

PURCHASE AND SALE AGREEMENT

This **PURCHASE AND SALE AGREEMENT** (“Agreement”) is made and entered into as of _____, 2023 (“Effective Date”) by and between the County of Ramsey, a political subdivision of the State of Minnesota (“Seller”), and NUWAY Alliance, a Minnesota non-profit corporation (“Buyer”).

1. **Purchase and Sale.** Subject to the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, all of the following described property (collectively, the “Property”):

A. *Real Property.* That certain real property located at 2000 White Bear Avenue North, in the City of Maplewood, County of Ramsey, State of Minnesota, and legally described on **Exhibit A** (the aforesaid real property, together with all tenements, hereditaments, easements, rights-of-way, and appurtenances are collectively referred to as the “Real Property”), and as depicted on **Exhibit B**;

B. *Improvements.* The buildings located on the Real Property together with all other structures, fixtures, and Seller’s right, title and interest, without warranty, in any underground tunnels located on the Real Property. For purposes of this Agreement, “structures” includes a garage; heating plant; water tower; enclosed passageway from the main building to the heating plant; two (2) gazebos; one (1) pavilion; one (1) monument sign on White Bear Avenue; one (1) monument sign in front of the main building; and a fence at the south and east boundary of the Real Property. All of the buildings, structures, fixtures, and the underground tunnel are, collectively, the “Improvements”;

C. *Personal Property.* All of Seller’s right, title and interest, without warranty, in that certain equipment, mechanical systems, and other tangible personal property owned by Seller located in the Improvements or on the Real Property, excluding the items listed on **Exhibit C**, which are not included in the sale (collectively, the “Personal Property”); and

D. *Intangible Property.* All of Seller’s right, title and interest, if any, without warranty and to the extent assignable without cost to Seller, in that certain intangible property owned by Seller and used solely in connection with Seller’s operation of the Real Property and the Improvements, if any, including, without limitation, (i) at no cost to Seller, all of Seller’s transferable permits, licenses, certificates and approvals issued in connection with the Real Property and the Improvements, and (ii) at no cost to Seller, all of Seller’s plans and specifications, operating manuals, guaranties and warranties with respect to the Real Property and/or the Improvements (collectively, the “Intangible Property”).

2. **Purchase Price.** Subject to the prorations and credits hereinafter provided, the purchase price (“Purchase Price”) for the Property shall be Five Million Two Hundred Fifty Thousand and 00/100 Dollars (\$5,250,000.00), which shall be payable and allocated as set forth below:

A. *Earnest Money.* Buyer shall deposit as earnest money the amount of \$50,000.00 (“Earnest Money”) into escrow (the “Earnest Money Escrow”) pursuant to a joint order escrow

agreement to be entered into by Seller and Buyer with First American Title Insurance Company, National Commercial Services, 121 South 8th Street, Suite 1250, Minneapolis, Minnesota 55402 ("Title Insurer"), as escrowee ("Escrowee"), in the form attached to this Agreement as **Exhibit D** (the "Earnest Money Escrow Agreement"). The Earnest Money shall be deposited by Buyer into the Earnest Money Escrow within five (5) business days following the execution of the Agreement by Seller and Buyer. Provided this Agreement is not otherwise terminated pursuant to its terms, the Earnest Money shall be transferred to the Closing Escrow (as defined below) upon establishment of the Closing Escrow. The Earnest Money shall be invested only upon the sole direction and at the sole cost of Buyer, and, except as specifically set forth in this Agreement to the contrary, all interest earned on such Earnest Money shall accrue to the benefit of Buyer.

B. *Payment of Cash Balance.* On or before the Closing Date (as defined in Section 10 of this Agreement), Buyer shall deposit with Escrowee the balance of the Purchase Price by federal wire transfer, together with such additional funds for Buyer's share of closing costs and prorations as may be required pursuant to this Agreement.

C. *Method of Payment.* All cash payments by Buyer will be in U.S. Dollars, and in the form of wire transfer, certified checks, or other immediately available funds.

3. **Title.**

A. *Conditions of Title.* Title to the Real Property shall be conveyed by Seller to Buyer by limited warranty deed ("Deed"), subject to the Permitted Encumbrances included in the Title Commitment and those listed in **Exhibit E** (collectively, "Permitted Encumbrances").

B. *Title Insurance Commitment.* Within ten (10) days after the Effective Date, Seller shall deliver to Buyer: (i) a commitment for an ALTA 2006 Owner's Policy of Title Insurance issued by Title Insurer ("Commitment"), showing title to the Real Property in Seller; and (ii) to the extent available, legible copies of all documents cited, raised as exceptions, or noted in the Commitment (collectively, the "Title Documents"). Buyer has the right to object to any exceptions in the Commitment during the Inspection Period by providing Seller written notice of its objections ("Title Objection"). Seller may elect to cure any such Title Objection or elect not to cure such Title Objection by written notice to Buyer within five (5) days of Seller's receipt of Buyer's objection. If Seller fails to provide written notice, Seller will be deemed to have elected not to cure any Title Objection. If Seller elects or is deemed to elected not to cure Buyer's Title Objection, then Buyer will have the right to either (i) terminate this Agreement, and upon such termination, the Earnest Money will be returned to Buyer, along with any interest earned on the Earnest Money; or (ii) continue to Closing and Buyer's Title Objection will become a Permitted Encumbrance. If Seller elects to cure Buyer's Title Objection but fails to cure by the Closing Date, then Buyer may either (i) delay Closing until such time as the Title Objection is cured, or (ii) terminate this Agreement and upon such termination the Earnest Money will be returned to Buyer, along with any interest earned on the Earnest Money.

C. *Policy.* As a condition to Closing, Seller agrees to cause Title Insurer to issue to Buyer, as of the Closing Date, Title Insurer's ALTA 2006 Owner's Policy of Title Insurance

with GAP coverage (“Policy”), in the amount of the Purchase Price, based on the Commitment, showing fee simple title to the Real Property vested in Buyer, subject to the documents of record shown and accepted by Buyer on the Commitment, with extended coverage over all general exceptions. Buyer shall be responsible for the costs of and premium for the Policy with extended coverage over all general exceptions (excluding the costs of Buyer’s title endorsements), and at no cost to Seller, Seller shall use commercially reasonable efforts to cooperate with Buyer with its efforts to obtain those certain title endorsements as may be reasonably requested by Buyer.

4. **Inspections.** At Buyer’s cost, Buyer may conduct a general physical inspection of the Real Property, which shall be completed no later than thirty (30) days after execution of this Agreement. At Buyer’s cost, Buyer shall conduct an environmental inspection of the Property, which shall be completed no later than thirty (30) days after execution of this Agreement (“Inspection Period”). Buyer has the right to terminate this Agreement in its sole discretion prior to the expiration of the Inspection Period by providing written notice to Seller. If Buyer exercises its right to terminate this Agreement, this Agreement will terminate, and the Earnest Money will be returned to Buyer, along with any interest earned on the Earnest Money, without Seller having a right to object.

5. **Approvals from the City of Maplewood.**

A. *Zoning and Land Use Approvals.* Immediately upon execution of this Agreement, Buyer shall submit application(s) to the City of Maplewood (“City”) for any and all required zoning and land use approvals related to Buyer’s intended use of the Real Property. Seller shall cooperate in Buyer’s application(s), and reasonably assist Buyer in completion of the City approvals process.

B. *Establishment of New Property Boundary.* Seller and Buyer acknowledge that the Real Property is part of a larger Seller-owned property, which includes certain improvements and curtilage that are not included in the Real Property described in this Agreement. Seller and Buyer further acknowledge that Seller, at Seller’s cost, has begun the survey work necessary to subdivide the Real Property from the Seller-owned property (the “Subdivision Survey”). At Seller’s cost, Seller shall submit an application to the City to obtain approval of the subdivision/boundary adjustment. Buyer shall cooperate in Seller’s application, and reasonably assist Seller in completion of the City approvals process. Seller shall provide Buyer with a copy of the Subdivision Survey within thirty (30) days of approval of the subdivision/boundary adjustment by the City. In addition to the Subdivision Survey, Buyer shall obtain an ALTA survey for the Real Property (the “ALTA Survey”), no later than thirty (30) days after the Effective Date.

