

# REAL ESTATE PURCHASE CONTRACT

Tract(s): \_\_\_\_\_

Seller: Cottonwood Valley Land, LLC

Buyer: \_\_\_\_\_

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

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

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

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

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

1. Offer and Acceptance. These terms shall constitute a binding contract upon execution by all parties (the "Contract").
2. Mutual Covenants. Seller agrees to sell and Buyer agrees to purchase approximately \_\_\_\_\_ acres of land which is shown on Exhibit A attached hereto and incorporated herein by this reference (the "Property"), together with all improvements, if any, and appurtenances thereon, upon the terms set forth in this Contract.
3. Purchase Price. The purchase price of the Property (the "Purchase Price") shall be \_\_\_\_\_ Dollars (\$\_\_\_\_\_). Buyer will pay a non – refundable down payment toward the Purchase Price upon execution of this Contract in the amount of ten percent (10%) of the Purchase Price (\$\_\_\_\_\_ ) as earnest money (the "Earnest Money") to be held in the trust account of \_\_\_\_\_, as escrow agent (the "Escrow Agent") hereunder for delivery to Seller at the time of closing. The balance of the Purchase Price, adjusted by any prorations and credits allowed the parties by this Contract, shall be paid to Seller at closing by cashiers check, wire transfer of funds or other form of payment acceptable to Seller. 50% of any cash rents, including any bonuses, for the 2023 crop year shall be retained by Seller, consistent with the following:

**For Tracts 1, 2 and 3:** The remaining 50% of the cash rent is due on October 31, 2023 and will be collected directly from the tenant by the Buyer(s). No credit will be given to the Buyer(s) at closing for Tracts 1, 2 or 3.

**For Tracts 4, 5 and 6:** Seller will credit the Buyer(s) at closing the following amounts, each equal to 50% of the 2023 cash rent for each tract:

Tract 4: \$12,410.00

Tract 5: \$13,260.00

Tract 6: \$13,005.00

4. Survey. Seller shall provide a survey for any tract where there is no existing legal description or where new boundaries are created by the tract division for the auction. Any need for a survey shall be determined solely by Seller unless such surveys are required by State or local law. If a new survey is determined to be necessary as set forth herein, the Seller shall obtain and pay for the necessary survey(s).

The type of survey prepared shall be determined by Seller so long as it is sufficient for issuance of a title insurance policy and transferring of title in the county of the real estate.

5. Conservation Reserve Program. (Tracts 1 and 2 ONLY) A portion of the property is enrolled in the Conservation Reserve Program ("CRP"), with the current contract expiring September 30, 2026. At closing, Seller shall transfer all rights and obligations of that contract to the Buyer. Buyer shall comply with all terms and conditions of the CRP and shall indemnify, defend, and hold Seller harmless from the CRP and/or Buyer's failure to comply with the terms of the CRP. Tenant shall retain all CRP income for 2023.
6. Pipeline Right-of-Way Option and Easement Agreement. (Tract 5 ONLY) Income paid from granting the pipeline easement agreement in 2023 shall be retained by Seller. Buyer shall have the right to receive all future easement payments, if any, and 100% of the crop damages payment if the option is exercised.
7. Mineral Rights. One hundred percent (100%) of any mineral rights owned by Seller with respect to the Property shall be conveyed to Buyer at closing.
8. Possession and Closing. Seller shall deliver possession of the Property free and clear of all liens and encumbrances (except those permissible exceptions to title as set forth in section 12) and subject to the rights of the current tenant(s) in possession through\_\_\_\_\_, to Buyer concurrently with the closing of this transaction which shall be held on or before the June 13, 2023 day following the execution of this Contract by both parties hereto. Closing shall be held at the offices of First American Title Insurance Company or at another mutually acceptable location.
9. Deed of Conveyance. At closing, Seller shall deliver to Buyer upon Buyer's compliance with the term of this Contract, a duly executed Warranty deed ("Deed") sufficient to convey the Property to Buyer or Buyer's permitted assignee, in fee simple absolute, subject only to the exceptions authorized in this Contract.
10. Personal Property. The irrigation pivot located on the farm will be included in the sale. **(Tract 1 ONLY)** Grain bin on the property is also included in the sale.
11. Condition of Premises. Buyer acknowledges that Buyer has inspected the property and any improvements thereon, and that Buyer is acquainted with the condition thereof and accepts the same as of the time the Buyer executed this Contract with all faults and without any warranties from Seller, in "AS IS, WHERE IS AND WITH ALL FAULTS" condition.
12. Warranties. Seller warrants that no contracts for the furnishing of any labor or material to the land or the improvements thereon, and no security agreements in respect to any goods or chattels that have been or are to become attached to the land or any improvements thereon, will at the time of closing be outstanding and not fully performed and satisfied, and further warrants that there are not and will not at the time of closing be any leases or contracts relating to the Property which extend beyond October 31, 2023.
13. Real Estate Taxes and Special Assessments. The 2022 calendar year real estate taxes due and payable in 2023 for all tracts have been paid in full by Seller. **For Tracts 1, 2 & 3:** Seller shall credit Buyer(s) at closing for the first half of the 2023 real estate taxes payable in 2024, to be calculated based on the most recent ascertainable tax figures and shall have no additional tax obligation for the 2023 tax year. Buyer is responsible for all subsequent real estate taxes. **For Tracts 4, 5 & 6:** Buyer shall be responsible

