

**\$55,000,000**  
**(Aggregate Maximum Principal Amount)**  
**City of Moberly, Missouri**  
**Taxable Industrial Revenue Bonds**  
**(EquipmentShare.com Inc. Manufacturing, Refurbishment and**  
**Distribution Facility Project)**  
**Series 2023**

**BOND PURCHASE AGREEMENT**

\_\_\_\_\_ 1, 2023

City of Moberly, Missouri  
101 West Reed - City Hall  
Moberly, Missouri 652705

On the basis of the representations, and covenants and upon the terms and conditions contained in this Bond Purchase Agreement (this “**Purchase Agreement**”), EquipmentShare.com Inc. a Delaware corporation (the “**Purchaser**”), offers to purchase from the City of Moberly, Missouri (the “**City**”), the above-referenced Taxable Industrial Revenue Bond (EquipmentShare.com Inc. Manufacturing, Refurbishment and Distribution Facility Project) Series 2023, dated as provided in the Indenture (as hereinafter defined), in the maximum aggregate principal amount of \$55,000,000 (collectively, the “**Bonds**”), to be issued by the City, under and pursuant to an Ordinance adopted by the governing body of the City on February 21, 2023 (the “**Bond Ordinance**”) and a Trust Indenture, dated as of \_\_\_\_\_1, 2023 (the “**Indenture**”) by and between the City and BOKF, N.A., St Louis, Missouri, as trustee (the “**Trustee**”). *Capitalized terms used and not otherwise defined in this Purchase Agreement shall have the meanings respectively set forth in the Indenture.*

**SECTION 1. REPRESENTATIONS AND AGREEMENTS**

(a) By the City’s acceptance of this Purchase Agreement the City hereby represents and warrants to the Purchaser that:

(1) *Organization and Existence.* The City is a city of the third classification duly organized and validly existing under the laws of the State of Missouri. The City is authorized pursuant to the Constitution and laws of the State of Missouri, and the laws and ordinances of the City, and all necessary action has been taken to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by the Bond Ordinance, this Purchase Agreement, the Bond Ordinance, the Indenture, the Lease, and the Development Agreement and any and all other certifications and instruments relating thereto. The proceeds of the Bonds shall be used to finance the Project and to pay for the costs incurred in connection with the issuance of the Bonds.

(2) *No Litigation.* There is no controversy, suit or other proceeding of any kind pending or, to the actual knowledge of the City, threatened questioning, disputing or affecting in any way the legal organization of the City, or the right or title of any of the City's officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds or the constitutionality or validity of the obligations represented by the Bonds or the validity of the Bonds, the Lease, the Indenture or the Development Agreement.

(b) The Purchaser represents and warrants to the City as follows:

(1) *Organization and Existence.* The Purchaser is a corporation organized, validly existing and in good standing under the laws of the State of Delaware and is duly authorized to do business in and be subject to service of process in Missouri. The Purchaser has obtained or will obtain all necessary licenses and permits required to carry on the Purchaser's business to be conducted on the Property and has caused to be obtained or will cause to be obtained all necessary licenses and permits in connection with the purchase, construction and operation of the Project. The Purchaser is not in violation of and has not received any notice of an alleged violation of or liability under any zoning, land use, environmental, pollution control, hazardous waste or similar laws or regulations that would have a material adverse effect on the Purchaser's operations or financial condition and has full right, power and authority to authorize, approve, enter into, execute and deliver the Lease, the Development Agreement, the Special Warranty Deed from the Purchaser, as grantor, to the City, as grantee, and this Purchase Agreement (collectively, the "**Company Documents**") and to perform such other acts and things as are provided in the Company Documents.

(2) *No Conflict or Breach.* The execution, delivery, performance (where applicable) and approval by the Purchaser of the Company Documents, and full compliance by the Purchaser with the provisions of the Company Documents, have been duly authorized by all necessary action of the Purchaser and do not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, the Purchaser's organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon Purchaser, or any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which the Purchaser is bound.

(3) *Approvals.* The Purchaser has duly authorized all necessary action to be taken by the Purchaser for: (i) the purchase of the Bonds from the City upon the terms and conditions set forth herein and in the Indenture, and (ii) the execution, delivery and performance (where applicable) of the Company Documents and any and all such other agreements and documents as may be required to be executed, delivered and performed by the Purchaser to carry out, effectuate and consummate the transactions contemplated hereby and by such Company Documents.

