

**DISCLAIMER: THE PURCHASE AND SALE AGREEMENT TO BE SIGNED BY THE PARTIES SHALL BE IN FORM AND SUBSTANCE SATISFACTORY TO SELLER AND OTHERWISE SUBJECT TO SELLER'S APPROVAL.**

## **PURCHASE AND SALE AGREEMENT**

*2575 Cates Ranch Dr., Medina, Minnesota  
Tract 2 (PIN 04-118-23-14-0004)*

This PURCHASE AND SALE AGREEMENT (this "**Agreement**"), dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023 (the "**Effective Date**"), is entered into between JEFFREY S. CATES and CHRISTINE T. CICI-CATES, husband and wife and residents of the State of Minnesota ("**Seller**"), and [PURCHASER NAME], a[n] [STATE OF ORGANIZATION] [ENTITY TYPE] ("**Purchaser**").

### **RECITALS**

WHEREAS, Seller is the owner of the Property (as hereinafter defined); and

WHEREAS, subject to the terms and conditions hereof, Seller desires to sell to Purchaser the Property and Purchaser desires to purchase the Property from Seller.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **ARTICLE I REAL PROPERTY**

Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, all right, title, and interest of Seller in and to that certain real property containing approximately 30.18 gross acres of land located in the City of Medina, County of Hennepin, State of Minnesota with Parcel Identification No. 04-118-23-14-0004, legally described on Exhibit A attached hereto, together with any and all buildings and improvements thereon, and easements and rights benefiting or appurtenant thereto.

### **ARTICLE II PURCHASE PRICE**

**Section 2.01 Purchase Price and Earnest Money.** The purchase price to be paid by Purchaser to Seller for the Property is \_\_\_\_\_ and 00/100 Dollars (\$ \_\_\_\_\_ .00) ("**Purchase Price**"). The Purchase Price shall be payable as follows:

(a) On or before the Effective Date of this Agreement, Purchaser shall pay to and deposit with Sapientia Law Group, PLLC, as escrow agent ("**Escrow Agent**"), to be held in trust, an amount equal to ten percent (10%) of the Purchase Price (the "**Earnest Money**") by personal or company check made payable to "Sapientia Law Group Trust Account", or by wire transfer of immediately available federal funds to an account at such bank as designated by Escrow Agent.

(b) The balance of the Purchase Price in the amount of \_\_\_\_\_ and 00/100 Dollars (\$ \_\_\_\_\_ .00) shall be paid to Seller on the Closing Date, subject to any credits or apportionments as provided for under this Agreement, simultaneously with delivery of the Deed, by a wire transfer of immediately available federal funds to an account or accounts designated by the Title Company as that term is defined below.

**Section 2.02 No Financing Contingency.** Purchaser expressly agrees and acknowledges that Purchaser's obligations to pay the Purchase Price and otherwise consummate the transactions contemplated hereby

are not in any way conditioned upon Purchaser's ability to obtain financing of any type or nature whatsoever, whether by way of debt financing or equity investment, or otherwise.

### **ARTICLE III CLOSING**

#### **Section 3.01 Closing Date.**

(a) The closing (the "**Closing**") shall take place on December 28, 2023 (the "**Closing Date**") at the office of the Title Insurance Company or remotely. Purchaser acknowledges and agrees that TIME SHALL BE OF THE ESSENCE with respect to the performance by Purchaser of its obligations to purchase the Property, pay the Purchase Price, and otherwise consummate the transactions contemplated in this Agreement on the Closing Date.

**Section 3.02 Seller's Closing Deliverables.** At Closing, Seller shall deliver to Purchaser, the following, executed, certified, and acknowledged by Seller, as appropriate:

(a) A Warranty Deed (the "**Deed**") to convey title to the Property as required by this Agreement. The delivery of the Deed by Seller, and the acceptance by Purchaser, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed pursuant to this Agreement.

(b) All other documents necessary or otherwise required by the Escrow Agent to disburse the Earnest Money and the Title Insurance Company to consummate the transaction contemplated by this Agreement.

**Section 3.03 Purchaser's Closing Deliverables.** On the Closing Date, Purchaser shall deliver or cause to be delivered to Seller, the following, executed, certified, and acknowledged by Purchaser, as appropriate:

(a) The balance of the Purchase Price.

