

## RESTRICTIVE USE AGREEMENT

This Restrictive Use Agreement (“Agreement”) is made and entered into as of the \_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Baltic, South Dakota, a municipal corporation (“City”), and the Baltic Area Development Foundation, a South Dakota nonprofit corporation (“Foundation”).

### 1. Property

The real property subject to this Agreement is described in Exhibit A attached hereto and incorporated by reference (“Property”).

### 2. Purpose

The City is transferring the Property to the Foundation for economic development purposes, and the City requires the Foundation to comply with specific use, sale, and proceeds-management restrictions to ensure the Property is used in a manner that benefits the community and is consistent with the City’s economic development objectives.

### 3. Minimum Sale Price Requirement

The Foundation agrees that it will not sell, convey, transfer, or otherwise dispose of the Property for a purchase price of less than \$45,000.00 without the prior written approval of the Baltic City Council.

### 4. Restricted Buyer Use of Property

The Foundation agrees that it will require as a condition of any sale or conveyance of the Property that any grantee must use the Property for commercial retail sales purposes. The Foundation may not sell, convey, or transfer the property to an interested party without first obtaining, as a condition of sale, agreed upon covenants that will ensure the property be used for commercial retail sales, that current structures be properly demolished, and construction commence within a reasonable time period following the sale. The terms of such covenants are to be approved by the City.

### 5. Restricted Use of Sale Proceeds

In the event the Foundation sells the Property, BADF will be entitled to receive six percent (6%) of sale proceeds—net of ordinary and reasonable closing costs approved by the City. BADF shall return the remainder of the sale proceeds to the City of Baltic.

### 6. Sioux Metro Growth Alliance

BADF agrees to join the Sioux Metro Growth Alliance (SMGA). It is the intent of this agreement that the funds retained by BADF from the sale of the Property be used toward membership dues in SMGA. BADF further agrees to utilize their membership in SMGA to benefit the City of

Baltic and keep the City of Baltic informed of activities and information obtained through SMGA.

## 7. Use of Property Prior to Sale

Until such time as the Property is sold:

The Property shall be held and managed solely for economic development purposes;

The Foundation shall not use or permit its use in a manner inconsistent with City zoning ordinances, comprehensive plans, or economic development goals as may be communicated by the City Council.

## 8. Enforcement and Remedies

### 8.1 Right to Enforce

The City may enforce this Agreement through legal or equitable remedies, including but not limited to:

Specific performance, Injunctive relief, Recovery of misapplied proceeds, or any other remedy available under South Dakota law.

### 8.2 Reversionary Interest

If the Foundation fails to comply with the minimum sale price requirement; fails to covenant prior to transfer of Property to ensure proper use of property; fails to join SMGA for the benefit of the City; or otherwise materially breaches this Agreement, the City may demand reconveyance of the Property or may require repayment of any improperly used funds, at the City's sole discretion.

## 9. Term; Covenant Running With the Land

This Agreement Runs with the land, and Binds the Foundation and all successors, assigns, and purchasers, unless expressly released in writing by the City Council.

## 10. Amendments

This Agreement may be modified only by a written agreement signed by both parties and approved by the Baltic City Council.

## 11. Governing Law

This Agreement shall be governed by and construed under the laws of the State of South Dakota.

## 12. Authority

Each party represents that it has full legal authority to enter into and perform this Agreement.

## 13. Effective Date

This Agreement becomes effective upon execution by both parties.

CITY OF BALTIC, SOUTH DAKOTA

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

Its: Mayor

Date: \_\_\_\_\_

Attest:

City Finance Officer/Clerk

BALTIC AREA DEVELOPMENT FOUNDATION

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

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

Date: \_\_\_\_\_

