

## **REAL ESTATE SALE AGREEMENT**

**THIS REAL ESTATE SALE AGREEMENT** (the “**Agreement**”), which includes and incorporates one or more attached or appended cover sheets and any exhibits thereto (regardless of whether one or more, the “**Cover Sheet**”), is entered into on the date identified as the “Effective Date” on the Cover Sheet by and between:

- A. **THE BENNINGTON STATE BANK** (the “**Seller**”); and
  - B. The purchaser identified on the Cover Sheet (the “**Purchaser**”),
- each a “**Party**” and collectively the “**Parties**”,

**WITNESSETH:**

**WHEREAS**, Seller owns certain real property, together with any improvements located thereon and fixtures attached thereto, located in Republic County, Kansas, which are described on the Cover Sheet (the “**Real Property**”);

**AND WHEREAS**, the Real Property was offered at public auction (the “**Auction**”);

**AND WHEREAS**, since Purchaser was the successful bidder for the Real Property at the Auction under the rules and terms and conditions thereof, Purchaser hereby contracts to purchase the Real Property pursuant to the provisions and conditions of this Agreement;

**NOW, THEREFORE, IN CONSIDERATION** of the premises and mutual promises contained herein, the Parties agree as follows:

- 1 **Sale of Real Property to Purchaser.** Seller shall sell and convey the Real Property to the Purchaser in “as-is” and “where-is” condition, with no warranties, express or implied, having been or now being given, and Purchaser shall purchase the Real Property.
  - 1.1 **Deed.** The Real Property shall be conveyed to the Purchaser subject to easements, rights of way, leases, licenses, setbacks, protective and restrictive covenants, reservations, conditions, and restrictions of record, if any, if any, by a special warranty deed in substantially the form set forth at Exhibit 1.1 (the “**Deed**”).
  - 1.2 **Additional provisions dependent upon tract purchased.** Depending on the tract or tracts of Real Property purchased by Purchaser at the Auction, then this Agreement incorporates additional provisions and conditions specific to such tract

or tracts on the Cover Sheet and any exhibits thereto.

- 2 **Purchase Price.** As consideration for the purchase of the Real Property, Purchaser shall pay to Seller the purchase price listed on the Cover Sheet (the “**Purchase Price**”) subject to the adjustments provided for herein. The Purchase Price shall be paid as follows:
  - 2.1 **Earnest Money Deposit.** Immediately upon the execution of this Agreement, Purchaser shall deposit with the Closing Agent (defined below) that sum of money which equals 10% of the Purchase Price (the “**Earnest Money Deposit**”). The Earnest Money Deposit shall be paid in U.S. dollars and shall be delivered on the Effective Date to the Closing Agent at 1806 M Street, Suite 105, Belleville, Kansas 66935. The Earnest Money Deposit may be paid by cash, wire, money order, cashier’s check, or personal/business check made payable to the Closing Agent or by another form of payment approved by Seller in Seller’s sole and absolute discretion.
  - 2.2 **Balance Due at Closing.** The Purchase Price, after adjustments applied pursuant to this Agreement, and less the Earnest Money Deposit, shall be paid in full at Closing (defined below) to the Closing Agent in U.S. dollars in the form of certified funds or an electronic transfer of funds.
- 3 **Marketable Title to Real Property.** Seller has arranged for a signed commitment for title insurance (the “**Title Commitment**”) issued by Cloud Republic County Title, LLC, showing title to the Real Property vested in Seller and insuring Purchaser against loss or damage to the extent of the Purchase Price by reason of defects in Seller’s title to the Real Property, subject to the exceptions and exclusions set forth or referred to at Exhibit 3 (the “**Permitted Encumbrances**”). The Title Commitment shall be deemed conclusive evidence of marketability of title to the Real Property.
- 4 **No Further Inspections.** Purchaser acknowledges that Purchaser was required to complete any and all inspections prior to the Auction. Therefore, Purchaser shall have no right to object to any defects that would have been revealed by an inspection prior to the Auction.
- 5 **Purchaser’s Early Access.** Seller agrees that Purchaser may have early access to the Real Property upon Purchaser executing this Agreement, delivering the Earnest Money Deposit, and furnishing to Seller and carrying at its own expense at least \$1,000,000.00 of general liability insurance (including coverage for contractual liability) listing Seller as an additional insured. So long as these conditions are satisfied, Purchaser may access the Real Property and plant crops and/or pasture livestock on the Real Property prior to the Closing Date. **However, if this Agreement is terminated by Seller as a result of a Purchaser Event of Default (defined below), Purchaser agrees that any investments made to, improvements added to, fixtures installed to, and/or crops planted on the**