(b) A consent of the [members/manager/board of directors/shareholders/partners/general partner] of Purchaser authorizing the transaction contemplated hereby and the execution and delivery of the documents required to be executed and delivered hereunder.

(c) All other documents reasonably necessary or otherwise required by the Escrow Agent to disburse the Earnest Money and the Title Company to consummate the transactions contemplated by this Agreement.

#### **Section 3.04 Closing Costs.**

(a) Seller and Purchaser shall each pay the fees and expenses of its own counsel in connection with this transaction. The Deed and other agreements and instruments related to the transaction contemplated by this Agreement and such legal costs shall not be part of the closing costs; provided, however, that if any legal action is instituted under this Agreement, the prevailing party in such action shall be entitled to recover from the other party costs related to such legal action, including reasonable attorneys' fees and costs in all trial, appellate, post-judgment, and bankruptcy proceedings.

(b) Seller shall pay:

(i) Any applicable transfer taxes payable in connection with the transaction contemplated by this Agreement;

- (ii) Real estate taxes due and payable prior to and in 2023;
  - (iii) Any and all existing deferred special assessments and property taxes deductions and interest thereon pursuant to the Green Acres program under Minn. § 273.111 (“**Green Acres Program**”) that the county or city requires be paid because of the transfer of title and/or disenrollment or removal of the Property from the Green Acres Program;
  - (iv) All levied special assessments;
  - (v) The commission owed to the Broker, if any, pursuant to Article IX of this Agreement;
  - (vi) All recording fees for the release of any liens on the Property, as required pursuant to the terms of this Agreement;
  - (vii) 50% of all (aa) title insurance costs and premiums, including the costs of the title commitment and a base ALTA® Owner's Policy, 2021 v. 01.00 (Effective 07-01-2021) (the “**Title Policy**”) issued by Old Republic National Title Insurance Company (the “**Title Company**”), but not any portion of the cost of any endorsements requested by Purchaser, (bb) closing costs, and (cc) Escrow Agent’s costs and fees associated with its holding and disbursing the Earnest Money; and
  - (viii) All pending special assessments.
- (c) Purchaser shall pay:
- (i) Real estate taxes due and payable in 2024 and thereafter;
  - (ii) 50% of all (aa) title insurance costs, including the costs of the title commitment and the Title Policy, (bb) closing costs, and (cc) Escrow Agent's costs and fees associated with its holding and disbursing the Earnest Money;
  - (iii) The costs of any endorsements to the Title Policy requested by Purchaser;
  - (iv) All pending special assessments; and
  - (v) All recording fees and state deed tax due and payable in connection with the recording of the Deed.

**Section 3.05 Apportionments.** The following shall be apportioned as of the Closing Date, unless expressly provided for otherwise:

- (a) Any and all utility expenses, including water, fuel, gas, electricity, telephone, sewer, trash removal, heat and other services furnished to or provided for the Property shall be prorated between Seller and Buyer;
- (b) All other costs and expenses customarily apportioned in connection with the sale of real property in the State of Minnesota not already provided for in this Agreement.

**ARTICLE IV  
TITLE**

**Section 4.01 Title.** Seller shall convey, and Purchaser shall accept, marketable title to the Property evidenced by the Title Policy issued by Old Republic National Title Insurance Company (the “**Title Company**”).

**Section 4.02 Permitted Exceptions.** The Property shall be conveyed by Seller to Purchaser, and Purchaser shall accept, subject to the following (collectively, the "**Permitted Exceptions**").

(a) All covenants, restrictions, and rights of record, and all easements and agreements of record for the erection and/or maintenance of water, gas, steam, electric, telephone, sewer or other utility pipelines, poles, wires, conduits, or other like facilities, and appurtenances thereto, over, across, and under the Property;

(b) Any zoning laws or local ordinances affecting the Property, including all restrictions, conditions, and covenants, if any, set forth in or created by that preliminary plat and site plan review approval for the “Cates Industrial Park”, a proposed development containing approximately 300,000 square feet of building improvements for use as a warehouse/light industrial/office on the Property as conditionally approved by the City of Medina as set described in Resolution No. 2023-65 and any related resolutions;

(c) Minerals and mineral rights reserved by the State of Minnesota;

(d) Any encroachments or other adverse claims against title to the Property that would be disclosed by an ALTA/ACSM land survey of the Property, whether or not Purchaser obtained such survey; and

(e) The standard conditions and exceptions to title contained in the Title Policy.