C. *Timing of Approvals.* Seller and Buyer acknowledge that certain approvals by the City shall be subject to the timeframe established in Minnesota Statutes § 15.99, which could be up to one hundred twenty (120) days from the date the City deems an application complete. Accordingly, Seller and Buyer have agreed to the following contingencies related to the timing of City approvals:

- i. Denial Prior to Closing (Buyer). If the City denies any part of Buyer's application(s) prior to Closing, and such denial renders the Property unusable for Buyer's purposes, Buyer may terminate this Agreement without any further obligation to Seller regarding the Property. If Buyer terminates this Agreement pursuant to this paragraph, the Earnest Money, along with any interest earned on the Earnest Money, will be returned to Buyer.
- ii. Denial Prior to Closing or Incomplete at Time of Closing (Seller). If the City denies Seller's application for the subdivision/boundary adjustment, or if the City's approval is not complete at the time of closing, Seller may, at its option, request a reasonable delay in Closing, or terminate this Agreement without any further obligation to Buyer regarding the Property. If Seller terminates this Agreement, the Earnest Money, along with any interest earned on the Earnest Money, will be returned to Buyer.
- iii. Incomplete at Time of Closing (Buyer). If the City approval(s) are not complete at the time of Closing, Buyer may, at its option, request a reasonable delay in Closing, or proceed to the Closing as provided in Section 9 of this Agreement. Buyer assumes all risk associated with proceeding to Closing without final City approval(s). Any improvements or alterations Buyer may make to the Property will remain with the Property at Buyer's cost.
- iv. Denial Following Closing (Buyer). If the City denies any part of Buyer's application(s) after Closing, and such denial renders the Property unusable for Buyer's purposes, Buyer may request that Seller repurchase the Property as provided in Section 9 of this Agreement.

D. The provisions of this Section 5 shall survive the Closing.

6. **Disconnection of Water Service to Adjacent Property**. Seller owns the property that is adjacent to the Property to the north, east, and south of the Property (the "Seller Property"). The "Water Service" to the Seller Property (as described in this Section 6) is connected to the Real Property through pipes that generally extend north from the Real Property, through the tunnel under the paved area on the Property and the access road between the Property and the Seller Property. Seller is required to disconnect the Water Service as follows:

A. At Seller's sole cost and expense, Seller will use reasonable efforts to complete the disconnection of the Water Service on the Real Property prior to Closing.

B. If Seller is unable to complete the disconnection of the Water Service prior to Closing, Seller will pay for Seller's portion of water costs until the disconnection project is complete.

C. In the event Seller is unable to complete all work related to the disconnection of the Water Service prior to Closing, for a period of one year following Closing, Seller shall have the right to enter onto the Property to complete the disconnection project.

D. This disconnection of the Water Service will not affect the water service to the Property.

E. The provisions of this Section 6 shall survive the Closing.

7. **Disconnection of Interconnecting Tunnel to Seller Property.** The Property is connected by a tunnel to the Seller Property ("Tunnel"), which provides access to the Water Service pipes for Seller, and access to the fuel tank pipes for Buyer. The Tunnel generally extends north from the Property, under the paved area on the Property and the access road between the Property and the Seller Property. This sale and conveyance includes only that portion of the Tunnel that is located on the Property and extends to the boundary between the Property and the Seller Property. Approximately 12 feet from the tunnel entry point located on the Property, the tunnel branches to the west for the pipes connected to the fuel tank that serves the Property. Seller is required to disconnect Tunnel access between the Property and the Seller Property as follows:

A. At Seller's sole cost and expense, Seller will use reasonable efforts to complete a barricade project inside the Tunnel on the Real Property prior to Closing. The barricade project will include construction of a barricade on the Real Property in a location mutually agreed upon by Buyer and Seller; and a second barricade on the Seller Property.

B. In the event Seller is unable to complete the barricade project prior to Closing, for a period of one year following Closing, Seller shall have the right to enter onto the Property to continue the barricade project.

C. The provisions of this Section 7 shall survive the Closing.

8. **Additional Agreements.** Seller and Buyer shall execute the following separate agreements prior to Closing in a form reasonably acceptable to Buyer and Seller, related to the locations on the Property and the Seller Property as depicted on **Exhibit B**, and all of which shall be Permitted Encumbrances along with those set forth in **Exhibit C**:

A. A Reciprocal Easement Agreement covering the following:

- Access from Buyer to Seller, related to the emergency exit for the building located on the Seller Property to the east;
- Access from Seller to Buyer related to the emergency exit from lower level on the east side of the main building on the Real Property; for ingress and egress from the lower level of the building for Buyer's equipment; and for limited use of the parking lot on the Seller Property for the purpose of such ingress and egress;
- Access from Seller to Buyer related to the paved access road and street between Van Dyke Street and White Bear Avenue;
- Access for gas line service to the Real Property, which connects to the Property inside the heating building, and for which the meter is located on the Seller Property;

B. A Drainage and Utility Easement allowing access from Seller to Buyer of thirty (30) feet at the south boundary of the Property for ponding and drainage of stormwater from

the Property and the Seller Property to the south;

C. A Right-of-Way Easement allowing access from Buyer to Seller for sixty (60) feet of road Right-of-Way on the west side of the Property, parallel to White Bear Avenue; and

D. Other agreements necessary to make the Property suitable to Buyer's Use and Seller's uses of adjacent properties.

9. **Seller's First Option to Repurchase; Additional Covenant.** Recognizing the interest of the public in the Property, Seller shall have the first option to repurchase the Property according to the following terms:

A. **Repurchase After City Denial.** If any part of Buyer's application(s) for City approvals are denied within the first one hundred twenty (120) days after Closing, and such denials render the Property unusable for Buyer's purposes ("City Denial"),

- i. Seller will repurchase the Property from Buyer at the Purchase Price;
- ii. Buyer will pay all closing costs related with the reconveyance to Seller;
- iii. Seller will retain all improvements or alterations made to the Property by Buyer between Closing and the date of the City Denial or the new closing date, whichever is later;
- iv. If Buyer has commenced a project to alter or improve any part of the Property, and if at the time of the City Denial such a project is incomplete and creates a dangerous condition on the Property or renders the Property unsuitable for any other user, Buyer shall, at its own cost and expense, complete that project as soon as practicable to the satisfaction of Seller; and
- v. Except as set forth in Section 9.A.iv., between the date of the City Denial and the agreed-upon date by which Buyer must quit and vacate the Property, Buyer will make no further alterations or improvements to the Property. In any event or circumstance, Buyer will commit no waste on or about the Property.

B. **Repurchase at Purchase Price.** If Buyer wishes to dispose of the Property within five years of Closing,

- i. Buyer shall notify Seller of its desire to dispose of the Property, which notice shall be delivered as set forth in Section 22.B. of this Agreement;
- ii. Seller may, at its option, subject to Section 9.A.i., repurchase the Property for the Purchase Price set forth in this Agreement;
- iii. If Seller chooses to repurchase the Property:
 1. Seller shall notify Buyer of its decision regarding this First Option to Repurchase within sixty (60) days of notice from Buyer, with such notice from Seller being delivered as set forth in Section 22.B. of this Agreement;
 2. Seller and Buyer will each pay one half of closing costs related to the reconveyance to Seller;
 3. Buyer will be responsible for the payment of all assessed and payable property taxes along with any pending or levied special assessments until such time that the Property becomes exempt due to the return to public ownership; and

4. Buyer shall convey the Property back to Seller free and clear of any mortgages, liens, or other security; and
- iv. If Seller declines to exercise this First Option to Repurchase, Buyer may dispose of the Property in its reasonable discretion for a use in conformance with applicable City Code sections. Buyer must receive Seller's notification that Seller declines to repurchase the Property, or wait sixty (60) days after delivering notice pursuant to Section 22.B. of this Agreement, whichever is longer, before offering the Property for sale to another buyer.

