

**VACANT LAND
PURCHASE AGREEMENT**

1. **PARTIES.** This Purchase Agreement is made on _____ day of October, 2022, by and between the **CITY OF STACY**, a Minnesota municipal corporation, with a mailing address at 30955 Forest Blvd, Stacy MN 55079 (“Seller”), and **KFI, LLC**, a North Dakota limited liability company, with a registered address at 2575 41st Street South, Suite 1, Fargo, ND 58104 (“Buyer”).
2. **OFFER/ACCEPTANCE.** Buyer offers to purchase and Seller agrees to sell real property located in the City of Stacy, County of Chisago, State of Minnesota, legally described in Exhibit A attached hereto (referred to herein as the “Property”).
3. **PRICE AND TERMS.** The price for the real property included in this sale is Three Hundred Eighty Thousand Seven Hundred Fifty-Five and 80/100 Dollars (\$380,755.80), which Buyer shall pay to Seller as follows:
 - A. Earnest money of Thirty Thousand and No/100 Dollars (\$30,000.00) (“Earnest Money”) by check payable to Land Title, Inc. (the “Title Company”) within five (5) days of the execution of this Purchase Agreement, to be held in an interest bearing trust account, to be applied to the Purchase Price at closing;
 - B. The remainder of the Purchase Price by check payable to Seller on the Closing Date as hereinafter defined.
4. **DEED/MARKETABLE TITLE.** Upon performance by Buyer, Seller shall execute and deliver a Limited Warranty Deed conveying marketable title of record, subject to:
 - A. Reservations of minerals or mineral rights by the State of Minnesota, if any;
 - B. Building and zoning laws, ordinances, state and federal regulations; and
 - C. Any other matters consented to by Buyer in writing or not timely objected to by Buyer.
5. **REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.**
 - A. Prior Years’ Delinquent Real Estate Taxes and Delinquent Special Assessments. Delinquent real estate taxes payable in years prior to the year of Closing and delinquent installments of special assessments certified for collection with real estate taxes payable in years prior to the year of Closing, together with penalty, interest and costs, shall be paid by Seller not later than the Date of Closing.
 - B. Real Estate Taxes Payable in the Year of Closing. Real estate taxes payable in the year of Closing shall be prorated between Seller and Buyer on a calendar year basis to the Closing Date. Seller shall pay on the Date of Closing all other special assessments levied against the Property as of the date of this Purchase Agreement.

Seller shall pay penalty, interest and costs on any delinquent installment of taxes and special assessments payable by Seller in the year of Closing.

- C. Certified Special Assessments. All installments of special assessments certified for payment with the real estate taxes payable on the Property in the year of Closing shall be paid by Seller at Closing.

6. SELLER'S BOUNDARY LINE, ACCESS, RESTRICTIONS AND LIEN WARRANTIES. Seller warrants that buildings on adjoining real property, if any, are entirely outside of the boundary lines of the Property. Seller warrants that there has been no labor or material furnished to the Property for which payment has not been made. Seller warrants that there are no present violations of any restrictions relating to the use or improvement of the Property.

7. ACCESS PRIOR TO CLOSING. Upon reasonable notice to Seller, Buyer and Buyer's authorized agents shall have the right during the period from the date of this Agreement to the Date of Closing to enter in and upon the Property in order to make, at Buyer's expense, surveys, measurements, soil tests and other tests that Buyer shall deem necessary. Buyer agrees to restore any resulting damage to the Property and to indemnify, hold harmless and defend Seller from any and all claims by third persons of any nature whatsoever arising from Buyer's right of entry hereunder, including all actions, proceedings, demands, assessments, costs, expenses and attorneys' fees. Buyer shall not perform any invasive testing of the Property without Seller's prior written consent. Seller's consent may be conditioned upon any restrictions that Seller deems necessary. Buyer shall provide to Seller a copy of any such surveys, measurements, soil tests or other tests within five (5) days after receipt. If Buyer, in its sole discretion, determines there is a condition on the Property which Buyer has determined will interfere with Buyer's intended use of the Property, Buyer shall provide notice to Seller on or before the Closing Date of such conditions, and in such notice Buyer may either terminate this Agreement and receive a full refund of the Earnest Money or waive the condition and proceed to closing.

