

SALE AND SITE REMOVAL AGREEMENT

This SALE AND SITE REMOVAL AGREEMENT (this "Agreement"), dated as of this 23rd day of February, 2024 (the "Effective Date"), is by and between Fitzgerald Welding, LLC, an Iowa limited liability company ("Fitzgerald"), and Compeer Financial, a federally-chartered instrumentality of the United States, together with its affiliated entities Compeer Financial, ACA, Compeer Financial, FLCA, and Compeer Financial, PCA (each of them and any combination of them "Compeer"). Fitzgerald and Customer are collectively referred to herein as the "Parties" and individually as a "Party."

I. Recitals

The recitals in this Agreement contain the purpose of the Agreement and the understandings of the Parties relating to same. The following statements are contractual and are not merely recitals.

1.1 Fitzgerald is a business that manufactures, designs and installs equipment for the fresh meats industry.

1.2 Compeer is a farm credit association providing loans and other financial services to its members.

1.3 Compeer is the owner of record of a parcel of real estate that formerly belonged to a Compeer borrower and that Compeer acquired through foreclosure ("the Property"). The street address and legal description of the Property are attached hereto as Exhibit A.

1.4 Located on the Property, and also owned by Compeer, are various items of property consisting of certain meat processing and other equipment, vehicles and trailers, materials used in meat processing, and refuse of various types (the "Items"). The Items include all objects located on the Property which are visible from the surface of the ground, including objects which may be protruding from the ground or partially buried.

1.5 Fitzgerald has inspected the Property and Items and has determined that some or all of the Items may be used and useful in Fitzgerald's business operations and desires to acquire ownership of the Items.

1.6 Compeer is preparing the Property for sale and is willing to transfer ownership of the Items to Fitzgerald, in return for Fitzgerald agreeing to remove all Items from the Property by no later than August 15, 2024.

NOW, THEREFORE, in consideration of the terms, conditions, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby

acknowledged, the Parties hereby agree as follows:

II. Assignment and Sale

2.1 Assignment and Transfer of the Items. Effective upon the Effective Date hereof, Compeer hereby transfers, assigns, conveys, and delivers to Fitzgerald all of Compeer's right, title, and interest in and to all Items. Except as expressly set forth in this Agreement, neither Party shall remit payment to the other Party in connection with the transfer of Ownership of the Items or their removal from the Property.

2.2 Location and Removal of Items. Compeer hereby grants permission to Fitzgerald to maintain the Items in their current location on the Property, subject to the following: (1) Fitzgerald shall use its best efforts to remove the Items as soon as possible and in no event later than August 15, 2024; (2) after August 15, 2024, Compeer may, in its sole and absolute discretion, remove any Items remaining on the Property and dispose of them in any manner Compeer chooses, and Fitzgerald shall not be entitled to any proceeds from any sale of the Items or to any other compensation whatsoever; and (3) Fitzgerald shall be responsible for any costs incurred by Compeer in removing any Items after August 15, 2024. For the period of the Effective Date hereof until August 15, 2024, Compeer hereby grants permission to Fitzgerald, its employees, agents, and contractors, to have nonexclusive, rent-free access to the Property for purposes of storing and removing the Items.

2.3 Restoration of Property. Fitzgerald shall leave the Property substantially in the condition in which it found it, and shall be responsible for any costs incurred by Compeer in restoring the Property to the extent that Fitzgerald disturbs or impairs the condition of the Property in accessing the Property and removing the Items.

2.4 Sale Not Arrangement for Disposal. By this agreement, Compeer is selling all Items to Fitzgerald for Fitzgerald's own use. This is not a contract whereby Compeer is arranging for Fitzgerald to dispose of any Items. If Fitzgerald disposes of any Items, it does so at its sole cost, discretion, and risk.

2.5 Failure to Complete Removal of the Items. If Fitzgerald fails to remove any Items by August 15, 2024, the Compeer may, utilizing such means and methods as it may select in its sole discretion, remove any remaining Items, retain or dispose of such Items, and retain any proceeds thereof. In the event that Compeer incurs any costs to remove and/or dispose of any Items, then Fitzgerald shall be responsible for reimbursing Compeer for such costs. In such event, Compeer may submit an invoice to Fitzgerald itemizing the costs incurred by Compeer, and Fitzgerald shall remit payment to Compeer for such costs within thirty (30) calendar days of receipt of the invoice.

**III.
Representations and Warranties**

3.1 Mutual Representations and Warranties. Each Party represents and warrants to the other that:

- 3.1.1 It is duly organized, validly existing, and in good standing as a corporation, limited liability company or other entity as represented herein under the laws of its jurisdiction;
- 3.1.2 It has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted hereunder, and to perform its obligations hereunder;
- 3.1.3 The execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate/organizational action of the Party; and
- 3.1.4 When executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

3.2 Additional Representations and Warranties. Fitzgerald represents and warrants to the Compeer that:

- 3.2.1 It will comply with all applicable laws and instructions from Compeer while accessing the Property and removing any Items;
- 3.2.2 It maintains and will maintain throughout the duration of this Agreement all insurance coverages required by law, including workers' compensation insurance;
- 3.2.3 It is not aware of any Items located on the Property which are not visible from the surface and is not aware of any hazardous materials or hazardous waste located anywhere on the Property.