C. Repurchase at Fair Market Value. If Buyer wishes to dispose of the Property after 5 years have elapsed since Closing,

- i. Buyer shall notify Seller of its desire to dispose of the Property, which notice shall be delivered as set forth in Section 22.B. of this Agreement;
- ii. Seller may, at its option, repurchase the Property for the fair market value of the Property at the time of repurchase;
- iii. Fair market value at the time of repurchase will be determined by an independent appraiser at Buyer's sole cost and expense;
- iv. If Seller chooses to repurchase the Property:
 1. Seller shall notify Buyer of its decision regarding this First Option to Repurchase within sixty (60) days of notice from Buyer, with such notice from Seller being delivered as set forth in Section 22.B. of this Agreement;
 2. Seller and Buyer will each pay one half of closing costs related to the reconveyance to Seller;
 3. Buyer will be responsible for the payment of all assessed and payable property taxes along with any pending or levied special assessments until such time that the Property becomes exempt due to the return to public ownership; and
 4. Buyer shall convey the Property back to Seller free and clear of any mortgages, liens, or other security; and
- v. If Seller declines to exercise this First Option to Repurchase, Buyer may dispose of the Property in its reasonable discretion for a use in conformance with applicable City Code sections. Buyer must receive Seller's notification that Seller declines to repurchase the Property, or wait sixty (60) days after delivering notice pursuant to Section 22.B. of this Agreement, whichever is longer, before offering the Property for sale to another buyer.

D. *Additional Covenant.* Concurrent to Closing, Buyer shall execute and deliver to Seller a Declaration of Covenant that shall be recorded on title of the Property, and shall serve as a primary lien on the Property with priority over any Note or security given by Buyer to secure financing to purchase the Property. The Declaration of Covenant is attached to this Agreement as **Exhibit F**.

10. **Closing Escrow and Closing Date.** The transaction contemplated by this Agreement shall be consummated by means of Title Insurer's customary deed and money escrow (the "Closing Escrow") to be opened with the Title Insurer as Escrowee on or prior to the Closing Date, in the normal form of agreement provided by the Title Insurer (the "Closing Escrow Agreement"), with

such special provisions inserted in the Closing Escrow Agreement as may be required to conform with this Agreement or by closing escrow letters from counsel of each party with directions to Title Insurer regarding such parties' requirements for Closing. In the event of any conflict between the Closing Escrow Agreement and this Agreement, the terms of this Agreement shall prevail. If this Agreement is not otherwise terminated pursuant to this Agreement, the consummation of the transaction contemplated in this Agreement (the "Closing") shall be the earlier to occur of (i) May 31, 2023, and (ii) such other date as agreed upon in writing by and between Seller and Buyer (the "Closing Date"). The Closing shall take place via an escrow closing by delivery of the documents to the office of Title Insurer.

11. Closing Documents.

A. *Seller's Closing Documents to be Delivered on or Before the Closing Date.* Seller shall deliver to Escrowee pursuant to the Closing Escrow Agreement, or to Buyer under this Agreement, as applicable, on or before the Closing Date, the following instruments and executed documents, all of which shall be reasonably acceptable to Buyer:

- i. An original Deed for Real Property executed and notarized by Seller;
- ii. A bill of sale and assignment of the Personal Property executed by Seller in favor of Buyer;
- iii. Proof of Seller's authority to enter into and carry out this transaction;
- iv. Entity Transfer Certification confirming that Seller is a "United States Person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended;
- v. All keys and other rights of access to the Property;
- vi. A certificate, dated as of the date of Closing, stating that the representations and warranties of Seller contained in this Agreement are true and correct to Seller's knowledge in all material respects as of the date of Closing (with appropriate modifications of those representations and warranties made in accordance with Section 14 of this Agreement);
- vii. The applicable transfer tax forms;
- viii. Any other documentation, undertakings or agreements reasonably required of Seller by Title Insurer; and
- ix. A closing statement issued by the Title Insurer describing all prorations and other applicable credits as of the Closing Date (the "Closing Statement") executed by Seller.

B. *Deliveries by Buyer on or Before the Closing Date.* Buyer shall deliver to Escrowee pursuant to the Closing Escrow Agreement or to Seller, as applicable, on or before the Closing Date, the following monies, instruments, and documents, all of which shall be reasonably acceptable to Seller:

- i. The balance of the Purchase Price plus or minus Buyer's share of closing costs and prorations, pursuant to the terms of this Agreement;
- ii. Proof of Buyer's authority to enter into this transaction, certified by Buyer;
- iii. Information necessary to assist Seller in preparing the applicable transfer tax forms;

- iv. A certificate, dated as of the date of Closing, stating that the representations and warranties of Buyer contained in this Agreement are true and correct to Buyer's knowledge in all material respects as of the date of Closing;
- v. Any other documentation, undertakings or agreements reasonably required of Buyer by Title Insurer; and
- vi. A countersigned copy of the Closing Statement executed by Buyer.

12. Allocation of Closing Costs and Expenses.

A. Seller shall pay the cost and expense of: (i) the cost of obtaining the Commitment, which includes the Title Insurer's search and exam fees in connection with the Commitment, if any; (ii) the Minnesota state deed tax imposed on the conveyance contemplated under this Agreement; (iii) the recording of releases of any mortgages or other instruments necessary to provide clean title in accordance with the terms of this Agreement; (iv) the costs of recording the Deed, and (v) one-half of any and all of the Escrowee's fees and "New York Style" closing fee.

B. Buyer shall pay the cost and expense of: (i) the costs of and premium for the Policy with extended coverage over all general exceptions, and all of those certain title endorsements for the Policy as requested by Buyer; (ii) the cost of the ALTA Survey; (iii) any third-party inspection costs commissioned by Buyer; and (iv) one-half of any and all of the Escrowee's fees and "New York Style" closing fees.

C. Except as otherwise stated in this Agreement, each party shall pay its own legal and professional fees and fees of their consultants.

13. Prorations.

A. *Real Estate Taxes; Special Assessments.* If there are any, Buyer and Seller shall prorate the real estate taxes as of the Closing Date.

B. *Method of Proration and No Reproration.* The Closing Date shall be an income and expense date for Seller. All expenses in this section shall not be reprorated after the Closing Date, and as between Buyer and Seller, such estimated amounts shall be deemed final as of the Closing Date. The provisions of this Section 13 shall survive the Closing.

14. Representations and Warranties of Seller. Seller represents and warrants to Buyer, as of the Effective Date and as of the Closing Date, as follows:

A. *Seller's Authority.* Seller is a political subdivision of the State of Minnesota, and has all requisite power and authority to carry on its business as conducted, to execute and deliver this Agreement, and the documents entered into pursuant to this Agreement, and to carry out its obligations under this Agreement and such documents, subject to the approval of the Ramsey County Board of Commissioners as required by Section 22.A. of this Agreement.

B. *Documents.* This Agreement and the documents entered into pursuant to this Agreement have been duly authorized, executed, and delivered on behalf of Seller and constitute the valid and binding agreements of Seller, enforceable in accordance with their terms. The Documents delivered to Buyer are true and correct copies, have not been amended or modified, and if currently in full force and effect are free from default or notice of default.

C. *No Breach.* The execution, delivery, and performance by Seller of this Agreement, and the documents entered into pursuant to this Agreement, will not result in a breach or violation by Seller or constitute a default by Seller under any agreement, instrument, or order to which Seller is a party or by which Seller is bound.

D. *No Liabilities.* As of Closing, there will be no obligations or liabilities of any kind or nature whatsoever, including but not limited to, any tax liabilities, contract liabilities, or tort liabilities for which or to which Buyer or the Property will be liable or subject.

E. *OFAC.* Seller is not, nor will Seller become, a person or entity with whom United States persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury (including those named on OFAC’s Specially Designated and Blocked Persons List) or under any statute, executive order (including, without limitation, the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action, and is not and will not engage in any dealings or transactions or be otherwise with such person or entities.

F. *Seller Employees.* At the time of the Closing on the Closing Date, Seller will not have any employees on-site at the Property in connection with the management, operation or maintenance of all or any portion of the Property, except for Seller staff and/or contractors needed to complete the Water Service project and the Tunnel project set forth in Sections 6 and 7, respectively, of this Agreement.

G. *Litigation.* There is no litigation pending or, to Seller’s knowledge, litigation threatened in writing that pertains to the Property.

H. *No Conflicts.* Neither the execution, delivery, or performance of this Agreement by Seller, nor the consummation of the transactions contemplated by this Agreement will (a) violate or conflict with any provision of the organizational documents of Seller, or (b) violate any order, judgment, injunction, award or decree of any court or arbitration body, by or to which Seller is or may be bound or subject.