for all 2023 real estate taxes due and payable in 2024 and shall collect reimbursement for all 2023 real estate taxes from the tenant as specified in the lease.

14. Closing Costs. Buyer shall pay the following expenses incurred in connection with the transaction described herein: (a) one-half of all closing fees charged by the Title Company (defined hereunder), including the Deed and money escrow charges, (b) the fee for the recording of the Deed, and (c) Buyer's legal fees and expenses. Seller shall pay the following expenses incurred in connection with the transaction described herein: (i) the cost of removing all unpermitted matters from title, (ii) Seller's legal fees and expenses, (iii) all transfer taxes, documentary stamp taxes and other taxes pertaining to the sale or transfer of the Property, or any part thereof, and (iv) one-half of all closing fees charged by the Title Company, including the Deed and money escrow charges, and (v) all costs relating to the issuance of the owner's title insurance policy.
15. Evidence of Title. Within a reasonable period after execution of this Contract and before closing, Seller shall provide Buyer an updated commitment to issue an ALTA title insurance policy in the amount of the purchase price, by First American Title Insurance Company ("Title Company"). Permissible exceptions to title shall be all matters and exceptions set forth on that certain commitment for title insurance with an effective date of \_\_\_\_\_ and issued by the Title Company. If Buyer or Buyer's lender requires title evidence of a type other than that which Seller chose to provide, then the additional cost, if any, occasioned by the title evidence required shall be at Buyer's expense and no additional cost shall be chargeable to Seller.
16. Default. If Buyer fails to perform any obligation imposed by this Contract, Seller may serve written notice of default upon Buyer and if such default is not corrected within five (5) days thereafter, at the option of the Seller to be exercised in writing, this Contract shall terminate and the Seller shall be entitled to retain the earnest money paid hereunder in addition to any other remedies set forth herein. In the event of failure of Seller to perform the obligations imposed by this Contract, Buyer may terminate this Contract upon similar notice served upon Seller and similar expiration of a five (5) day cure period. The foregoing remedies in the event of a default are not intended to be the exclusive remedies of the parties and the parties shall have the right to seek all other remedies available at law or equity, including but not limited to specific performance. The Escrow Agent, upon receiving an affidavit from the non-defaulting party stating that this Contract has been terminated as provided herein, shall be entitled to rely upon such affidavit and shall deliver the earnest money to the non-defaulting party. Default by any party of this Contract shall entitle the non-defaulting party to court costs and reasonable attorneys' fees incurred in enforcing the provisions of this Contract.
17. Notices. Any notice required under this Contract to be served upon Seller or Buyer shall be in writing and shall be effective when actually received by such parties. Notice to or from one of multiple Buyers shall be effective as to all Buyers.
18. Time of Essence. The time for performance of the obligations of the parties is of the essence of this Contract.
19. Nonassignability. Buyer may not assign Buyer's rights hereunder without the prior written consent of Seller having first been obtained, which consent shall not be unreasonably withheld.
20. Binding Agreement. If this offer is accepted by Seller, it shall constitute a binding contract for sale of the Property in accordance with the terms and conditions specified herein. This Contract shall inure to the benefit of and be binding upon the parties and their respective heirs, administrators, executors, successors and permitted assigns.

