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FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**First Amendment**") is made effective as of this 21st day of February, 2025 (the "**Amendment Date**"), by and between **CITY OF OREGON, OHIO,** an Ohio municipal corporation duly organized and validly existing under the Constitution, the laws of the State of Ohio and its Charter (the "City"), the **OREGON ON THE BAY REGIONAL ECONOMIC DEVELOPMENT FOUNDATION,** an Ohio non-profit corporation (the "Foundation" and, together with the City, the "Seller"), and **CAPACITY, LLC,** a Florida limited liability company (the "Buyer"), has been executed by the Seller and Buyer dated November 14, 2024, attached to Ordinance 183-2024 of the City, and attached hereto as Exhibit A (the "Purchase and Sale Agreement").

RECITALS

WHEREAS, Seller and Buyer are parties to that certain Purchase and Sale Agreement relating to certain real property described as Cedar Point Industrial Park, as more fully described in the Agreement (as the same is amended hereby and may hereafter be amended or restated from time to time, the "**Agreement**") and

WHEREAS, pursuant to section 7B of the Agreement, Buyer within ninety (90) days shall obtain an Owner's title commitment. Due to the discovery of some old recorded and non-recorded easements, additional time is needed to obtain a more comprehensive land survey to ensure all easements and encroachments are identified.

WHEREAS, Buyer intends to obtain to ALTA survey to ensure all easements and encroachments have been properly identified. Additional time is needed to complete the ALTA survey, therefore, Seller and Buyer desire to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Buyer hereby agree as follows:

1. Recitals; Definitions. The recitals set forth above are true and correct and are incorporated herein in their entirety. Capitalized terms used but not defined herein shall have the same meaning as given to them in the Agreement.

2. Title; Title Examination; Objection to Title. Section 7.B of the Agreement is hereby amended to provide that within one hundred eighty (180) days after the Effective Date, the Buyer shall obtain, at its sole cost, with respect to the Property, an Owner's title commitment (the "Title Commitment") issued by the Title Company or if the Title Company is not in existence any longer, such other title company mutually acceptable to City and Buyer, together with legible copies of all exception documents to the extent available. Buyer shall have the right, within one hundred twenty (120) days after the Effective Date (the "Title Contingency Date"), to examine the Title Commitment and the Survey and to identify to the City in writing those item(s), if any, which it finds objectionable. If Buyer fails to identify any objections prior to the Title Contingency Date, then all matters shown on Schedule "B" of the Title Commitment shall be deemed "Permitted Encumbrances." If Buyer makes any written objection prior to the Title Contingency Date, then,

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within fourteen (14) days after the City has received such written objection (the "Title Cure Period"), the City shall either (i) notify Buyer in writing that the objections will not be cured or (ii) cure such objections, have the Title Commitment and/or Survey updated to reflect such cure and give written notice thereof to Buyer.

If the Seller fails or elects not to cure an objection to title during the Title Cure Period, the Buyer shall have the right to either:

i. waive such objection and purchase the Property, without reduction of abatement in the Purchase Price, in which event the objection shall be deemed to be a permitted encumbrance; or

ii. terminate this Agreement by notifying the Seller thereof in writing prior to Closing and all other rights and duties of the parties under this Agreement shall cease and Buyer shall receive a full refund of the Deposit (other than the Independent Consideration, which shall be disbursed to City).

3. Ratification. Except as specifically herein amended, all terms, provisions, conditions and exhibits contained in the Agreement are hereby confirmed, ratified and restated and shall remain unmodified and in full force and effect. In the event that any provision of this First Amendment shall conflict with the terms, provisions, conditions, and exhibits of the Agreement, the terms, provisions, conditions and exhibits of this First Amendment shall govern and control.

4. Governing Law. This First Amendment shall be an agreement made under, governed by and construed in accordance with, the terms of the laws of the State of Ohio.

5. Execution of Amendment. This First Amendment may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts put together shall constitute but one and the same First Amendment. This First Amendment may be executed by signatures exchanged between the parties by email "pdf" or DocuSign and such email "pdf" or DocuSign signatures shall be deemed to constitute fully effective signatures.

[SIGNATURES FOLLOW]

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To the IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Purchase and Sales Agreement to be executed under seal by their respective duly authorized representatives, to be effective as of the Amendment Date.

SELLER:

CITY OF OREGON, OHIO

By: _____

Name: Michael J Seferian, Mayor

Date: 3-18-25

Approved as to form:

_____

Melissa Purpura, Law Director

CITY SIGNATURE TO FIRST AMENDMENT

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To the IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Purchase and Sales Agreement to be executed under seal by their respective duly authorized representatives, to be effective as of the Amendment Date.

FOUNDATION:

OREGON ECONOMIC DEVELOPMENT FOUNDATION, an Ohio non-profit corporation

By: _____

Print Name: TIMOTHY G. PEDRO

Title: PRESIDENT

Date: MARCH 19, 2025

To the
IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the
Purchase and Sales Agreement to be executed under seal by their respective duly authorized representatives, to be effective as of the Amendment Date.

BUYER:
Capacity LLC,
a Florida limited liability company

Signed by:
By: John D. Martin
3D8654A9A57E493...

Print Name: John D. Martin
Title Managing Director

FOUNDATION SIGNATURE TO FIRST AMENDMENT

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To the IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Purchase and Sales Agreement to be executed under seal by their respective duly authorized representatives, to be effective as of the Amendment Date.

GUARANTORS:

UPTERRA GROUP, LLC

By: Signed by: _____
3D8654A9A57E493...

Print Name: John D. Martin

Title: Managing Director

Date: 3/20/2025

HIGHGROUND COMMERCIAL INVESTMENTS, LLC:

By: Signed by: H. Gabriel Uhrig
040430C7E234473...

Print Name: H. Gabriel Uhrig

Title: Principal, Managing Director

Date: 3/20/2025