I. *Notices.* Seller has not received notice of any of the following:

- i. Notice of a violation of any building codes, fire codes, health codes, zoning codes, environmental laws, or other laws and regulations affecting the Property or the use of the Property;

- ii. Notice of a condemnation, environmental, zoning, or other regulation or proceeding being instituted or planned which would detrimentally affect the use and operation of the Property; or
- iii. Notice of hearing of a public improvement project from any governmental assessing authority, the costs of which may be assessed against the Property.

J. *Fixtures.* Seller is not aware of any non-operational fixtures or any major repairs necessary on the Property. Seller makes no warranty as to the functionality or operation of any buildings or fixtures, mechanical or otherwise, located on the Property.

K. *Wells.* Seller does not know of any wells on the Property (this statement being made pursuant to the disclosure requirements of Minnesota Statutes § 103I.235).

L. *Individual Sewage Treatment Systems.* Seller does not know of any individual sewage treatment systems on the Property or serving the Property (this statement being made pursuant to the disclosure requirements of Minnesota Statutes § 115.55).

M. *Storage Tanks.* Seller discloses that there is an 8,000-gallon underground storage tank located west of the Tunnel, on the Real Property for the purpose of storing #2 fuel oil for the boiler. Seller also discloses that there is a 2,000-gallon aboveground storage tank located east of the heating plant on the Real Property for the purpose of storing diesel fuel for the generator. Seller does not know of any release from either tank for which no corrective action was taken. The location of these tanks is as depicted on Exhibit B. Moreover, Seller does not know of any other underground or aboveground storage tanks formerly on the Property that had a release for which no corrective action was taken (this statement being made pursuant to the disclosure requirements of Minnesota Statutes § 116.48).

N. *Methamphetamine Disclosure.* To Seller's knowledge, no methamphetamine production has occurred on the Property.

O. *Hazardous Substances.* Except for the information that is disclosed in a 2007 report, which has been provided to Buyer, to Seller's knowledge, no toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents and such products, and any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601-9657, as amended) have been generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on the Property, nor has any activity been undertaken on the Property that would cause or contribute to (i) the Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901, *et seq.*, or any similar state law or local ordinance; (ii) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Property within the ambit of, CERCLA, or any similar state law or local ordinance; or (iii) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge

into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, *et seq.*, or the Clean Air Act, U.S.C. Section 7401, *et seq.*, or any similar state law or local ordinance. To Seller's knowledge, no substances or conditions exist in or on the Property that may support a claim or cause of action under RCRA, CERCLA or any other federal, state, or local environmental statutes, regulations, ordinances, or other environmental regulatory requirements, including without limitation, the Minnesota Environmental Response and Liability Act, Minnesota Statutes, Chapter 115B ("MERLA"); and the Minnesota Petroleum Tank Release Cleanup Act, Minnesota Statutes, Chapter 115C.

P. *Service Contracts.* There are no service contracts in place for the Property which will affect the Property past Closing.

Q. *No Other Interests.* Seller and the Property are not subject to any commitment, obligation, or agreement, including, but not limited to, any lease, purchase agreement, contract for deed, right of first refusal, option to purchase, or easement with a third party, which prevents the consummation of the transaction contemplated in this Agreement or which might bind Buyer subsequent to consummation of this Agreement. The Property will be free of any tenancies as of Closing and no party will be in possession of the Property.

The representations and warranties of Seller set forth in this Agreement shall be deemed remade as of Closing, provided that Seller may give Buyer on or before five (5) days before the Closing Date one or more notices of any modifications (each a "Statement of Modifications") to such representations and warranties which arise after the Effective Date of this Agreement (unless such change in a representation or warranty is the result of a willful and intentional breach by Seller, in which case Buyer shall have the right to bring a suit for such breach in accordance with the terms and conditions set forth in Section 20.B. of this Agreement, and said representations and warranties as so remade and modified shall survive Closing for a period of nine (9) months after the Closing Date, after which all of the representations and warranties of Seller shall become void and of no further force or effect. The provisions of this Section 14 shall survive the Closing.

15. Definition of Knowledge. As used in this Agreement, the term "to Seller's knowledge" or any other reference to the knowledge of Seller (a) shall mean and apply to the actual knowledge of Jean R. Krueger, Director of Ramsey County Property Management, who is authorized to act on behalf of Seller (the "Knowledge Individual"), and not to any other persons or entities, (b) shall mean the actual (and not implied or constructive) knowledge of such individual, without any duty on such individual to conduct any investigation or inquiry of any kind, and (c) shall not apply to or be construed to apply to information or material which may be in the possession of Seller generally or incidentally, but which is not actually known to the Knowledge Individual. Similarly, any reference to any written notice, claim, litigation, filing or other correspondence or transmittal to Seller set forth in this Agreement shall be limited to refer to only those actually received by or known to the Knowledge Individual in the limited manner provided in clauses (a) - (c) above. Under no circumstances shall the Knowledge Individual have any personal obligations or liabilities under this Agreement or otherwise. The provisions of this Section 15 shall survive the Closing.

16. Limitations Concerning Buyer's Knowledge. All of the representations, warranties, and certifications made by Seller set forth in this Agreement or in any of the documents or instruments

required to be delivered by Seller under this Agreement are individually, each a “Representation,” and collectively, the “Representations.” Notwithstanding anything contained in this Agreement to the contrary, there shall be no liability on the part of Seller for any breach of a Representation arising from any matter or circumstance of which Buyer had actual knowledge at Closing. The provisions of this Section 16 shall survive the Closing.

17. **Representations and Warranties of Buyer.** Buyer represents and warrants to Seller, as of the Effective Date and as of the Closing Date, as follows:

A. *Buyer’s Authority.* Buyer and the persons signing below have the legal power, right and authority to enter into this Agreement, to consummate the transactions contemplated by this Agreement, and to execute and deliver all documents and instruments to be delivered by Buyer under this Agreement.

B. *Legal Matters.* There is no pending, or to Buyer’s knowledge, action, suit, or proceeding threatened in writing against Buyer which would materially and adversely affect Buyer’s ability to carry out the transaction contemplated by this Agreement.

C. *No Conflict.* Neither the execution, delivery, or performance by Buyer of this Agreement, nor the consummation of the transaction contemplated by this Agreement will violate any order, judgment, injunction, award or decree of any court or arbitration body, or any other body, by or to which Buyer is or may be bound or subject.

D. *Bankruptcy.* No voluntary, and to Buyer’s knowledge no involuntary, attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other insolvency-related proceedings are pending against Buyer.

E. *OFAC.* Buyer is not, nor will Buyer become, a person or entity with whom United States persons or entities are restricted from doing business under regulations of OFAC of the Department of the Treasury (including those named on OFAC’s Specially Designated and Blocked Persons List) or under any statute, executive order (including, without limitation, the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action, and is not and will not engage in any dealings or transactions or be otherwise with such person or entities.

The representations and warranties of Buyer set forth in this Agreement shall be deemed remade as of Closing, and said representations and warranties as so remade shall survive the Closing for a period of nine (9) months. The provisions of this Section 17 shall survive the Closing.

18. **Sale “As Is, Where Is”.** Buyer acknowledges and agrees that upon Closing, Seller shall sell and convey to Buyer and Buyer shall accept the Property “AS IS, WHERE IS, WITH ALL FAULTS,” except to the extent expressly provided otherwise in this Agreement and any document executed by Seller and delivered to Buyer at Closing. Except as expressly set forth in this Agreement and the documents delivered by Seller to Buyer at Closing, Buyer has not relied and will not rely on, and Seller has not made and is not liable for or bound by, any express or implied

warranties, guarantees, statements, representations, or information pertaining to the Property or relating to the Property (including specifically, without limitation, Property information packages distributed with respect to the Property) made or furnished by Seller, to whomever made or given, directly or indirectly, orally or in writing. Buyer represents that it is a knowledgeable, experienced, and sophisticated Buyer of real estate and that, except as expressly set forth in this Agreement and the documents delivered by Seller to Buyer at Closing, it is relying solely on its own expertise and that of Buyer's consultants in purchasing the Property and shall make an independent verification of the accuracy of any documents and information provided by Seller. By closing the transaction contemplated by this Agreement, Buyer acknowledges that Seller has afforded Buyer a full opportunity to conduct such investigations of the Property as Buyer deemed necessary to satisfy itself as to the condition of the Property and the existence or non-existence or curative action to be taken with respect to any environmental conditions or hazardous materials on or discharged from the Property, and will rely solely upon same and not upon any information provided by or on behalf of Seller or its agents or employees with respect to the same, other than such representations, warranties and covenants of Seller as are expressly set forth in this Agreement. Upon Closing, Buyer shall assume the risk that adverse matters, including, but not limited to, adverse physical or construction defects or adverse environmental, health or safety conditions, may not have been revealed by Buyer's inspections and investigations of the Property. The provisions of this Section 18 shall survive the Closing.