8. POSSESSION. Seller shall deliver possession of the Property not later than the actual Date of Closing.

9. TITLE INSURANCE BY SELLER. Within five (5) days of the date of this Agreement, Seller shall order a title insurance commitment in the full amount of the Purchase Price issued by the Title Company, certified to date to include proper searches covering bankruptcies, state and federal judgments and liens, by which said company commits to issue its policy of title insurance that insures that at closing Buyer shall have good, marketable and insurable title of record to the Property. Buyer shall be allowed twenty (20) business days after receipt of the title commitment and land survey for examination of title and making any objections, which shall be made in writing or deemed waived.

10. TITLE CORRECTIONS AND REMEDIES. Seller shall have twenty (20) business days from receipt of Buyer's written title objections to notify Buyer of Seller's intention to make title marketable within (90) days from Seller's receipt of such written objections. If notice is given, payments hereunder required shall be postponed pending correction of title, but upon correction of title within ten (10) days after written notice to Buyer, the parties shall perform the Agreement

according to its terms. If no such notice is given, or if notice is given but title is not corrected within the time provided for, this Agreement shall be null and void, Buyer shall be entitled to return of the Earnest Money, and neither party shall be liable for damages hereunder to the other, unless Buyer notifies Seller in writing of Buyer's waiver of the uncured title objections within five (5) business days after the end of the twenty (20) day business day period.

11. WELL DISCLOSURE. *[Check one of the following:]*

- Seller certifies that Seller does not know of any wells on the Property.
 Wells on the Property are disclosed by Seller on the attached Well Disclosure form.

12. DISCLOSURE OF INDIVIDUAL ON-SITE SEWAGE TREATMENT SYSTEM.

[Check one of the following:]

- Seller certifies that Seller does not know of any individual on-site sewage treatment systems on the Property.
 Individual on-site sewage treatment systems on the Property are disclosed by Seller on the attached Disclosure form.

13. SELLER'S COVENANTS, REPRESENTATIONS AND WARRANTIES.

A. Seller as part of the consideration therefore, represent, warrant, and covenant with Buyer and its successors and assigns that:

- (1) Seller warrants and represents to Buyer that, to Seller's knowledge, without investigation, no entity or person has, at any time:
- a) "released" or actively or passively consented to the "release" or "threatened release" of any Hazardous Substance (as defined below) from any "facility" or "vessel" located on or used in connection with the Property or adjacent tracts in violation of applicable laws; or
 - b) taken any action in "response" to a "release" in connection with the Property or adjacent tracts; or
 - c) otherwise engaged in any activity or omitted to take any action which could subject Seller or Buyer to claims for intentional or negligent torts, strict or absolute liability, either pursuant to statute or common law, in connection with Hazardous Substances (as defined below) located in or on the Property or adjacent tracts, including the generating, transporting, treating, storage, or manufacture of any Hazardous Substance (as defined below) in violation of applicable law. The terms set within quotation marks above shall have the meaning given to them in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9601 *et seq.*, as amended ("CERCLA") and any state environmental laws.

- (2) Seller has the present full authority and power to execute this Agreement and, on or prior to the Date of Closing, Seller shall have the full authority and power to close the sale of the Property.
- (3) As of the Closing Date there will be no outstanding or unpaid claims, actions or causes of action related to any transaction or obligation entered into or incurred by Seller with respect to the Property prior to the date hereof.
- (4) Seller is not a foreign person as defined in §1445(f)(3) of the Internal Revenue Code or regulations issued thereunder.
- (5) To Seller's actual knowledge, there is no action, litigation, investigation, condemnation or other proceedings of any kind pending or threatened against Seller with respect to the Property.
- (6) Seller owns good and marketable title to the Property, free and clear of all liens and encumbrances, except for permitted encumbrances and matters that will be removed or satisfied prior to Closing Date.
- (7) Seller has not entered into any other contracts for the sale or lease of the Property, nor are there any rights of first refusal or options to purchase or lease the Property or any other rights of others that might prevent the consummation of this Agreement.
- (8) Seller has not received any written notice that any structure on the Property is not in compliance with health, fire, safety, building and zoning laws, ordinances, rules, regulations or orders of any governmental authority having jurisdiction or, if Seller has received such notice, it shall promptly so notify Buyer.
- (9) Seller has received no written notice of actual or threatened special assessments or reassessments of the Property, or, if Seller has received such notice, it shall promptly so notify Buyer.
- (10) To Seller's knowledge there have not been and currently there are no underground storage tanks on the Property.
- (11) Other than existing low areas which may collect water, Seller is not aware that there exists or may exist on the Property any portion of a wetland which may be regulated by the Army Corps of Engineers, the Minnesota Department of Natural Resources or any other federal, state or local government agency.