**Real Property shall be deemed and shall automatically become the property of Seller effective as of the date of the termination of this Agreement.** Purchaser assumes and agrees to pay any and all costs and expenses related to Purchaser's use of the Real Property, including, but not limited to, any utilities used by Purchaser, and Purchaser assumes any and all risk related to Purchaser's access and use of the Real Property. Purchaser further agrees to indemnify, defend and hold Seller harmless from and against any and all claims, liens, demands, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees and courts) resulting from Purchaser's access to and use of the Real Property. Purchaser further waives and releases all claims and causes of action it may have against Seller and Seller's board of directors, officers, employees, agents, attorneys, and other representatives for injuries or damages to person or property sustained by Purchaser or its agents arising, directly or indirectly, from their access to and use of the Real Property.

6 **Representations and Warranties by Purchaser.** Purchaser hereby represents and warrants to Seller each of the following:

6.1 **Due Diligence Investigations.** Purchaser has had ample opportunity to investigate all information pertaining to the Real Property, the condition of the Real Property, and the suitability of the Real Property for Purchaser's intended use. Purchaser has executed this Agreement either solely in reliance upon information independently obtained or verified by Purchaser or Purchaser's agents, or else Purchaser has knowingly accepted all risks of failing to obtain or verify information concerning the Real Property and any information pertaining to Purchaser's intended use of the Real Property.

6.2 **Condition of Real Property.** Purchaser understands that Seller has little or no direct knowledge concerning the condition of the Real Property. Purchaser fully understands that the Real Property is being sold in "as-is" and "where-is" condition, with all faults and flaws, whether known or unknown, and Purchaser is knowingly accepting all risks, expenses, and obligations associated with the purchase and use of the Real Property. Purchaser acknowledges that Seller and Seller's agents, representatives, and attorneys have not made any representations, warranties, promises, covenants, agreements, or guaranties, implied or express, oral or written, with regard to the Real Property.

6.3 **Good Standing.** If Purchaser is an entity, then Purchaser will be authorized to conduct business in Kansas before the Closing Date (defined below).

6.4 **Enforceability.** All transactions provided for herein and all obligations of Purchaser have been duly authorized by all requisite action, and the execution and consummation of this Agreement will be valid and fully enforceable against Purchaser.

- 6.5 **All Representations and Warranties True and Correct at Closing.** The representations and warranties of Purchaser made herein are true and correct and shall be true and correct at Closing (defined below), as though such representations and warranties were made on and as of the Closing Date.
- 6.6 **Survival of Representations and Warranties.** Purchaser's representations and warranties are continuing and shall survive the execution of this Agreement in perpetuity.
- 7 **Representations and Warranties by Seller.** Seller hereby represents and warrants to Purchaser each of the following:
- 7.1 **Enforceability.** All transactions provided for herein and all obligations of Seller have been duly authorized by all requisite action, and the execution and consummation of this Agreement will be valid and fully enforceable against Seller.
- 7.2 **Broker for Seller.** Midwest Land and Home, LLC, has acted as agent for Seller in this transaction and is to be paid a commission by Seller pursuant to a separate agreement with Seller. Seller represents that Seller has dealt with no other broker other than the broker identified herein.
- 7.3 **Representations and Warranties True and Correct at Closing.** The representations and warranties of Seller made herein are true and correct and shall be true and correct at Closing, as though such representations and warranties were made on and as of the Closing Date.
- 7.4 **Disclaimer of Any Other Warranties.** Except as specifically set forth in this Section, Seller disclaims any other warranties of any kind, including, but not limited to, any warranties of habitability, merchantability, marketability, profitability, or fitness for a particular use or purpose.
- 7.5 **Expiration of Representations and Warranties.** Seller's representations and warranties shall expire immediately after Closing.
- 8 **Indemnity Obligations of Purchaser to Seller.** Purchaser and Purchaser's Affiliates shall defend, exonerate, indemnify, and hold Seller and its board of directors, officers, employees, agents, attorneys, and other representatives (collectively "Seller" for the purposes of this Section) harmless from and against any and all causes of action, debts, losses, claims, damages, demands, liabilities, injuries, fines, penalties, costs or expenses (including attorneys' fees and consultants' fees and remedial, removal, and all other response costs, and costs of defense), suits, or obligations of any and every nature whatsoever (collectively "**Claims**") arising out of or in any manner connected with any