19. Conditions to Obligation to Close.

A. *Seller's Condition.* Seller's obligation to close on the sale of the Property is subject to Buyer's representations and warranties being true and correct in all material respects on the Closing Date, Buyer having delivered the balance of the Purchase Price in accordance with Section 2.B.; Buyer having delivered to Title Insurer its closing deliveries in accordance with Section 11.B.; and Buyer having performed all of its material obligations under this Agreement.

B. *Buyer's Condition.* Buyer's obligation to close on the purchase of the Property is subject to Seller's representations and warranties being true and correct in all material respects on the Closing Date, Seller having delivered to Title Insurer its closing deliveries in accordance with Section 11.A., and Seller having performed all of its material obligations under this Agreement.

At any time prior to the Closing, Seller or Buyer may elect in writing to waive the benefit of any such condition to its obligations under this Agreement. By closing the transaction, Seller and Buyer shall be conclusively deemed to have waived the benefit of any remaining unfulfilled conditions set forth in this Section 19, except to the extent that the same expressly survive Closing.

20. Defaults and Remedies.

A. *Default by Buyer.* If Buyer: (i) fails to perform its material obligations in accordance with the terms of this Agreement that would prevent the Closing from occurring on the Closing Date; or (ii) materially breaches a representation or warranty in this Agreement and such failure is not cured within five (5) days of the date of Seller's written notice to Buyer,

then, Seller may elect to either (a) terminate this Agreement by written notice to Buyer and retain the Earnest Money and any interest earned on the Earnest Money; it being agreed between Buyer and Seller that the amount of the Earnest Money shall be liquidated damages for a default of Buyer under this Agreement, because of the difficulty, inconvenience and uncertainty of ascertaining actual damages for such default in view of the uncertainties of the real estate market, fluctuating property values, and differences of opinion with respect to damages for breach of a real estate transaction; or (b) waive the default or breach and proceed to Closing. Notwithstanding anything in this Section 20.A., in the event of Buyer's default or a termination of this Agreement, Seller shall have all remedies available at law or in equity in the event Buyer is asserting any claims or right to the Property that would otherwise delay or prevent Seller from having clear, indefeasible, and marketable title to the Property.

B. *Default by Seller.* If Seller: (i) fails to perform its material obligations in accordance with the terms of this Agreement that would prevent the Closing from occurring on the Closing Date in accordance with this Agreement; or (ii) materially breaches a representation or warranty in this Agreement and such failure is not cured within five (5) days of the date of Buyer's written notice to Seller, then Buyer may elect to (a) terminate this Agreement by written notice to Seller and retain the Earnest Money and any interest earned on the Earnest Money (to the extent the transaction in this Agreement has not yet been consummated) upon Title Insurer's receipt of a written joint order signed by Seller (or Seller's Counsel) and Buyer (or Buyer's Counsel); (b) waive the default or breach, and proceed to Closing; (c) enforce specific performance of Seller's obligations under this Agreement; provided, however, as a condition precedent to Buyer exercising any right it may have to bring an action for specific performance under this Agreement, Buyer must commence such an action within ninety (90) days after the scheduled Closing Date. Buyer agrees that its failure to timely commence such an action for specific performance within such ninety (90) day period shall be deemed a waiver by it of its right to commence an action for specific performance, as well as a waiver by it of any right it may have to file or record a notice of *lis pendens* or notice of pendency of action or similar notice against any portion of the Property.

21. Other Covenants and Agreements.

A. *Casualty or Condemnation.* In the event of a casualty or condemnation prior to the Closing, Seller may elect to terminate this Agreement. If Seller terminates this Agreement, the Earnest Money, along with any interest earned on the Earnest Money, will be immediately returned to Buyer.

B. *Confidentiality.* Seller shall use commercially reasonable efforts to keep confidential the content and all copies of this Agreement, related documents or amendments now or entered into after the Effective Date, and all proposals, materials, information and matters relating to the same, and not to disclose, disseminate or distribute any of the same, or permit the same to occur, except on an "as needed" basis to the extent reasonably required for proper business purposes by Seller's employees, attorneys, insurers, auditors, lenders, brokers, and assignees or subtenants, and except as may be required by the Minnesota Government Data Practices Act or other applicable state or federal law, or as ordered by a court of competent jurisdiction.

C. *Possession.* Exclusive physical possession of the Property shall be delivered to Buyer on the Closing Date.

22. Miscellaneous.

A. *Approval by Ramsey County Board of Commissioners.* This Agreement shall not be effective on Seller until approved by a majority vote of the Ramsey County Board of Commissioners.

B. *Notices Between the Parties.* All notices or other communications required or permitted under this Agreement shall be in writing, and shall be deemed to have been given and received (a) when personally delivered or sent by facsimile with a confirmation of transmission, (b) one day after being sent by a nationally recognized overnight courier, or (c) on the date of transmission if sent by electronic mail (and confirmation of completed transmission is received) prior to 5:00 p.m. Central time (and if sent later than such time, then the next business day), provided that such electronic mail shall also be followed by delivery of such notice pursuant to clause (a) or (b) above, delivered to the address of the intended recipient set forth below. Notice of change of address shall be given by written notice in the manner set forth in this section. Notices may be sent by counsel for a party, and such shall be deemed notice by the party so represented. Notices shall be deemed served as set forth above, even if such Notices are rejected by the intended recipient.

<i>If to Seller:</i>	Ramsey County 250 Ramsey County Courthouse 15 West Kellogg Boulevard St. Paul, MN 55102 Attn: County Manager
<i>With a copy to:</i>	Ramsey County Property Management 121 – 7th Place East, Suite 2200 St. Paul, MN 55101 Attn: Director Phone: (651) 266-2262 Email: jean.krueger@co.ramsey.mn.us
<i>If to Buyer:</i>	John Miller Chief Strategy Officer NUWAY Alliance Administrative Office 2217 Nicollet Avenue South Minneapolis, MN 55404 Phone: (612) 216-5315 Email: John.Miller@nuway.org
<i>With a copy to:</i>	B. Shane Barnes

Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402
Phone: (612) 766-8635

C. *Assignment.* Buyer shall not assign this Agreement without the prior written consent of Seller, except Buyer may assign this Agreement to an affiliate without Seller's consent. Seller shall not assign this Agreement without the prior written consent of Buyer.

D. *Partial Invalidity.* If any term or provision of this Agreement or the application of such term or provision to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such holding, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

E. *Waivers.* No waiver of any breach or any covenant or provision contained in this Agreement shall be deemed a waiver of any preceding or succeeding breach or such covenant or provision, or of any other covenant or provision contained in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

F. *Survival.* Subject to the terms and conditions of this Agreement, the covenants, agreements, representations, and warranties made in this Agreement that expressly contemplate performance after the Closing Date shall survive the Closing and shall not be deemed to have merged into the Deed, and this Agreement shall extend to the respective successors, heirs, and assigns of Seller and Buyer.

G. *Time of Essence.* Seller and Buyer acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision of this Agreement.

H. *Governing Law; Venue.* This Agreement shall be governed by, interpreted, and construed in accordance with, the laws of the State of Minnesota. All litigation regarding, arising from, or related to this Agreement will be venued in either the state or federal court located in Ramsey County, Minnesota.

