall have any further liability or obligation to the other.

16.2 If Seller defaults under this Agreement, provided Purchaser is also not in default, then Purchaser's sole and exclusive remedy shall be to either:

(a) Terminate this Agreement by written notice to Seller, whereupon the Deposit shall be immediately returned to Purchaser; or

(b) Be entitled to seek the specific performance of this Agreement by Seller in a court of equity.

16.3 The parties acknowledge and agree that actual damages in any such event of default are uncertain in amount and difficult to ascertain and that the foregoing amounts of liquidated damages have been reasonably determined by the parties.

17. AS-IS, WHERE-IS Transaction; Seller Release. PURCHASER ACKNOWLEDGES AND AGREES THAT IT WILL HAVE AN OPPORTUNITY TO INSPECT THE PROPERTY AND THAT, EXCEPT AS PROVIDED IN THIS AGREEMENT, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EITHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY, INCLUDING WITHOUT LIMITATION COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS OR ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. ADDITIONALLY, PURCHASER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER AND AGREES TO ACCEPT THE PROPERTY AT THE CLOSING. TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS. THE PROVISIONS OF THIS SUBSECTION SHALL SURVIVE THE CLOSING OR ANY TERMINATION HEREOF.

18. BROKERS. Seller represents and covenants to Purchaser that Seller has not utilized and will not during the term of this Agreement utilize the services of any broker or finder in connection with the sale or purchase of the Property. Purchaser represents and covenants to Seller that Purchaser has not utilized and will not during the term of this Agreement utilize the services of any broker or finder in connection with the purchase or purchase of the Property. Seller and Purchaser shall indemnify, defend, and hold each other and their shareholders, partners, officers, directors, members, managers, employees, and agents harmless from any and all claims, demands, liabilities, costs, expenses, penalties, and damages (including reasonable attorney fees) for any and all such commissions or fees related to their breach of the foregoing representation.

19. GENERAL PROVISIONS.

19.1 Integration and Merger. This Agreement, together with the attached schedules and exhibits, constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes any prior discussions, negotiations, agreements, and understandings. This Agreement and its terms, representations, warranties and covenants shall survive the Closing and shall not merge into title to the Property.

19.2 Choice of Law. This Agreement shall be governed and controlled in all respects by the laws of the State of Michigan, including as to interpretation, enforceability, validity, and construction without giving effect to any choice or conflict of law provision or rule (whether of the state of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the state of Michigan.

19.3 Choice of Forum. The parties submit to the exclusive jurisdiction in Michigan for all disputes under this Agreement. Additionally, the parties stipulate that the venue of the Circuit Court for the County of Washtenaw, State of Michigan, or if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan is convenient with respect to any action arising, directly or indirectly, out of this Agreement.

19.4 Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient if delivered personally, mailed by certified or registered mail, return receipt requested, or sent via facsimile if receipt is acknowledged. Notice shall be deemed to have been given when personally delivered, two business days after having been mailed by certified or registered mail, return receipt requested, or one business day after acknowledgment of receipt of notice via facsimile transmission.

If to Seller: Eastern Michigan University
Attn: John Lumm
Chief Financial Officer
101 Welch Hall
Ypsilanti, MI 48197
Facsimile: (734) 487-6778

With a copy to
Seller's Counsel: Cameron H. Piggott, Esq.
Dykema Gossett PLLC
400 Renaissance Center

Detroit, Michigan 48243
Facsimile: (855) 250-3654

If to a Purchaser: Associated Retinal Consultants, P.C.
Michael Trese, M.D., President
39650 Orchard Hill Place
Suite 200
Novi, MI 48375
Facsimile: (248) 319-0170

With a copy to
Purchaser's counsel: William H. Heritage, III
Giarmarco, Mullins & Horton, P.C.
Tenth Floor Columbia Center
101 West Big Beaver Road
Troy, Michigan 48084
Facsimile: (248) 404-6304

19.5 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law. If any provision is prohibited by or invalid under applicable law, it shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

19.6 Amendment. The terms of this Agreement may not be varied or modified in any manner, except in a subsequent writing executed by both parties.

19.7 Assignment. Purchaser shall have the right to assign all of its right, title, and interest in and to this Agreement to a corporation, limited liability company or other entity to be formed, in which case references in this Agreement to "Purchaser" shall be deemed to mean such corporation, limited liability company or other entity, and Purchaser shall have no liability under this Agreement. Otherwise, neither Purchaser nor Seller shall have the right to assign any of their rights, duties or obligations under this Agreement without the consent of the other party. In the event of a permitted assignment, this Agreement shall be binding upon and inure to the benefit of the Purchaser's successors and assigns.