B. PROTECTED HISTORICAL SITES. [Select either (1) or (2) below:]

_____ Sellers represents that Sellers do not know if there are historical, native American, or archeological materials on or in the Property that might be protected by law.

X Sellers represent to the best of Seller's knowledge that the property does not have any American Indian burial grounds, other human burial grounds, ceremonial earthworks, historical materials, and/or other archeological sites that are protected by federal or state law. Buyer's obligation to close is contingent upon Buyer determining to Buyer's satisfaction that the property does not have any American Indian burial grounds, other human burial grounds, ceremonial earthworks, historical materials, and/or other archeological sites that are protected by federal or state law.

- C. All of Seller's covenants, representations and warranties in this Agreement shall be true as of the date hereof and of the Closing Date, and shall be a condition precedent to the performance of Buyer's obligations hereunder. If Buyer discovers that any such covenant, representation, or warranty is not true, Buyer may elect prior to Closing, in addition to any of its other rights and remedies, to cancel this Agreement, or Buyer may postpone the Closing Date up to ninety (90) days to allow time for correction. If Buyer elects to proceed with the Closing following such discovery, Buyer shall be deemed to have waived its rights to assert a claim against Sellers arising from the inaccuracy or untruthfulness of any such covenant, representation, or warranty.

14. CLOSING. The closing (the "Closing") shall take place at the offices of Land Title, Inc., whose office address is 2200 County Road C West, Suite 2205, Roseville, MN 55113 (the "Title Company"). The Closing shall take place on or before December 16, 2022 ("Closing Date"), or at such other time as agreed upon by the parties. Unless otherwise agreed by the parties in writing, in the event that any of the contingencies provided for in this Agreement are not satisfied prior to the Closing Date, this Agreement shall be null and void and of no further force and effect. At closing, Seller and Buyer shall disclose their Social Security Numbers or Federal Tax Identification Numbers for the purposes of completing state and federal tax forms.

15. CLOSING DOCUMENTS.

- A. At the Closing, Seller shall execute and/or deliver to Buyer the following (collectively the "Closing Documents"):

- (1) **Limited Warranty Deed.** A Limited Warranty Deed in recordable form and reasonably satisfactory to Buyer, which shall include the following well representations: "Seller certifies that the Seller does not know of any wells on the described Property."
- (2) **Seller's Affidavit.** A standard form affidavit by Seller indicating that on the date of Closing there are no outstanding, unsatisfied judgments, tax liens or

bankruptcies against or involving Seller or the Property; that there has been no skill, labor or material furnished to the Property for which payment has not been made or for which mechanic's liens could be filed; and that there are no other unrecorded interests in the Property.

- (3) **Non-Foreign Person Certification.** A certification in form and content satisfactory to the parties hereto and their counsel, properly executed by Seller, containing such information as shall be required by the Internal Revenue Code, and the regulations issued thereunder, in order to establish that Sellers are not a "foreign person" as defined in §1445(f)(3) of such Code and such regulations.
- (4) **Storage Tanks.** If required, an affidavit with respect to storage tanks pursuant to Minn. Stat. § 116.48.
- (5) **Well Certificate.** If there is a well located on the Property, a well disclosure certificate in form and substance true to form for recording.
- (6) **Settlement Statement.** A Closing settlement statement prepared by the Title Company reflecting the financial provisions of this Agreement; and
- (7) **Other Documents.** All other documents reasonably determined by either party or the title insurance company to be necessary to transfer and provide title insurance for the Property.
- (8) **Warranties.** A reaffirmation of Covenants, Representations and Warranties executed by Seller and certifying that all representations and warranties of Seller contained in this Agreement or in any other certificate or document delivered in connection with the transactions contemplated hereby are true, correct and complete in all material respects as of the Closing Date.

B. At the Closing, Buyer shall execute and deliver to Seller the following:

- (1) **Purchase Price.** Payment of the Purchase Price.
- (2) **Settlement Statement.** A Closing settlement statement prepared by the Title Company reflecting the financial provisions of this Agreement.
- (3) **CRV.** A Certificate of Real Estate Value in form acceptable to the Title Company and Seller.
- (4) **Other Documents.** All documents reasonably determined by either party or the title insurance company to be necessary to provide title insurance for the Property.