I. *Counterparts; Electronic Signatures.* This Agreement may be executed in any number of counterparts, each of such counterparts shall, for all purposes, be deemed an original, and all such counterparts shall together constitute one and the same agreement. In order to expedite the execution of this Agreement, Seller and Buyer agree that the electronic signature of a party to this Agreement will be as valid as an original signature of such party and will be effective to bind such party to this Agreement. The parties further agree that any document, including this Agreement and any attachments or exhibits to this Agreement, containing, or to which there is affixed, an electronic signature will be deemed (a) to be

“written” or “in writing,” (b) to have been signed and (c) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes of this Agreement, “electronic signature” also means a manually signed original signature that is then transmitted by any electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g., via PDF) of an original signature. Any party’s failure to produce the original signature of any electronically transmitted signature will not affect the enforceability of this Agreement.

J. *Captions.* The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Agreement or the scope or content of any of its provisions.

K. *Terms.* The use of any pronoun in this Agreement shall include the singular, plural, masculine, feminine and neuter, the use of the singular or plural form shall include the plural or singular form, and the use of any gender shall include all genders, as the context may require.

L. *Business Days.* If the final day of any period, or any date of performance, or date to take action under this Agreement falls on a Saturday, Sunday or legal holiday, then the final day of the period or the date of performance shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

M. *Attorneys’ Fees.* In the event of any litigation arising out of this Agreement between Seller and Buyer, the prevailing party shall be entitled to reasonable attorneys’ fees and costs upon the issuance of a final, non-appealable judgment issued by a court of competent jurisdiction.

N. *Brokers.* It is acknowledged by the parties that neither party has been represented by a broker or salesperson in the transaction during their negotiations of this Agreement.

O. *Entire Agreement.* This Agreement contains the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior understandings with respect this Agreement, including the Letter of Intent executed by the parties and effective as of March 31, 2023. This Agreement may not be modified, changed, supplemented, or terminated, nor may any rights or obligations under this Agreement be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted in this Agreement. Other than as expressly set forth in this Agreement, the parties do not intend to confer any benefit under this Agreement on any person, firm, or entity other than the parties to this Agreement.

P. *Incorporation of Exhibits.* The following Exhibits that are attached to this Agreement are true and correct and are incorporated into this Agreement.

EXHIBIT A	Legal Description of the Property
EXHIBIT B	Depiction of the Property
EXHIBIT C	Exclusions from Personal Property

EXHIBIT D	Earnest Money Escrow Agreement
EXHIBIT E	Permitted Encumbrances
EXHIBIT F	Declaration of Restrictive Covenants

Q. *Survival of Miscellaneous Section.* The provisions of this Section 22 shall survive the Closing.

[signature page follows]

SIGNATURE PAGE TO PURCHASE AND SALE AGREEMENT

IN WITNESS WHEREOF, the parties hereby execute this Purchase and Sale Agreement as of the Effective Date.

SELLER:

COUNTY OF RAMSEY,
a political subdivision of the State of
Minnesota

By: _____
Ryan T. O'Connor
Ramsey County Manager

Approval recommended:

By: _____
Jean R. Krueger, Director
Ramsey County Property Management

Approved as to form:

By: _____
Assistant Ramsey County Attorney

BUYER:

NUWAY ALLIANCE, a Minnesota
nonprofit corporation

Tom Meier, CAO
NUWAY Alliance

EXHIBIT A

Legal Description of the Property

That part of the West 620 feet of the North 438 feet of the North half of the Southwest Quarter and of the West 620 feet of the South 235.8 feet of the Northwest Quarter all in Section 14, Township 29, Range 22, Ramsey County, Minnesota, according to the government survey thereof, described as follows:

Commencing at the northwest corner of said Southwest Quarter of Section 14, Township 29, Range 22; thence South 0 degrees 11 minutes 56 seconds East, assumed bearing, along the west line of said Southwest Quarter, a distance of 43.00 feet to the point of beginning of the property to be described; thence continuing South 0 degrees 11 minutes 56 seconds East, along said west line, a distance of 395.01 feet to the point of intersection with the south line of the North 438 feet of said North half of the Southwest Quarter; thence North 89 degrees 24 minutes 19 seconds East, along said south line of the North 438 feet, a distance of 620.02 feet to the point of intersection with the east line of the West 620 feet of said North half of the Southwest Quarter; thence North 0 degrees 11 minutes 56 seconds West, along said east line of the West 620 feet, a distance of 358.00 feet; thence North 17 degrees 09 minutes 12 seconds West a distance of 57.00 feet; thence North 27 degrees 03 minutes 22 seconds West a distance of 128.50 feet; thence South 89 degrees 59 minutes 56 seconds West a distance of 62.00 feet; thence North 0 degrees 0 minutes 04 seconds West, parallel with the west line of said Northwest Quarter, a distance of 145.50 feet to the point of intersection with the north line of said South 235.8 feet of the Northwest Quarter; thence South 89 degrees 24 minutes 19 seconds West, along said north line of the South 235.8 feet, a distance of 167.70 feet; thence South 75 degrees 13 minutes 47 seconds West, a distance of 140.91 feet; thence southwesterly a distance of 35.11 feet along a tangential curve concave to the southeast, having a radius of 50.00 feet and a central angle of 40 degrees 13 minutes 47 seconds; thence South 35 degrees 0 minutes 0 seconds West, tangent to the last described curve, a distance of 23.92 feet; thence southwesterly and southerly a distance of 91.63 feet along a tangential curve concave to the southeast, having a radius of 150.00 feet and a central angle of 35 degrees 0 minutes 04 seconds; thence South 0 degrees 0 minutes 04 seconds East, tangent to the last described curve and parallel with the west line of said Northwest Quarter, a distance of 76.72 feet to the south line of said Northwest Quarter; thence South 0 degrees 11 minutes 56 seconds East, parallel with the west line of said Southwest Quarter, a distance of 43.00 feet; thence South 89 degrees 24 minutes 19 seconds West, parallel with the north line of said Southwest Quarter, a distance of 110.00 feet to said point of beginning and there terminating.