## **ARTICLE V AS-IS PROPERTY**

**Section 5.01 PROPERTY CONDITIONS, WARRANTIES, CONTINGENCIES, AND INSPECTION RIGHTS:** THIS PROPERTY, INCLUDING ALL IMPROVEMENTS THEREON, HAS BEEN PURCHASED “AS IS – WHERE IS” AT AUCTION. THERE ARE NO WARRANTIES ASSOCIATED WITH AUCTION SALES. THERE ARE NO FINANCING CONTINGENCIES OR INSPECTION RIGHTS FOR BUYER. SELLER IS NOT OBLIGATED TO MAKE ANY REPAIRS, CHANGES, IMPROVEMENTS OR OTHER MODIFICATIONS TO THE PROPERTY. PRIOR TO SUBMITTING THE HIGH BID FOR THE PROPERTY, BUYER DETERMINED THAT THE PROPERTY MET ALL LEGAL REQUIREMENTS FOR BUYER’S INTENDED USE OF THE PROPERTY AND IS NOT SUBJECT TO GOVERNMENTAL OR PRIVATE RESTRICTIONS THAT WILL INTERFERE WITH SUCH INTENDED USE, INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL REGULATIONS, WETLAND QUALIFICATION, FLOOD HAZARD OR FLOOD PLAIN DESIGNATION AND SEPTIC SYSTEM SUITABILITY.

(a) Purchaser acknowledges that it has examined and inspected, and is satisfied with, the physical condition of the Property and any improvements thereon. Purchaser expressly agrees that the Property is sold “as is, where is, with all faults” without any warranty or representation, express, implied or arising by operation of law, including, but not limited to, any warranty of condition, habitability, merchantability or fitness for a particular purpose, and subject to ordinary wear and tear occurring after the date hereof. Purchaser further acknowledges that Seller has neither made nor extended to Purchaser any representation, warranty or indemnity with regard to the environmental condition of the Property or with regard to its compliance with the Americans with Disabilities Act of 1990, if applicable, and Purchaser hereby assumes sole responsibility therefore, indemnifies and agrees to hold Seller and its assigns harmless from and waives any

right, action, claim or cause of action it or its successors or assigns may have now or in the future against Seller or assigns with regard thereto.

(b) If any improvements on the Property are damaged after the date hereof, but before the Closing, Seller may (but will not be obligated to) attempt to repair the improvements and, at Seller's option, there will be a reasonable extension of the Closing Date during which Seller may attempt to complete the repair. If Seller notifies Purchaser that Seller does not intend to attempt to repair or if Seller attempts but is not successful in effecting repair and notifies Purchaser within ten (10) days of either such notification Purchaser either (i) will terminate this Agreement, in which case Purchaser will be entitled to the return of the Earnest Money and neither party will have any further liability to the other or (ii) will waive any objection to the damage and any right to reduce the Purchase Price, in which case Seller will convey to Purchaser the Property with such damaged improvements as are then thereon and will assign to Purchaser all of Seller's right, title and interest to any insurance proceeds, if any, received or to be received in payment of damage to the improvements.

**ARTICLE VI  
NOTICES**

**Section 6.01 Delivery of Notices.** Unless specifically stated otherwise in this Agreement, all notices, waivers, and demands required or permitted hereunder shall be in writing and delivered to the addresses set forth below, by one of the following methods: (a) hand delivery, whereby delivery is deemed to have occurred at the time of delivery; (b) a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the business day following deposit with the courier; (c) registered U.S. mail, signature required and postage-prepaid, whereby delivery is deemed to have occurred on the third business day following deposit with the United States Postal Service; or (d) email.

SELLER: Jeff Cates and Christine T. Cici-Cates  
2400 Cates Ranch Drive  
Hamel, MN 55340  
Email: jeff8288612@gmail.com

With a copy to: Sapientia Law Group, PLLC  
Attention: Kenneth C. Edstrom  
120 S. Sixth St., Suite 100  
Minneapolis, MN 55402  
Email: kene@sapientialaw.com

PURCHASER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_

ESCROW AGENT: Sapiaientia Law Group, PLLC  
Attention: Towle H. Neu  
120 S. Sixth St., Suite 100  
Minneapolis, MN 55402  
Email: towlen@sapiaientialaw.com

Any Party may change its address for purposes of this Section by giving written notice as provided in this Section. All notices and demands delivered by a party's attorney on a party's behalf shall be deemed to have been delivered by said party.

