

STATE OF ALABAMA  
COUNTY OF BALDWIN

### **PURCHASE AGREEMENT**

This Purchase Agreement ("Agreement") is entered into by and between the CITY OF FOLEY, ALABAMA, an Alabama municipal corporation ("Seller") and BALDWIN COLD LOGISTICS, LLC, an Alabama limited liability company ("Purchaser"). The effective date of this Agreement shall be the date of execution and delivery hereof by Seller and Purchaser (the "Effective Date").

#### **Recitals**

**WHEREAS**, Seller is the owner of certain real property located in Baldwin County, Alabama and more specifically described on **Exhibit A** attached hereto and made a part hereof (the "Property"); and

**WHEREAS**, Seller wishes to sell the Property to Purchaser, and Purchaser wishes to acquire the Property from Seller, subject to and in accordance with the terms and conditions hereof.

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00), the premises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Purchase and Sale. Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell and convey the Property to Purchaser, and Purchaser hereby agrees to purchase the Property from Seller.

2. Purchase Price. The purchase price for the Property shall be SEVEN HUNDRED THIRTY FOUR THOUSAND and No/100 Dollars (\$734,000.00) (the "Purchase Price"). The Purchase Price shall be paid to Seller at Closing in immediately available funds satisfactory to Seller.

3. Earnest Money. Within three (3) business days after the Effective Date, if not previously provided, Purchaser shall deliver to Seller, the amount of TWENTY THOUSAND and No/100 (\$20,000.00) (the "Earnest Money"). All Earnest Money shall be non-refundable. If the sale of the Property is consummated pursuant to the terms of this Agreement, the Earnest Money shall be applied to the payment of the Purchase Price. If the sale of the Property is not consummated for any reason, then Seller shall retain the Earnest Money as liquidated damages, and neither Seller nor Purchaser shall have any further obligation or liability to the other hereunder.

4. Feasibility Period. Purchaser shall have a period of \_\_\_\_\_ ( ) calendar days following the Effective Date (the "Feasibility Period") to determine the feasibility of Purchaser's contemplated development of the Property as a cold storage facility and a flex office space facility, and to obtain a binding commitment for financing of the acquisition of the

Property and construction of the developments and related improvements. If Purchaser is not satisfied with such evaluation, or in the event Purchaser is unable to obtain the aforesaid binding commitment for financing, Purchaser may cancel this Agreement by giving written notice of such cancellation to Seller prior to expiration of the Feasibility Period, and no party hereto shall have any further obligations under this Agreement except as expressly provided herein. In the event Purchaser does not give such notice to Seller in writing prior to expiration of the Feasibility Period, the said evaluation of the Property shall be deemed satisfactory to Purchaser. The Purchaser shall indemnify and hold Seller and the Property harmless from and against all claims, demands, costs and damages resulting from Purchaser's inspection and/or testing of the Property or otherwise arising from or attributable to activities on the Property pursuant to this Section. Purchaser shall repair and restore the Property to its condition existing immediately prior to Purchaser's entry upon the Property. The foregoing indemnification obligation shall survive the termination of this Agreement.

4. Title Insurance. Within thirty (30) days following the Effective Date, the Seller will cause Gulf Shores Title Co. (the "Title Company") to issue an owner's policy of title insurance ("Owner's Title Policy") to Purchaser with respect to the Property (the "Title Commitment") in the amount of the Purchase Price. All exceptions which are set forth in the Title Commitment shall be deemed permitted exceptions to the status of Seller's title (the "Permitted Title Exceptions"). The premiums for the Title Policy and fifty percent of any search fees or Title Commitment fees shall be paid by the Purchaser.

5. Survey. Seller has obtained and completed a boundary survey of the Property. Purchaser shall pay, at closing, fifty percent of the costs associated with the survey.

6. Closing. Unless otherwise agreed, the closing of the purchase of the Property ("Closing") shall take place through the offices of the Title Company located at 120 Cove Avenue, Gulf Shores, Alabama 36542 on or before thirtieth (30<sup>th</sup>) day following the expiration of the Feasibility Period, or on the following business day if such thirtieth (30<sup>th</sup>) day is a Saturday, Sunday or holiday on which national banks in Foley, Alabama are closed (the "Closing Date").