**IV.
Term and Termination**

4.1 Term; Termination. Either Party may terminate this Agreement due to the other Party's material breach of this Agreement if the other Party fails to cure such material breach within thirty (30) days of receiving written notice of such breach, provided, however, that Fitzgerald's failure

to remove all Items by August 15, 2024 shall not be subject to cure. Any provisions of this Agreement, including without limitation the provisions in Section V, which are intended to survive termination of the Agreement shall so survive.

**V.
Disclaimer**

5.1 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, COMPEER: (A) TRANSFERS AND CONVEYS THE ITEMS "AS IS" WITHOUT WARRANTY; (B) DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, AND TITLE; (C) DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE TYPES, USES, SAFETY, OR CONDITION OF THE ITEMS; (D) DOES NOT WARRANT THE CONDITION OF THE PROPERTY OR THAT THE PROPERTY IS SAFE FOR FITZGERALD TO ACCESS OR FOR REMOVAL OF THE ITEMS.

**VI.
Limitation on Liability; Indemnity**

6.1 Limitation on Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL COMPEER OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES BE LIABLE TO FITZGERALD FOR DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS REGARDLESS OF THE FORESEEABILITY OF THOSE DAMAGES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

6.2 Indemnification. FITZGERALD AGREES TO INDEMNIFY, DEFEND, REIMBURSE, AND HOLD HARMLESS COMPEER AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND REPRESENTATIVES FROM ANY AND ALL CLAIMS, LOSSES, LIABILITY, DAMAGES, DEMANDS, LAWSUITS, PENALTIES, EXPENSES, AND COSTS (INCLUDING REASONABLE ATTORNEYS' FEES, EXPENSES, AND COSTS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION MATTERS RELATED TO DAMAGE TO THE PROPERTY (INCLUDING ANY BUILDINGS LOCATED ON THE PROPERTY), PERSONAL INJURIES, DEATH, ENVIRONMENTAL CONTAMINATION, AND THE RELEASE OF HAZARDOUS MATERIALS.

**VII.
Miscellaneous.**

7.1 Relationship. The Parties to this Agreement are independent contractors and this

Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the Parties. None of the Parties will have the power to bind the other(s) or incur obligations on the other Parties' behalf without the other Parties' prior written consent.

7.2 Force Majeure. No Party shall be liable or responsible to any other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by acts of nature (including fire, flood, earthquake, storm, hurricane or other natural disaster); action or inaction of civil or military authority; acts of foreign enemies; war; terrorism; riot; insurrection; sabotage; epidemics; labor disputes; civil commotion; or interruption, loss or malfunction of utilities, transportation, computer or communications capabilities (each of the foregoing, a "Force Majeure Event"), in each case, provided that (x) the Party provides prompt notice to the other Parties, stating the period of time the occurrence is expected to continue, and (y) the Party uses commercially reasonable diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

7.3 Further Assurances. On a Party's reasonable request, the other Parties shall, at such other Party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, necessary to give full effect to this Agreement.

7.4 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and no Party shall have authority to contract for or bind the other Party in any manner whatsoever except as may be expressly stated in this Agreement.

7.5 Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

7.6 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

7.7 Amendment and Modification; Waiver. No amendment to or modification of or rescission, termination, or discharge of this Agreement is effective unless it is in writing, identified as an amendment to or rescission, termination, or discharge of this Agreement and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof, nor will any single or partial exercise of any right, remedy, power, or privilege hereunder

preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

7.8 Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement to affect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

7.9 Governing Law; Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with laws of the State of Minnesota without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Minnesota.

7.10 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING ALL EXHIBITS AND SCHEDULES ATTACHED HERETO OR INCORPORATED HEREIN (INCLUDING, WITHOUT LIMITATION, ALL STATEMENTS OF WORK), IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT.

7.11 Counterparts; Electronic Execution. This Agreement may be executed in counterparts (each of which shall become effective when counterparts have been signed by each Party and delivered to the other Parties (including delivery by electronic mail or any other electronic signature). No Party shall be bound to this Agreement until such time as all of the Parties have executed counterparts of this Agreement.

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[SIGNATURE PAGE(S) TO FOLLOW]

IN WITNESS WHEREOF, each of the undersigned Parties has executed this Agreement and agrees to be bound by the terms and conditions, and to have made the representations, warranties, understandings, acknowledgments, and agreements herein as of the date of its agreement.

FITZGERALD
Fitzgerald Welding, LLC

Don Fitzgerald
By: Brenda Thomas
Its: office manager
Date: 2-23-24

COMPEER
Compeer Financial

Nathan Kirschner
By: Nathan Kirschner
Its: Prin Credit officer
Date: 2/26/24

CONFIDENTIAL DRAFT