breaches of Purchaser's warranties herein or Purchaser's ownership or operation of the Real Property or the possession of or conduct of business on the Real Property at all times from and after the Closing Date, including, without limiting the generality of the foregoing, Claims pertaining to or brought pursuant to Environmental Laws.

- 8.1 **Definition of "Affiliates"**. The term "**Affiliates**" as used in this Agreement shall mean any natural person, corporation, limited liability company, general partnership, limited partnership, joint venture, trust, business trust, association, or any other legal entity which directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such party. The term "control" (including the terms "controlling," "controlled by," or "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such party, whether through ownership of voting securities, by statute, by contract, or otherwise.
- 8.2 **Definition of "Environmental Laws"**. The term "**Environmental Laws**" as used in this Agreement shall mean any law, statute, regulation, rule, order, consent decree, settlement agreement, or governmental requirement which imposes liability for or standards of conduct concerning releases, discharges, emissions, or threatened releases of noises, odors, or any pollutants, contaminants, or hazardous or toxic wastes, substances, or materials into ambient air, water, or land, or otherwise imposes liability for or standards of conduct concerning the presence, manufacturing, processing, generation, distribution, use, treatment, storage, disposal, cleanup, transport, or handling of pollutants, contaminants, or hazardous or toxic wastes, substances, materials, or containers, including without limitation the Resource Conservation and Recovery Act (42 U.S.C. §6901, *et seq.*) as amended, the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. §9601, *et seq.*) as amended, the Federal Water Pollution Control Act (33 U.S.C. §1251, *et seq.*) as amended, the Safe Drinking Water Act (42 U.S.C. §300f, *et seq.*) as amended, the Toxic Substances Control Act (15 U.S.C. §2601, *et seq.*) as amended, the Clean Air Act (42 U.S.C. §7401, *et seq.*) as amended, or any other federal, state, or local environmental law, ordinance, rule, order, or regulation.
- 8.3 **Survival of Obligations**. The obligations of Purchaser pursuant to this Section shall survive for six years after the Closing Date.
- 9 **Execution of Other Documents**. The Parties agree to promptly execute all such other and further instruments and documents as may be necessary or reasonably advisable to give effect to this Agreement.
- 10 **Closing**. That the transactions contemplated in this Agreement shall be effected and

closed (the “**Closing**”) through Cloud Republic County Title, LLC (the “**Closing Agent**”) by prior document delivery or at its offices in Belleville, Kansas, on a date mutually agreed upon by the Parties, but in no event may the Closing Date be set on a date after September 21, 2022 (the “**Closing Date**”), unless agreed to in writing by Seller.