21. Like-Kind Exchange. The parties hereto acknowledge and agree that either party may elect to implement an exchange under Section 1031 of the Internal Revenue Code (an "Exchange"), and that (i) such electing party shall have the right to assign all of its right, title and interest (but not its liabilities or such electing party's obligations) under this Contract to a duly qualified intermediary (the "Exchange Party") selected by such electing party, (ii) the other party shall execute and deliver such documents as may be required to complete the transactions contemplated by such Exchange and to effect such assignment to the Exchange Party, which are in form and substance reasonably acceptable to the other party, at no cost or expense to the other party, and (iii) otherwise cooperate with the other party in all reasonable respects to effect its Exchange. Except as expressly set forth in this Section, the other party shall have no other liability or obligation with respect to such electing party's effectuation of its Exchange. Such electing party shall pay for all fees, costs and expenses in connection with its Exchange.
22. Mutual Intent. The language contained herein expresses the mutual intent of the parties and no rule of strict construction shall be applied against either party hereto.
23. Governing Law. This Contract shall be governed by the laws of the State of Nebraska.
24. Merger and Modification. All prior offers, acceptances, oral representations, agreements and writings between the parties are merged herein and shall be of no force or effect unless contained in this Contract. Neither this Contract nor any provision hereof may be altered, amended, modified, waived, discharged or terminated orally, but such may be accomplished only by an instrument in writing signed by the party against whom it is sought to be enforced.
25. Severability. Each party agrees that it will perform its obligations hereunder in accordance with all applicable laws, rules and regulations now or hereafter in effect. If any term or provision of this Contract shall be found to be wholly illegal or unenforceable, the remainder of this Contract shall be given full effect as if such provision were stricken. In the event any term or provision of this Contract shall be held overbroad in any respect, then such term or provision shall be narrowed, modified or limited by a court only to the extent necessary to make such provision or term enforceable while effectuating the intent of the parties herein expressed.
26. Waiver. No term or provision hereof shall be deemed waived and no performance shall be excused hereunder unless prior waiver or consent shall be given in writing signed by the party against whom it is sought to be enforced. Any waiver of any default by either party shall not constitute a waiver of the same or different default on a separate occasion.
27. Authority. Buyer represents and warrants to Seller that the individual execution this Contract on its behalf is duly authorized and empowered to do so, and that upon such execution, this Contract shall be binding upon and enforceable by and against Buyer.
28. Indemnification of Escrow Agent. The parties hereby request and direct Escrow Agent to hold the Earnest Money in escrow. Seller and Buyer irrevocably consent to the Escrow Agent acting as escrow agent as described herein. Seller and Buyer acknowledge that the Escrow Agent is acting solely at the parties' request and for their convenience, that when acting in such capacity, Escrow Agent shall not be deemed to be the agent of either of the parties, and that Escrow Agent shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this Contract, or involving gross negligence. Seller and Buyer shall jointly and severally indemnify, defend, and hold harmless Escrow Agent from and against all costs, claims, and expenses, including

reasonable attorneys' fees, incurred in connection with the performance of the Escrow Agent's duties under this Contract, except with respect to actions or omissions taken or suffered by it in bad faith, in willful disregard of this Contract, or involving gross negligence in its duties as escrow agent.

29. Realtor's Commission. The parties hereto agree that no real estate commission is due any party in regard to this transaction other than a commission due to Murray Wise Associates LLC, which Seller agrees to pay according to terms of a separate agreement between Seller and Murray Wise Associates LLC. Each party agrees to indemnify the other and hold it harmless in respect to any commissions, fees, judgments or expenses of any nature or kind which it may become liable to pay by reason of any claims by or on behalf of brokers, finders or agents employed by the other party in connection with the transaction contemplated by this Contract, or any litigation or similar proceeding arising from such claims. Each party represents to the other that, other than as stated herein, there is no valid basis for such claims.
  
30. No Warranties By Seller. IT IS UNDERSTOOD AND AGREED THAT SELLER HAS NOT MADE, DOES NOT HEREIN MAKE AND SHALL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY RELATING TO THE CONDITION OF THE PROPERTY OR TO SELLER'S USE OF THE PROPERTY. ANY SUCH REPRESENTATIONS OR WARRANTIES (WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY VIRTUE OF STATUTE, COMMON LAW, CUSTOM OR OTHERWISE AND INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF HABITABILITY, SUITABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY EXPRESSLY DISCLAIMED BY SELLER AND WAIVED BY BUYER TO THE FULLEST EXTENT PERMITTED BY LAW.
  
31. Counterpart and Electronic Signatures. This Contract may be executed in one or more counterparts, each of which shall be deemed an original. Furthermore, executed counterparts of this Contract may be delivered by facsimile or other reliable electronic means (including emails of pdf documents), and such facsimile or other electronic transmission shall be valid and binding for all purposes when transmitted to and actually received by the other party. Notwithstanding the foregoing, each party delivering executed documents by facsimile or other electronic means agrees to provide the other party with an original, hard copy of the relevant signed documents promptly after the request of the other party.

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SIGNATURES ON FOLLOWING PAGE**

IN WITNESS WHEREOF, the parties have executed this Contract on the date set forth beneath their respective signatures below.

BUYER:

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

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

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

Attorney for Buyer:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

SELLER: Cottonwood Valley Land, LLC

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

Print:

Title:

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

**EXHIBIT A**