19.8 Confidentiality. The parties agree that this Agreement and the specific terms of this Agreement shall remain confidential and shall not be disclosed to any person other than each party's respective attorneys, advisors, and consultants, and further as may be required by applicable law.

19.9 Counterparts. This Agreement may be executed in one or more counterparts (including electronically or by facsimile), each of which shall be deemed an original, but all of which shall be considered one instrument and shall become a binding agreement when one or more counterparts have been signed by each of the parties and delivered to the other.

19.10 Titles. Titles and headings to articles, sections, or paragraphs in this Agreement are inserted for convenience of reference only and are not intended to affect the interpretation or construction of the Agreement.

19.11 Attorney Review. The parties represent that they have carefully read this Agreement and have consulted with their respective attorneys. The parties affirmatively state that they understand the contents of this Agreement, and sign this Agreement as their free act and deed.

19.12 Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any third party other than the parties to this Agreement and their respective successors and permitted assigns.

19.13 Time. Time is of the essence in this Agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

SELLER:

Eastern Michigan University

By: _____

Name: _____

Its: _____

PURCHASER:

Associated Retinal Consultants, P.C.

By: _____
Michael Trese, M.D.

Its: President

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY**

Certain real estate located in the Townships of Ypsilanti and Superior, County of Washtenaw, State of Michigan, described as follows:

*REWRITE/W.D. L3225 P471(10/01/01) SU 31-13C PCL" II" COM AT NE COR SEC 6 YPSI TWP, TH SOUTH 703.18 FT TO C/L HURON RIVER DR, TH N 76-06-00 W 8.09 FT, TH N 58-28-00 W 1079.80 FT TO POB, TH N 23-34-00 E 521.80 FT, TH N 48-02-00 W 85.00 FT, TH S 26-49-00 W 534.00 FT TO C/L, TH S 58-28 E 112.00 FT TO POB. ALSO LAND LYING BETWEEN ABOVE PCL & HURON RIVER. 0.94 AC.

REWRITE/W.D. L3225 P471 (10/01/01) SU 31-13B PCL "I" COM AT NE COR SEC 6 YPSI TWP, TH SOUTH 703.18 FT TO C/L HURON RIVER DR, TH N 76-06-00 W 8.09 FT, TH N 58-28-00 W IN C/L 967.80 FT TO POB, TH N 58-28-00 W 112.00 FT, TH N 23-34-00 E 521.80 FT, TH S 48-02-00 E 85.00 FT, TH S 20-10-00 W 511.36 FT TO POB. ALSO LAND LYING BETWEEN ABOVE PCL & HURON RIVER. 0.75 AC.

YP#6-1C COM AT THE NE COR OF THE SEC, TH S 88 DEG 32' 30" W 878.70 FT IN THE N LINE OF THE SEC FOR A PL OF BEG, TH S 23 DEG 34' W 124.52 FT, TH N 58 DEG 28' W 112 FT IN THE CENTER LINE OF HURON RIVER DRIVE, TH N 26 DEG 49' E 58.88 FT, TH N 88 DEG 32' 30" E 118.71 FT IN THE N LINE OF SEC TO THE PL OF BEG, BEING A PART OF THE E FRL 1/2 OF NE FRL 1/4 SEC. 6 T3S R7E 0.23 AC.

YP#6-1B COM AT THE NE COR OF THE SEC, TH S 88 DEG 32' 30" W 768.52 FT IN THE N LINE OF THE SEC FOR A PL OF BEG, TH S 20 DEG 10' W 186.98 FT, TH N 58 DEG 28' W 112 FT IN THE CENTER LINE OF HURON RIVER DRIVE, TH N 23 DEG 34' E 124.52 FT, TH N 88 DEG 32' 30" E 110.18 FT IN N LINE OF SEC TO PL OF BEG, BEING A PART OF THE E FRL 1/2 OF NE FRL 1/4 SEC. 6 T3S R7E 0.38 AC.

Commonly known as: 2000 North Huron River Drive, Ypsilanti, MI 48197

Property ID's: J-10-31-400-007
 J-10-31-400-008
 K-11-06-100-001
 K-11-06-100-002

*Subject to verification after receipt of the title commitment and survey.