7. City Council Approval Contingency. This Agreement and the Seller's obligation to sell the Property as provided herein is contingent upon the issuance of all necessary and proper authorizations and approvals by the City Council of the City of Foley. This approval will be granted thirty (30) days from the Effective Date.

8. Development Contingency. This Agreement and Seller's obligation to sell the Property as provided herein is contingent upon the Purchaser's execution of that certain Development Agreement by and among the parties hereto. In the event the Purchaser does not execute the Development Agreement on or before the Closing Date, then Seller may terminate this Agreement, and neither Seller nor Purchaser shall have any further obligation or liability to the other hereunder, except as to matters of default as provided in the pertinent sections of this Agreement and Development Agreement, as well as matters that are expressly stated to survive termination.

9. Property Restrictions; Reserved Rights.

- (a) Use Restriction. The conveyance at Closing will be subject to a restrictive covenant with respect to the permitted use of the Property as set forth in the form of Statutory Warranty Deed with Reservations attached hereto as **Exhibit B** (the "Deed").
- (b) Right of Reentry and Reversion. Failure by the Purchaser to fulfill the terms of the Development Agreement unconditionally allows the Grantor a Right of Reentry and, upon reentry by the Grantor, Grantee will thereby forfeit any and all interest in the subject real properties and any improvements thereon.

10. Closing Deliverables. The purchase and sale of the Property pursuant to this Agreement shall be made by the execution and delivery at the Closing of the following instruments and documents by, from and between Seller and Purchaser, as applicable:

- (a) The Deed in Alabama standard form conveying the Property to Purchaser, subject only to the lien for current ad valorem taxes and the Permitted Exceptions;
- (b) The Development Agreement by and among the parties hereto;
- (c) Settlement Statement prepared in accordance with this Agreement;
- (d) The Owner's Title Policy;
- (e) A Non-Foreign Status Affidavit and Certificate in customary form to be provided by the Title Company; and
- (f) Such authorizations, affidavits, organizational documents, proof of existence and good standing of Seller and other instruments as the Title Company shall require, including, without limitation, affidavits required by the Title Company to delete the standard exceptions to the Title Commitment concerning such matters as mechanic's liens, parties in possession and the gap, and such other and additional documents or instruments as may be required of Seller or Purchaser, under the terms of this Agreement, to complete the sale and purchase of the Property.

11. Additional Closing Costs and Expenses. Seller shall pay for the preparation of the Deed and Purchaser shall pay all recording and transfer fees, documentary stamps, taxes or other charges or assessments in connection with the recording of the Deed and other closing documents, as applicable. Purchaser shall pay the fifty percent of the closing and escrow fee charged by the Title Company and Seller shall pay the remaining fifty percent of the same. Real estate taxes and assessments, if any, with respect to the Property shall be prorated based upon the best estimate available to the Title Company. Any proration based on an estimate will be prorated between the parties upon receipt of the actual tax bill upon the request of either party.

12. Default. Should a party breach this Agreement, or this transaction not be concluded because of the default of a party, then the other party shall have such rights or

remedies as may be afforded to it by law, provided that neither party shall have the right or remedy of specific performance.

13. As-Is Sale. Except as expressly provided herein, the purchase and sale of the Property contemplated under this Agreement is and shall be on an "as is, where is" basis.

14. Commission. Seller and Purchaser hereby represent and warrant to each other that neither is represented by a real estate company, and no commission will be due or payable to any agent, broker, salesman, or other persons or entities.

15. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto, and their respective successors and permitted assigns. Purchaser may not assign this Agreement without the prior written consent of Seller.

16. Notices. Any notices or other communications which may be required or desired to be given under the terms of this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, if sent by overnight courier service (e.g., Federal Express) or if mailed by United States certified mail, return receipt requested, postage prepaid, addressed to the respective party at the addresses set forth below. Any notice so given, delivered or made by mail shall be deemed to have been duly given, delivered or made when received at such address. Either party may change the address to which notices are to be sent to such party by written notice to the other party specifying such change of address.