EXHIBIT B

Depiction of the Property

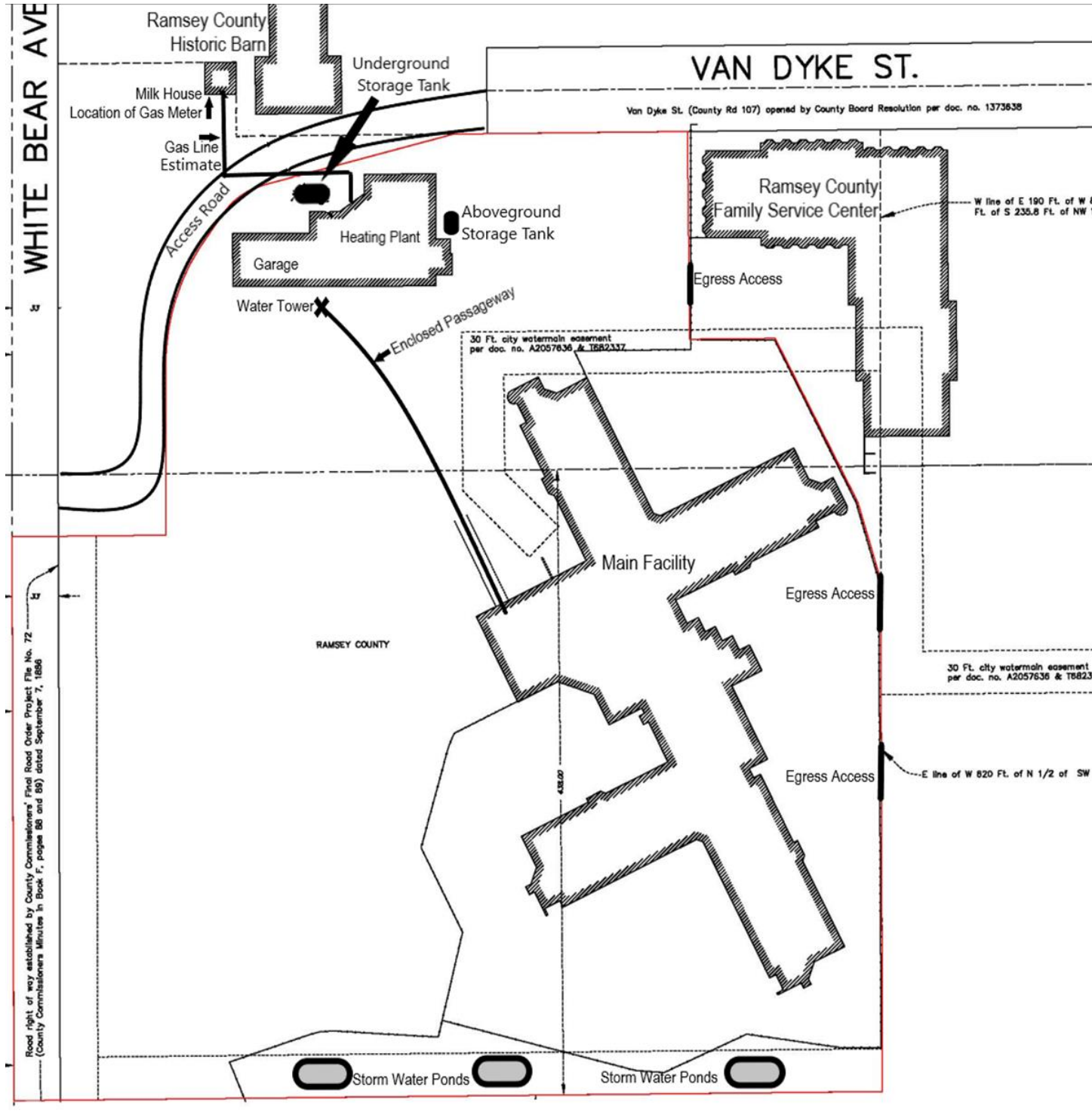


EXHIBIT C

Exclusions from Personal Property

Security Systems

- All Security Cameras, Domes, and Mounts (15 in Total)
- POE Injectors
- HDMI Splitter, Monitor, Keyboard, and Computer to Security System
- Large View Monitors at Reception and Lower-Level Nurses Stations
- Half Network Rack
- REX's (request to exits) for card access doors

Network Systems

- 9 Network Switches
- 4 Wireless Access Points
- 2 Cisco Desk Phones

EXHIBIT D

Form of Earnest Money Escrow Agreement

TO: First American Title Insurance Company
National Commercial Services
121 South 8th Street, Suite 1250
Minneapolis, Minnesota 55402
ATTN: _____

RE: Escrow Trust No. _____

DATE: _____, 2023

I. PARTIES

Seller: County of Ramsey, a political subdivision of the State of Minnesota
250 Ramsey County Courthouse
15 West Kellogg Boulevard
St. Paul, MN 55102
ATTN: County Manager

Buyer: NUWAY Alliance
Administrative Office
2217 Nicollet Avenue South
Minneapolis, MN 55404
ATTN: _____

Escrow Holder: First American Title Insurance Company
National Commercial Services
121 South 8th Street, Suite 1250
Minneapolis, Minnesota 55402
ATTN: _____

Seller's Legal
Counsel: Ramsey County Attorney's Office, Civil Division
121 – 7th Place East, Suite 4500
St. Paul, MN 55101
ATTN: Property Management Attorney
Assistant Ramsey County Attorney
Phone: (651) 266-3222

Buyer's Legal
Counsel: B. Shane Barnes
Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402

Phone: (612) 766-8635
Email: shane.barnes@faegredrinker.com

II. PRELIMINARY STATEMENT

Concurrently with the execution and delivery of this Earnest Money Escrow Agreement, Seller and Buyer have executed and delivered that certain Purchase and Sale Agreement (the "Agreement"). Under the terms of the Agreement, Seller has agreed to sell to Buyer that certain parcel of real property commonly known as 2000 White Bear Avenue, in the City of Maplewood, County of Ramsey, State of Minnesota, as more particularly described in the Agreement.

III. DEPOSIT OF EARNEST MONEY; INVESTMENT DIRECTIONS

Within five (5) days following the date of the Agreement, Buyer shall deposit Fifty Thousand and 00/100 Dollars (\$50,000.00) with the Escrow Holder in accordance with the Agreement ("Earnest Money").

IV. INSTRUCTIONS

- A. Beginning on the date of this Earnest Money Escrow Agreement ("Earnest Money Escrow Agreement"), Escrow Holder shall only disburse the Earnest Money, together with all interest earned thereon, (i) upon receipt of a written joint order signed by Seller (or Seller's Counsel) and Buyer (or Buyer's Counsel); or (ii) in obedience to the process of order of a court as described below.
- B. All notices or other communications required or permitted under this Earnest Money Escrow Agreement shall be in writing, and shall be deemed to have been given and received (a) when personally delivered or sent by facsimile with a confirmation of transmission, (b) one day after being sent by a nationally recognized overnight courier with guaranteed next day delivery, (c) three (3) days after being mailed by United States certified mail, return receipt requested, postage prepaid, to the address set forth below, or (d) on the same day if delivered by electronic mail. Notice of change of address shall be given by written notice in the manner set forth in this section.
- C. Except as otherwise expressly set forth in this Earnest Money Escrow Agreement, Escrow Holder shall disregard any and all notices or warnings given by any of the parties to this Earnest Money Escrow Agreement.
- D. If Escrow Holder obeys or complies with any order, judgment, or decree of any court with respect to the Earnest Money, Escrow Holder shall not be liable to any of the parties to this Earnest Money Escrow Agreement or any other person, firm or corporation by reason of such compliance, notwithstanding any such order, judgment or decree be entered without jurisdiction or be subsequently reversed, modified, annulled, set aside, or vacated. In case of any suit or proceeding regarding this Earnest Money Escrow Agreement to which Escrow Holder is or may be at any time a party, Seller and Buyer shall each be liable for one-half of all such costs, fees and expenses incurred or sustained by Escrow Holder and

shall forthwith pay the same to Escrow Holder upon demand; provided, however, that in the event Escrow Holder is made a party to any suit or proceeding between Seller and Buyer, the prevailing party in such suit or proceeding shall have no liability for the payment of Escrow Holder's costs, fees and expenses (all of which shall be borne by the non-prevailing party).

- E. Escrow Holder is not to be held responsible for any loss of principal or interest which may be incurred as a result of making the investments or redeeming said investment for the purposes of this Earnest Money Escrow Agreement.
- F. In no case shall the Earnest Money be surrendered except: (i) in the manner specifically described in this Earnest Money Escrow Agreement; (ii) on a joint order signed by Seller (or Seller's Counsel) and Buyer (or Buyer's Counsel); or (iii) in obedience to the process of order of a court as aforesaid.
- G. All fees of Escrow Holder shall be charged one-half to Seller and one-half to Buyer. The Escrow trust fee shall be waived if the transaction closes at First American Title Insurance Company.
- H. Except as to deposits of funds for which Escrow Holder has received express written direction from Buyer (or Buyer's Counsel) concerning investment or other handling, the parties agree that Escrow Holder shall be under no duty to invest or reinvest any deposits at any time held by it under this Earnest Money Escrow Agreement.
- I. Any order, judgment or decree requiring Escrow Holder to disburse the Earnest Money shall not be binding upon Buyer or Seller as to the ultimate disposition of the Earnest Money unless and until a final, non-appealable order, judgment, or decree is entered by a court having jurisdiction over such proceedings.
- J. This Earnest Money Escrow Agreement and all provisions of the same shall be binding upon and shall inure to the benefit of the parties to this Earnest Money Escrow Agreement and their respective legal representatives, successors and permitted assigns.

[Signature Page Follows]

SELLER:

COUNTY OF RAMSEY,
a political subdivision of the State of
Minnesota

By: _____
Ryan T. O'Connor
Ramsey County Manager

Approval recommended:

By: _____
Jean R. Krueger, Director
Ramsey County Property Management

Approved as to form:

By: _____
Assistant Ramsey County Attorney

BUYER:

NUWAY ALLIANCE, a Minnesota
nonprofit corporation

Tom Meier, CAO
NUWAY Alliance

Accepted this ____ day of _____, 2023

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT E

Permitted Encumbrances

1. Reciprocal Easement Agreement, to be entered into and recorded at time of closing.
2. Drainage & Utility Easement, to be entered into and recorded at time of closing.
3. Right-of-Way Easement, to be entered into and recorded at time of closing.

EXHIBIT F

DECLARATION OF RESTRICTIVE COVENANT

This **DECLARATION OF COVENANT AND RESTRICTION** (“Declaration”) is made this _____ day of _____, 2023, by NUWAY Alliance, a Minnesota non-profit corporation, 2217 Nicollet Avenue South, Minneapolis, MN 55404 (“Declarant”).