- 10.1 **Seller’s Obligations at Closing.** At Closing, Seller shall deliver or cause to be delivered to Purchaser the Deed.
- 10.2 **Purchaser’s Obligation to Seller at Closing.** At Closing, Purchaser shall pay the unpaid balance of the Purchase Price, as calculated after taking into account all adjustments called for in this Agreement, as directed by Seller.
- 10.3 **Property Taxes.** All property taxes and assessments with respect to the Real Property for the entire 2022 tax year and all subsequent years shall be paid by Purchaser. Any property taxes and assessments are owed with regard to the Real Property for any tax year prior 2022 shall be paid by Seller.
- 10.4 **Allocation of Closing Costs.** The Closing costs shall be allocated as follows and calculated as an adjustment to the Purchase Price:
  - 10.4.1 **Responsibility of Seller.** Seller shall be responsible for the payment of the Seller’s commission due to Seller’s broker (in an amount previously agreed to by Seller and Seller’s broker) and Seller’s attorney fees.
  - 10.4.2 **Responsibility of Purchaser.** Purchaser shall be responsible for the cost of any endorsements to the owner’s policy of title insurance to be issued pursuant to the Title Commitment, including without limitation any mortgagee’s title insurance coverage, and Purchaser’s attorney fees.
  - 10.4.3 **Responsibility of Both Parties.** The cost of the Title Commitment and the standard owner’s policy of title insurance to be issued pursuant to the Title Commitment and the Closing Agent’s fees and costs shall be split equally by the Parties.
- 10.5 **Closing Instructions.** The Parties contemplate that the Closing Agent may require the execution of separate closing agreements, affidavits, and instructions, and the Parties hereby agree to timely execute any such documents or instruments.
- 11 **Purchaser’s Risk of Loss.** In the event of any damage or loss to any of the Real Property prior to Closing, Purchaser’s sole and exclusive remedy shall be to receive an assignment of Seller’s applicable insurance proceeds, if any, or the rights thereto as a result of such damage or loss. Regardless of the availability or adequacy of such proceeds or the rights thereto, Purchaser shall nonetheless be obligated to proceed with Closing with no

adjustment to the Purchase Price. Seller's insurance coverage pertaining to the Real Property shall be cancelled as of Closing.

- 12 **Events of Default by Purchaser.** The occurrence of any of the following events shall be deemed a default in the performance of this Agreement (a "**Purchaser Event of Default**"):
  - 12.1 **Failure to Fulfill Obligations Under Agreement.** Purchaser fails to promptly perform any obligation set forth or referred to in this Agreement.
  - 12.2 **Breach of Warranty or Covenant Given by Purchaser.** Any warranty or representation given in this Agreement by Purchaser is untrue as of the Closing Date or Purchaser fails to perform any covenant given in this Agreement.
- 13 **Remedies Upon Occurrence of Purchaser Event of Default.** Upon the occurrence of a Purchaser Event of Default which remains uncured ten days after the giving of written notice of default by Seller, Seller may exercise one of the two following remedies set forth below in this Section 14.1 and Section 14.2, which Seller may choose in Seller's sole and absolute discretion; provided however, if the Purchaser Event of Default consists of a failure to perform the indemnification obligations set forth in Section 8 above, then the remedy set forth at Section 14.3, below, shall be available to Seller in addition to Seller's choice of remedies described in Section 14.1 and Section 14.2:
  - 13.1 **Terminate Agreement.** Seller may terminate this Agreement by delivering written notice of Seller's election to terminate this Agreement to Purchaser and the Closing Agent. Upon such termination, the Closing Agent shall promptly pay the Earnest Money Deposit to Seller as liquidated damages for the Purchaser Event of Default.
  - 13.2 **Equitable and Legal Remedies.** Seller may seek an order from the District Court of Republic County, Kansas, requiring specific performance of this Agreement. If Seller obtains this specific performance remedy, then Purchaser shall be responsible for the payment of all of Seller's attorney's fees, court costs, and other expenses incurred as a result of the Purchaser Event of Default, including without limitation fees incurred in all court proceedings pertaining to this remedy.
  - 13.3 **Enforce Indemnity Provisions.** Seller may seek judgment from the District Court of Republic County, Kansas, against Purchaser and/or Purchaser's Affiliates for all Claims related, directly or indirectly, to Purchaser's failure to fulfill Purchaser's indemnification obligations, including, but not limited to, attorney's fees, court costs, and other expenses incurred by Seller in asserting and enforcing this remedy.
- 14 **Events of Default by Seller.** The occurrence of any of the following events shall be



valid unless made in writing and signed by the Party against whom enforcement of such waiver is sought, and then only to the extent expressly specified therein.