## **ARTICLE VII REMEDIES**

### **Section 7.01 Remedies.**

(a) If Purchaser shall default in the observance or performance of Purchaser's obligations under this Agreement and the Closing does not occur as a result thereof, Seller may elect to retain the Earnest Money plus accrued interest thereon, if any, as and for full and complete liquidated and agreed damages for Purchaser's default or seek an order from a court for specific performance by Purchaser. SELLER AND PURCHASER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER UPON A PURCHASER DEFAULT AND THAT IF SELLER ELECTS TO RETAIN THE EARNEST MONEY AND ANY INTEREST EARNED THEREON, SUCH AMOUNTS REPRESENT A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT SELLER WOULD SUFFER UPON A PURCHASER DEFAULT.

(b) Upon the release of the Earnest Money, and any interest accrued thereon, to either Purchaser or Seller, as the case may be, and reimbursement of Purchaser's Costs (if applicable), this Agreement shall be deemed null and void and no party hereto shall have any obligations to, or rights against, the other hereunder, except as expressly provided herein.

## **ARTICLE VIII ESCROW**

**Section 8.01 Escrow Terms.** Escrow Agent shall hold and disburse the Earnest Money in accordance with the following provisions:

(a) If the Closing occurs, then Escrow Agent shall deliver the Earnest Money to Seller.

(b) If the Closing does not occur because of an uncured default by Seller, Escrow Agent is authorized to disburse the Earnest Money to Purchaser.

(c) If the Closing does not occur because of an uncured default by Purchaser, Escrow Agent is authorized to disburse the Earnest Money to Seller.

(d) In the event a dispute arises between the parties over the Earnest Money, Escrow Agent may commence an action with a court of competent jurisdiction for a final determination on the disposition of the Earnest Money. The parties agree that all costs and fees, including reasonable attorney fees, incurred by the Escrow Agent in connection with any such action shall be paid from the Earnest Money before disbursement to the appropriate party in accordance with the court's order.

### **Section 8.02 Escrow Agent's Duties and Responsibilities.**

(a) Escrow Agent has signed this Agreement for the sole purpose of agreeing to act as Escrow Agent in accordance with this Article. Escrow Agent shall have no duties or responsibilities except those set forth in this Agreement and Seller and Purchaser agree and acknowledge that Escrow Agent shall act hereunder as a depository only.

(b) Escrow Agent shall not charge a fee for its services as escrow agent.

**Section 8.03 Indemnification of Escrow Agent.** Seller and Purchaser hereby agree to, jointly and severally, indemnify, defend, and hold harmless Escrow Agent from and against any liabilities, damages, losses, costs, or expenses incurred by, or claims or charges made against Escrow Agent (including reasonable attorneys' fees and disbursements) by reason of Escrow Agent acting or failing to act in connection with any of the matters contemplated by this Agreement or in carrying out the terms of this Agreement, except for those matters arising as a result of Escrow Agent's gross negligence or willful misconduct.

**Section 8.04 Seller's Attorney as Escrow Agent.** Notwithstanding anything to the contrary herein contained, Purchaser acknowledges that Escrow Agent is also acting as Seller's counsel in connection with this Agreement and the transactions contemplated hereunder.

**Section 8.05 Survival.** This Article shall survive the Closing or the termination of this Agreement.

## **ARTICLE IX BROKERS**

**Section 9.01 Brokers.** Purchaser and Seller each represent and warrant to each other that they dealt with no broker in connection with, nor has any broker had any part in bringing about, this transaction other than BigIron Realty for Seller and \_\_\_\_\_ for Purchaser (collectively, the "**Broker**"). Seller shall pay the brokerage commission due Broker in accordance with the terms and conditions of a separate written agreement. Seller and Purchaser shall each indemnify, defend, and hold harmless the other from and against any claim of any broker or other person for any brokerage commissions, finder's fees, or other compensation in connection with this transaction if such claim is based in whole or in part by, through, or on account of, any acts of the indemnifying party or its agents, employees, or representatives and from all losses, liabilities, costs, and expenses in connection with such claim, including without limitation, reasonable attorneys' fees, court costs, and interest.