WITNESSETH

WHEREAS, Declarant is a Minnesota nonprofit corporation that provides treatment and recovery-supportive services to clients; and

WHEREAS, Declarant acquired from the County of Ramsey, a political subdivision of the State of Minnesota (“Ramsey County”), fee title to the real property located at 2000 White Bear Avenue, Maplewood, Minnesota, which is legally described as set forth in Exhibit A.

(the “Property”); and

WHEREAS, Ramsey County has determined that the Property is no longer needed for County services, and that it is in the public interest to dispose of the Property at fair market value; and

WHEREAS, Ramsey County owns other property adjacent to three sides of the Property, and therefore Ramsey County has further determined that the public has an interest in future ownership or use of the Property if Declarant resells the Property to a third party; and

WHEREAS, to assure protection of the public’s interests in the Property, Declarant does hereby make this Declaration of Covenant and Restriction.

NOW THEREFORE, Declarant does hereby impose upon the Property the covenant and restriction which shall be a covenant running with the land and shall be binding upon Declarant, and shall inure solely to the benefit of Ramsey County in trust for the public.

1. **First Option to Repurchase.** Declarant represents, covenants, and agrees that prior to any proposed resale of the Property to a third party, Ramsey County shall have the First Option to Repurchase the Property according to the terms set forth below. Declarant shall notify Ramsey County in writing as provided herein no fewer than one hundred twenty (120) days prior to Declarant entering into a purchase agreement or other conveyance instrument with a third-party purchaser. Upon receipt of notice, Ramsey County shall have sixty (60) days in which to consider, decide, and notify Declarant of its intention regarding the First Option to Repurchase. If Ramsey County decides to exercise its First Option to Repurchase, the parties shall move immediately to closing on the repurchase, but no later than sixty (60) days following Ramsey County’s notice to Declarant. If Ramsey County does not exercise its First Option to Repurchase or fails to close on

the repurchase within the specified timeframe, unless Ramsey County agrees to an extension of timeframe, this Declaration shall immediately terminate and become null and void without further action by Declarant or Ramsey County.

2. **Terms for Repurchase.** If Ramsey County decides to exercise its First Option to Repurchase pursuant to Section 1 above, such repurchase shall be on the following terms:

a. **Repurchase After City Denial.** If any part of Declarant's application(s) for approvals from the City of Maplewood are denied within the first one hundred twenty (120) days after Closing, and such denials render the Property unusable for Declarant's purposes ("City Denial"),

- i. Ramsey County will repurchase the Property from Declarant at the Purchase Price;
- ii. Declarant will pay all closing costs related with the reconveyance to Ramsey County;
- iii. Ramsey County will retain all improvements or alterations made to the Property by Declarant between Closing and the date of the City Denial or the new closing date, whichever is later;
- iv. If Declarant has commenced a project to alter or improve any part of the Property, and if at the time of the City Denial such a project is incomplete and creates a dangerous condition on the Property or renders the Property unsuitable for any other user, Declarant shall, at its own cost and expense, complete that project as soon as practicable to the satisfaction of Ramsey County; and
- v. Except as set forth in Section 2.A.iv. of this Declaration, between the date of the City Denial and the agreed-upon date by which Declarant must quit and vacate the Property, Declarant will make no further alterations or improvements to the Property. In any event or circumstance, Declarant will commit no waste on or about the Property.

b. **Repurchase at Purchase Price.** If Declarant wishes to dispose of the Property within five years of Closing,

- i. Declarant shall notify Ramsey County of its desire to dispose of the Property, which notice shall be delivered as set forth in Section 22.B. of the Purchase Agreement between Ramsey County and Declarant (the "Purchase Agreement");
- ii. Ramsey County may, at its option, subject to Section 9.A.i., repurchase the Property for the Purchase Price set forth in the Purchase Agreement;
- iii. If Ramsey County chooses to repurchase the Property:
 1. Ramsey County shall notify Declarant of its decision regarding this First Option to Repurchase within sixty (60) days of notice from Declarant, with such notice from Ramsey County being delivered as set forth in Section 22.B. of the Purchase Agreement;
 2. Ramsey County and Declarant will each pay one half of closing costs related to the reconveyance to Ramsey County;
 3. Declarant will be responsible for the payment of all assessed and payable property taxes along with any pending or levied special assessments until such

time that the Property becomes exempt due to the return to public ownership;
and

4. Declarant shall convey the Property back to Ramsey County free and clear of any mortgages, liens, or other security; and
 - iv. If Ramsey County declines to exercise this First Option to Repurchase, Declarant may dispose of the Property in its reasonable discretion for a use in conformance with applicable City Code sections. Declarant must receive Ramsey County's notification that Ramsey County declines to repurchase the Property, or wait sixty (60) days after delivering notice pursuant to Section 22.B. of this Agreement, whichever is longer, before offering the Property for sale to another buyer.
- c. Repurchase at Fair Market Value. If Declarant wishes to dispose of the Property after five years have elapsed since Closing,
- i. Declarant shall notify Ramsey County of its desire to dispose of the Property, which notice shall be delivered as set forth in Section 22.B. of the Purchase Agreement;
 - ii. Ramsey County may, at its option, repurchase the Property for the fair market value of the Property at the time of repurchase;
 - iii. Fair market value at the time of repurchase will be determined by an independent appraiser at Declarant's sole cost and expense;
 - iv. If Ramsey County chooses to repurchase the Property:
 1. Ramsey County shall notify Declarant of its decision regarding this First Option to Repurchase within sixty (60) days of notice from Declarant, with such notice from Ramsey County being delivered as set forth in Section 22.B. of the Purchase Agreement;
 2. Ramsey County and Declarant will each pay one half of closing costs related to the reconveyance to Ramsey County;
 3. Declarant will be responsible for the payment of all assessed and payable property taxes along with any pending or levied special assessments until such time that the Property becomes exempt due to the return to public ownership;
and
 4. Declarant shall convey the Property back to Ramsey County free and clear of any mortgages, liens, or other security; and
 - v. If Ramsey County declines to exercise this First Option to Repurchase, Declarant may dispose of the Property in its reasonable discretion for a use in conformance with applicable City Code sections. Declarant must receive Ramsey County's notification that Ramsey County declines to repurchase the Property, or wait sixty (60) days after delivering notice pursuant to Section 22.B. of the Purchase Agreement, whichever is longer, before offering the Property for sale to another buyer.

3. **Notices.** Any notice, demand, or document which any party is required or any party desires to give or deliver to or make upon any other party shall, in the case of a notice or demand, be in writing, and may be personally delivered, delivered by a nationally recognized courier service guaranteeing overnight delivery, or given or made by United States registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

If to Declarant:

NUWAY Alliance
Administrative Office
2217 Nicollet Avenue South
Minneapolis, MN 55404
ATTN: John Miller,
Chief Strategy Officer

If to Ramsey County:

County of Ramsey
250 Ramsey County Courthouse
15 West Kellogg Boulevard
St. Paul, MN 55102
ATTN: County Manager

With a copy to:

Ramsey County Property Management
121 East 7th Place, Suite 2200
St. Paul, MN 55101
ATTN: Director

4. **Recording.** Immediately upon Closing, at its own expense, Declarant shall record this Declaration in the Office of the Ramsey County Registrar of Titles and/or Recorder. Upon receipt of the returned recorded Declaration, Declarant shall provide Ramsey County Property Management with a copy. For purposes of this communication, a copy of the recorded Declaration attached to an email sent to jean.krueger@co.ramsey.mn.us shall be sufficient notice to Ramsey County.

5. **Termination.** This Declaration shall terminate in accordance with its own terms thirty (30) years from the date of recording.

[Signature page follows]

IN WITNESS WHEREOF, Declarant has caused this declaration to be executed by its duly authorized representatives, as of the day and year first written above.

DECLARANT

NUWAY Alliance,
a Minnesota non-profit corporation

By: _____

Tom Meier

Its: CAO

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Tom Meier, the CAO of NUWAY Alliance, a Minnesota non-profit corporation, on behalf of the corporation.

Notary Public

This document was drafted by:

Ramsey County Attorney's Office (AKLS)
121 7th Place East, Suite 4500
St. Paul, MN 55101