- 18 **Construction of Agreement.** This Agreement was prepared by the Seller, and Purchaser was given ample opportunity to review the Agreement, to consult with counsel, and to take the Agreement's provisions and conditions into full consideration prior to deciding to offer the Purchase Price for the Real Property; accordingly, Purchaser agrees that no court shall construe the provisions of this Agreement or any related agreement against Seller based upon Seller's drafting of this Agreement or any related agreement.
- 19 **Savings Clause.** If any provision of this Agreement or the application of a provision to any Party or circumstance shall be held invalid, the remainder of this Agreement, or the application of the provision to Parties or circumstances other than those to which it was held invalid, shall not be affected thereby, and a court of proper jurisdiction is authorized to limit the application of any provision if it is found necessary to render the provision enforceable in connection with the intent of the Parties; provided however, this Section shall be of no force or effect if the consequence of enforcing the remainder of this Agreement without such illegal or invalid term or provision would be to cause Seller to lose the material benefit of its economic bargain.
- 20 **Assignment.** Seller may elect to assign Seller's rights, title, and interest, but not its obligations, in and to this Agreement to a third party in order to facilitate a like-kind or tax-deferred exchange, and Purchaser hereby consents to any such assignment and agrees to cooperate with Seller and any such third party to effect such a transaction. Purchaser may not assign this Agreement without the express written consent of Seller, which shall not be unreasonably withheld.
- 21 **1031 Exchange.** Seller and Purchaser acknowledge and agree that the purchase and sale of the Real Property may be part of a tax-free exchange for either Purchaser or Seller pursuant to Section 1031 of the Code, the regulations promulgated thereunder, revenue procedures, pronouncements and other guidance issued by the Internal Revenue Service. Each Party hereby agrees to cooperate with each other and take all reasonable steps on or before the Closing Date to facilitate such exchange if requested by the other Party, provided that (a) no Party making such accommodation shall be required to acquire any substitute property, (b) such exchange shall not affect the representations, warranties, liabilities and obligations of the Parties to each other under this Agreement, (c) no Party making such accommodation shall incur any additional cost, expense or liability in connection with such exchange (other than expenses of reviewing and executing documents required in connection with such exchange), and (d) no dates in this Agreement will be extended as a result thereof, except as specifically provided herein.
- 22 **Broker.** Purchaser acknowledges the following: (a) Midwest Land and Home, LLC, has acted as agent for the Seller, with the duty to represent Seller's interest; (b) Midwest Land

and Home, LLC, has not been the agent for Purchaser; (c) information given to Midwest Land and Home, LLC, by Purchaser and/or Purchaser's agents has and will be disclosed to the Seller; and (d) the above disclosure notice was announced to all potential bidders prior to the auction. Notwithstanding any other provision set forth herein, Seller shall be responsible for the real estate commission payable to Midwest Land and Home, LLC. Purchaser acknowledges that Midwest Land and Home, LLC, has made no representations and has given no express or implied warranties with regard to the condition of the Real Property.

- 23 **Offender Registry.** Kansas law requires persons who are convicted of certain crimes, including certain sexually violent crimes, to register with the sheriff of the county in which they reside. If Purchaser desires information regarding those registrants, Purchaser may find information on the homepage of the Kansas Bureau of Investigation (KBI) at <http://www.Kansas.gov/kbi> or by contacting the local sheriff's office.
- 24 **Radon.** Every buyer of residential real property is notified that the property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a class-A human carcinogen, is the leading cause of lung cancer in non-smokers and the second leading cause overall. Kansas law requires sellers to disclose any information known to the seller that shows elevated concentrations of radon gas in residential real property. The Kansas department of health and environment recommends all home-buyers have an indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a radon measurement technician. Elevated radon concentrations can be easily reduced by a radon mitigation technician. For additional information go to [www.kansasradonprogram.org](http://www.kansasradonprogram.org).
- 25 **Binding Effect.** This Agreement shall be binding upon the Parties and their respective successors in interest.
- 26 **Headings.** Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.
- 27 **Variation of Terms.** All terms and any variations thereof shall be deemed to refer to masculine, feminine, or neuter, or singular or plural, as the identity of the Parties or third parties may require.
- 28 **Integration.** This Agreement, including all Exhibits and the Cover Sheet, shall constitute the entire agreement between the Parties with respect to the sale and purchase of the Real Property. No modification or variation of this Agreement shall be valid and enforceable except by supplemental agreement in writing, executed and approved in the same manner as this Agreement.