**Section 9.02 Survival.** The provisions of this Article shall survive the Closing or the termination of this Agreement.

## **ARTICLE X MISCELLANEOUS**

**Section 10.01 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.

**Section 10.02 SEWAGE TREATMENT SYSTEM DISCLOSURE.**

[Check either A or B:]

A. Seller certifies that sewage generated at the property goes to a facility permitted by the Minnesota Pollution Control Agency (for example, a city or municipal sewer system).

B. Seller certifies that sewage generated at the property does not go to a facility permitted by the Minnesota Pollution Control Agency and Sellers Disclosure of Individual Sewage Treatment System is attached (attach form).

[Check either C or D:]

C. Seller does not know if there is an abandoned individual sewage treatment system on the property.

D. Seller knows that there (strike one:) are / are no abandoned individual sewage treatment systems on the property. If Seller discloses the existence of an abandoned individual sewage treatment system on the property, then Minnesota law requires that the location of the system be disclosed to Buyer with a map. [Attach Seller's Disclosure of Individual Sewage Treatment System with map completed.]

**Section 10.03 LEAD PAINT DISCLOSURE.** [Check one of the following:]

Seller represents that the dwelling was constructed on the real property in 1978 or later.

Seller represents that the dwelling was constructed on the real property before 1978. (If such housing is located on the real property, attached and made a part of this Purchase Agreement is "LEAD PAINT ADDENDUM FOR HOUSING CONSTRUCTED BEFORE 1978".)

**Section 10.04 Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Minnesota.

**Section 10.05 Merger; No Representations.** This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. This Agreement is entered into after full investigation, no party is relying upon any statement or representation, not set forth in this Agreement, made by any other party.

**Section 10.06 Amendments.** This Agreement cannot under any circumstance be modified or amended orally and no agreement shall be effective to waive, change, modify, terminate, or discharge this Agreement, in whole or in part, unless such agreement is in writing and is signed by both Seller and Purchaser and approved by the U.S. Bankruptcy Court for the District of Minnesota in Bky File No. 21-40882.

**Section 10.07 Successors and Assigns; Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns. Purchaser shall have the right to assign, transfer, and convey its rights and obligations under this Agreement or in the Property without the prior written consent of Seller, provided that: (a) any assignee shall assume all of Purchaser's obligations hereunder and succeed to all of Purchaser's rights and remedies hereunder; and (b) Purchaser shall deliver written notice to Seller of the assignment and assumption prior to the Closing. If an assignee assumes all



of Purchaser's obligations under this Agreement in writing, then upon the effective date of the assignment of this Agreement to such assignee, Purchaser shall be released from all obligations under this Agreement.

**Section 10.08 Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect, invalidate, or render unenforceable any other term or provision of this Agreement.

**Section 10.09 Counterparts.** This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall together constitute but one and the same instrument.

**Section 10.10 IRC §1031 Exchange.** It is expressly understood and agreed that the Property may be used by either party hereto as replacement property in connection with a like-kind exchange transaction qualifying for tax-deferred treatment under Section 1031 of the Internal Revenue Code. In such an event, each party agrees to cooperate with the other party, provided no party shall not incur additional costs or liabilities as a result of or in connection with any such 1031 exchange by the other party.

**Section 10.11 No Waivers.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party providing the waiver. No waiver by either party of any failure or refusal to comply with any obligations under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

**Section 10.12 Waiver of Jury Trial.** SELLER AND PURCHASER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY SUCH PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

**PURCHASER:**

\_\_\_\_\_, a \_\_\_\_\_  
\_\_\_\_\_

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

**SELLERS:**

\_\_\_\_\_  
Christine T. Cici-Cates

\_\_\_\_\_  
Jeffrey S. Cates

**ESCROW AGENT:**

SAPIENTIA LAW GROUP, PLLC

\_\_\_\_\_  
By: Towle H. Neu  
Its: Member

**EXHIBIT A**  
**Legal Description**

Lot 1, Block 1, Cates Ranch Second Addition, according to the recorded plat thereof, Hennepin County, Minnesota.

(Abstract Property)

4874-6898-0355, v. 3

Tract 2; PIN 04-118-23-14-0004