To Seller:                   The City of Foley, Alabama  
Attn: City Clerk  
407 E. Laurel Avenue  
Foley, Alabama 36535  
Email: [ktaylor@cityoffoley.org](mailto:ktaylor@cityoffoley.org)

With a copy to:           Helmsing, Leach, Herlong, Newman & Rouse, P.C.  
Attn: Keri R. Coumanis, Esq.  
Rachel C. Palmer  
150 Government Street, Suite 2000  
Mobile, Alabama 36602  
Email: [krc@helmsinglaw.com](mailto:krc@helmsinglaw.com)  
[rcp@helmsinglaw.com](mailto:rcp@helmsinglaw.com)

To Purchaser:           Baldwin Cold Logistics, LLC  
Attn: Khaled Ghor

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

17. Miscellaneous. This Agreement (and all exhibits and addenda hereto) constitutes the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes any and all prior or contemporaneous agreements, representations

or warranties with respect to the subject matter hereof, whether written or oral. This Agreement may not be changed, amended or modified in any respect whatsoever, nor may any covenant, agreement, condition, requirement, provision, warranty or obligation contained herein be waived, except in writing signed by both parties. The fact that one of the parties to this Agreement may be deemed to have drafted or structured any provision of this Agreement shall not be considered in construing or interpreting any particular provision of this Agreement, either in favor of or against such party. This Agreement may be executed in multiple copies, each of which will for all purposes constitute one Agreement, binding on all parties. Delivery of an executed copy of this Agreement by electronic transmission (e.g. facsimile or email) shall be binding upon the parties as delivery of the original.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date shown below the signature of each.

**SELLER:**

**CITY OF FOLEY, ALABAMA,**  
an Alabama municipal corporation

\_\_\_\_\_  
By: \_\_\_\_\_  
As its: Mayor  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: City Clerk

**PURCHASER:**

**BALDWIN COLD LOGISTICS, LLC,**  
an Alabama limited liability company

\_\_\_\_\_  
By: Khaled Ghor  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## **EXHIBIT A**

### Property Description

#### **PARCEL A:**

Lot 6, of the Replat of Lots 5 and 6 of the Resubdivision of Lots 3, 4A, 4B, and 4C, Foley Beach Express Industrial Park (Slide 2254-D) and of Lots 2A and 2B of the Resubdivision of Lot 2, Foley Beach Express Industrial Park, Unit 7 (Slide 2491-D), said replat being recorded on Slide 2820-A, in the Office of the Judge of Probate of Baldwin County, Alabama.

#### **PARCEL B:**

Lot 2B, of the Replat of Lots 5 and 6 of the Resubdivision of Lots 3, 4A, 4B, and 4C, Foley Beach Express Industrial Park (Slide 2254-D) and of Lots 2A and 2B of the Resubdivision of Lot 2, Foley Beach Express Industrial Park, Unit 7 (Slide 2491-D), said replat being recorded on Slide 2820-A, in the Office of the Judge of Probate of Baldwin County, Alabama.

## **EXHIBIT B**

### **REAL ESTATE VALIDATION FORM**

The following information is provided pursuant to Alabama Code §40-22-1, and is verified by the signature of Grantor below:

<b>Grantor's Name:</b> The City of Foley	<b>Grantee's Name:</b> Baldwin Cold Logistics, LLC
<b>Mailing Address:</b> 407 E. Laurel Avenue Foley, Alabama 36535	<b>Mailing Address:</b>
<b>Property Address:</b> See legal descriptions below.	<b>Date of Sale:</b>
	<b>Purchase Price:</b> \$734,000.00

### FORM OF STATUTORY WARRANTY DEED WITH RESERVATIONS

THE STATE OF ALABAMA  
COUNTY OF BALDWIN

### **WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENT, that the **CITY OF FOLEY, ALABAMA** an Alabama municipal corporation existing under the laws of the State of Alabama (hereinafter called "Grantor"), for and in consideration of the sum of SEVEN HUNDRED THIRTY FOUR THOUSAND and ZERO DOLLARS (\$734,000.00) and other valuable consideration, the receipt of which is hereby acknowledged to have been paid to Grantor by **BALDWIN COLD LOGISTICS, LLC**, an Alabama limited liability company (hereinafter called "Grantee") does hereby GRANT, BARGAIN, SELL and CONVEY unto the said Grantee, its successor or assigns, subject to the provisions hereinafter contained, the following real properties situated in the County of Baldwin, State of Alabama, described as follows, to-wit:

#### **PARCEL A:**

Lot 6, of the Replat of Lots 5 and 6 of the Resubdivision of Lots 3, 4A, 4B, and 4C, Foley Beach Express Industrial Park (Slide 2254-D) and of Lots 2A and 2B of the Resubdivision of Lot 2, Foley Beach Express Industrial Park, Unit 7 (Slide 2491-D), said replat being recorded on Slide 2820-A, in the Office of the Judge of Probate of Baldwin County, Alabama.



**PARCEL B:**

Lot 2B, of the Replat of Lots 5 and 6 of the Resubdivision of Lots 3, 4A, 4B, and 4C, Foley Beach Express Industrial Park (Slide 2254-D) and of Lots 2A and 2B of the Resubdivision of Lot 2, Foley Beach Express Industrial Park, Unit 7 (Slide 2491-D), said replat being recorded on Slide 2820-A, in the Office of the Judge of Probate of Baldwin County, Alabama.

The tax parcel numbers for the subject real properties are: 54-07-35-0-000-001.012 and 54-07-35-0-000-001.018.

**This conveyance is made subject to the following:**

The parcels herein conveyed shall be held, administered and developed by the Grantee pursuant to the terms and conditions of that certain Development Agreement of even date herewith by and among the parties hereto. Grantee acknowledges that Grantor relied on Grantee's promise to perform under the terms of the Development Agreement as additional consideration for value in exchange for the subject real properties.

The subject real properties shall be used and occupied for the following permitted uses only (subject to applicable zoning or other laws, regulations and ordinances):

- (a) cold storage facility; or
- (b) flex office space facility.

**AND, excepting** any and all easements, setback line requirements, reservations and restrictions which are of public record in the Office of the Judge of Probate of Baldwin County, Alabama, to any present encroachments thereon, if any, and to the lien of real property taxes hereinafter falling due.

**TOGETHER** with all and singular, the rights, privileges, benefits, improvements, tenements, and appurtenances thereunto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD** unto the said Grantee, and any successors or assigns, in fee simple **AS LONG AS** the Grantee performs under the terms of the Development Agreement between Grantor and Grantee. Failure by the Grantee to fulfill the terms of the Development Agreement after this conveyance unconditionally allows the Grantor a Right of Reentry and, upon reentry by the Grantor, Grantee will thereby forfeit any and all interest in the subject real properties and any improvements thereon.

And the Grantor does hereby covenant and warrant with and unto the said Grantee, and to their successors and assigns, that the CITY OF FOLEY, ALABAMA is seized of an indefeasible estate in fee simple in and to all of the properties hereinabove conveyed; that the same is free from all liens and encumbrances; that the CITY OF FOLEY, ALABAMA its successors or

assigns, shall forever warrant and defend the same unto the said Grantee and unto their successors or assigns, forever against the lawful claims of all persons.

All recordings referenced hereinafter to the records of the Office of the Judge of Probate of Baldwin, County, Alabama, unless otherwise specified.

[SIGNATURE PAGE TO FOLLOW]

**IN WITNESS WHEREOF**, the City of Foley, Alabama, an Alabama municipal corporation, has caused this instrument to be executed in its name and its seal to be hereto affixed, on this the \_\_\_\_ day of \_\_\_\_\_, 2024.

GRANTOR:

THE CITY OF FOLEY, ALABAMA,  
An Alabama municipal corporation

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

ATTEST:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: City Clerk

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, the undersigned Notary Public, in and for said County in said State, hereby certify that \_\_\_\_\_ and \_\_\_\_\_ whose names as \_\_\_\_\_ and \_\_\_\_\_ respectively, of the City of Foley, Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of this instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears date.

Given under my hand and seal this the \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:  
\_\_\_\_\_ (SEAL)

THIS INSTRUMENT PREPARED BY:

Rachel C. Palmer, Esq.  
Helmsing, Leach, Herlong,  
Newman & Rouse, P.C.  
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