- 29     **Governing Law and Exclusive Venue.** The Parties stipulate that this Agreement shall be interpreted and enforced in accordance with the laws of the State of Kansas, and that exclusive venue properly lies in the District Court of Republic County, Kansas.
- 30     **Counterpart Execution.** This Agreement may be executed in any number of counterparts with the same effect as if the Parties had signed the same document. All counterparts shall be construed together and shall constitute one agreement. This Agreement and any documents relating to it may be executed and transmitted to any other Party by facsimile, which facsimile shall be deemed to be, and utilized in all respects as, an original, wet-inked document. In addition, electronic signatures shall be deemed original signatures for the purposes of this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed and entered into this Agreement as of the Effective Date.

*[Signature pages follow.]*

**SIGNATURE OF SELLER**

**“SELLER”**

**THE BENNINGTON STATE BANK**

By: \_\_\_\_\_  
Name: Darren Gragg  
Title: President & Chief Executive Officer

*[Signature of Purchaser on next page.]*

**SIGNATURE OF PURCHASER**

**“PURCHASER”**

**NAME:** \_\_\_\_\_

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

Name of Signer: \_\_\_\_\_

Title: \_\_\_\_\_

**NAME:** \_\_\_\_\_

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

Name of Signer: \_\_\_\_\_

Title: \_\_\_\_\_

**NAME:** \_\_\_\_\_

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

Name of Signer: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit 1.1**

**“Deed”**

**SPECIAL WARRANTY DEED**

**THIS DEED**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, between **THE BENNINGTON STATE BANK** (“Grantor”) and \_\_\_\_\_ (“Grantee”),

**WITNESSETH**, that Grantor, in consideration of the sum of ONE DOLLAR AND OTHER VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, does by these presents, sell and convey unto the Grantee, and its successors and assigns, all of the Grantor’s interest in and to the real property in Republic County, Kansas, described on the attached Exhibit A (the “Real Property”), **EXCEPT AND SUBJECT TO** all easements, rights of way, leases, licenses, setbacks, protective and restrictive covenants, reservations, conditions, and restrictions of record, if any;

**TO HAVE AND TO HOLD THE SAME**, together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining, forever. And Grantor for itself and for its successors and assigns do hereby covenant, promise and agree to and with Grantee, that at the delivery of these presents, said interest in said premises is free, clear, discharged and unencumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments, and encumbrances, of what nature or kind whatsoever, that were caused by or through Grantor or created under Grantor, except as herein above stated and they will warrant and forever defend said interest unto the Grantee, the survivor's successors and assigns, against Grantor, their successors and assigns, and all and every person or persons whomsoever, lawfully claiming or to claim the same by, through or under the Grantor, but not otherwise. Grantor does not warrant title against those claiming a right, interest or title that arose prior to, or separate from, Grantor’s interest in the above-described real estate.

[Signature page to follow.]



**Exhibit 3**

**“Permitted Encumbrances”**

- A. **General Exclusions.** The general exclusions from coverage contained in the American Land Title Association’s standard Owner’s Policy form adopted June 17, 2006.
- B. **Specific Exceptions.** Specific exceptions or exclusions from coverage set forth in the Title Commitment.
- C. **Easements, Reservations, and Restrictions of Record.** Recorded easements, rights of way, licenses, setbacks, protective and restrictive covenants, reservations, and oil and gas leases.
- D. **Purchaser’s Liens and Encumbrances.** Liens, encumbrances, and other matters arising out of the activities of Purchaser.
- E. **Utilities.** Any preexisting agreements with utility companies that relate to the Real Property.
- F. **Cover Sheet Matters.** Any matters set forth or referred to in the Cover Sheet.