16. CLOSING COSTS. The costs relating to the closing of this transaction shall be paid as follows:

A. Buyer shall pay:

- (1) Recording fee for the Limited Warranty Deed;
- (2) One-half of the closing fee charged by the Title Company;
- (3) The premium for owner's title insurance, including survey coverage;
- (4) Pro-rated real estate taxes and installments of special assessments; and
- (5) One Half of Buyer's Broker's Fee.

B. Seller shall pay:

- (1) All costs of obtaining a title insurance commitment;
- (2) State deed tax;
- (3) One-half of the closing fee charged by the Title Company;
- (4) Conservation fee attributable to the Limited Warranty Deed; and
- (5) One half of Buyer's Broker's Fee.

C. Seller and Buyer shall each pay its own attorneys' fees in connection with the preparation and negotiation of this Agreement and the Closing, except that a party defaulting under this Agreement or any of its respective Closing Documents shall pay the reasonable attorneys' fees and court costs incurred by the non-defaulting party to enforce its rights regarding such default.

17. NO GUARANTEE OF DEVELOPMENT. Buyer acknowledges and understands that nothing in this Agreement shall be construed as an approval by the City of Stacy of any site plan, plat or development plan for the Property which may come before the City of Stacy either now or in the future.

18. NOTICES. All notices shall be in writing and considered to have been duly given if sent by first class certified mail or delivered to the address as set forth above by reputable overnight delivery service or local messenger, or to such other address as such party may hereafter designate by written notice to the other party. Notices may also be sent by email if a duplicate copy of such email is also given or served by an alternative method described above. Notices given by certified mail shall be effective two (2) business days after their postmark; notices delivered by overnight delivery service or local messenger shall be effective upon receipt or refusal of receipt; and notices by email shall be effective upon delivery, provided that if an email notice is delivered after 5:00 PM or on a non-business day, then such email notice shall be effective on the next business day.

Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified, ten (10) days prior to the effective date of such change. Notice by or to a party shall be effective if delivered by or to such party's attorney.

19. EXCHANGE. In the event either Seller or Buyer desire to structure an Internal Revenue Code Section 1031 like-kind exchange involving the Property and transaction contemplated by this Agreement, then the other party covenants and agrees to cooperate, with such exchange, provided such cooperation results in no liability or expense to such cooperating party and does not delay the Closing Date.

20. MINNESOTA LAW. This contract shall be governed by the laws of the State of Minnesota.

21. TIME IS OF THE ESSENCE. Time is of the essence for all provisions of this Purchase Agreement.

22. COUNTERPARTS. This Agreement may be executed in one or more counterparts each of which when so executed and delivered shall be an original, but together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Buyer and Seller have caused this Agreement to be duly executed as of the date first written above.

**SELLER:
CITY OF STACY**

By: _____
Mark Utecht, Mayor

By: _____
Sharon Payne, City Clerk

**BUYER:
KFI, LLC**

By: _____
Alan Hintz, President

EXHIBIT A

Legal Description of Property

Lot 6, Block 1, Stacy Ponds Business Park 1st Addition, Chisago County, Minnesota according to the recorded plat thereof.

PID [19-00133.16]

Lot 7, Block 1, Stacy Ponds Business Park 1st Addition, Chisago County, Minnesota according to the recorded plat thereof.

PID [19-00133.17]

Lot 8, Block 1, Stacy Ponds Business Park 1st Addition, Chisago County, Minnesota according to the recorded plat thereof.

PID [19-00133.18]

Lot 9, Block 1, Stacy Ponds Business Park 1st Addition, Chisago County, Minnesota according to the recorded plat thereof.

PID [19-00133.19]

Lot 10, Block 1, Stacy Ponds Business Park 1st Addition, Chisago County, Minnesota according to the recorded plat thereof.

PID [19-00133.20]

Lot 11, Block 1, Stacy Ponds Business Park 1st Addition, Chisago County, Minnesota according to the recorded plat thereof.

PID [19-00133.21]

Lot 12, Block 1, Stacy Ponds Business Park 1st Addition, Chisago County, Minnesota according to the recorded plat thereof.

PID [19-00133.22]

Lot 13, Block 1, Stacy Ponds Business Park 1st Addition, Chisago County, Minnesota according to the recorded plat thereof.

PID [19-00133.23]

The above legal descriptions are subject to verification by title commitment.