(4) *No Litigation.* There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or, to the

knowledge of the Purchaser, threatened against or affecting the Purchaser wherein an unfavorable decision, ruling or finding could have a material and adverse effect on the financial condition of the Purchaser or the operation by the Purchaser of the Purchaser's property or of the transactions contemplated by the Company Documents or on the validity or enforceability in accordance with their respective terms of the Company Documents or any other agreement or instrument to which the Purchaser is a party or by which the Purchaser is or may be bound or would in any way contest the existence or powers of the Purchaser or any amounts to be received by the City pursuant to the Indenture, the Lease or the Development Agreement.

(5) *Documents Legal, Valid and Binding.* The Purchaser shall, on or before the Closing Date (as hereinafter defined), execute and deliver the Company Documents. When executed and delivered by the Purchaser, the Company Documents will be legal, valid and binding obligations, enforceable in accordance with their respective terms, subject, as to enforcement, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and further subject to the availability of equitable remedies.

(6) *Purchaser's Certificates.* Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by Purchaser to such parties as to the statements made therein.

(7) *No Default Under Company Documents.* No event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a breach of or an event of default by Purchaser under the Company Documents.

(c) The representations and warranties provided under paragraphs (a) and (b), above shall survive closing on the initial issue of Bonds and shall be deemed reaffirmed as to paragraph (a) by the City and as to paragraph (b) by the Purchaser from time to time as of each making of Additional Payment, all as provided in the Indenture, the Lease and this Purchase Agreement.

## **SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS**

On the basis of the representations and covenants contained in this Purchase Agreement and in the other agreements referred to herein, and subject to the terms and conditions set forth in this Purchase Agreement and in the Indenture, the Purchaser agrees to purchase from the City and the City agrees to sell to the Purchaser the Bonds on the terms and conditions set forth herein.

The Bonds shall be sold to the Purchaser by the City on the Closing Date upon payment of an amount equal to the Closing Price (as hereinafter defined), which amount shall be applied as provided in the Indenture and the Lease. The Purchaser shall make Additional Payments from time to time after the Closing Date to the Trustee under the Indenture which Additional Payments shall be applied to the payment of Project Costs or as provided by the Indenture and the Lease; *provided that* the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$55,000,000, plus the Costs of Issuance of the Bonds. As used in this Purchase Agreement, the term "Closing Date" shall mean the date of this Purchase Agreement or such other

date as shall be mutually agreed upon by the City and the Purchaser; the term “Closing Price” shall mean the payment by the Purchaser on or before the Closing Date of all amounts specified in Section 4.1 of the Development Agreement.

The Bonds shall be issued under and secured as provided in the Bond Ordinance, the Indenture, and the Lease, and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a single fully registered bond in the aggregate maximum principal amount of \$55,000,000; *provided that* the principal amount of the Bonds Outstanding at any time shall be that amount recorded on the Register maintained by the Trustee; and *provided further* that interest shall be payable on the Bonds only on the Outstanding principal amount of the Bonds, as more fully provided in the Indenture. Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by the Purchaser to such parties as to the statements made therein.

The Purchaser agrees to indemnify, defend, and hold harmless the City, the Trustee or any member, officer, official, attorney or employee of the City or of the Trustee (collectively, the “**Indemnified Parties**”), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by any violation or failure to comply with Section 15 of the Securities Act of 1933, as amended and any other applicable any federal or state securities laws in connection with the Bonds.

In case any action shall be brought against one or more of the Indemnified Parties based upon the foregoing indemnification and in respect of which indemnity may be sought against the Purchaser, the Indemnified Parties shall promptly notify the Purchaser in writing and the Purchaser shall promptly assume the defense thereof, including the employment of counsel, the payment of all expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel (each, an “**Additional Counsel**”) in any such action and to participate in the defense thereof, but the fees and expenses of such Additional Counsel shall be at the expense of such Indemnified Party or Indemnified Parties unless employment of such Additional Counsel has been specifically authorized by the Purchaser or unless there exists a conflict of interest which would prevent counsel for the Purchaser from adequately representing both the Purchaser and the Indemnified Party. The Purchaser shall not be liable for any settlement of any such action effected without the Purchaser’s consent by any of the Indemnified Parties, but if settled with the consent of the Purchaser or if there be a final judgment for the plaintiff in any such action against the Purchaser or any of the Indemnified Parties, with or without the consent of the Purchaser, the Purchaser agrees to indemnify, defend, and hold harmless the Indemnified Parties to the extent provided in this Purchase Agreement.

### **SECTION 3. CONDITIONS TO THE OBLIGATIONS**

The obligations under this Purchase Agreement shall be subject to the due performance by the parties of the obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the representations contained herein, as of the date of this Purchase Agreement and as of the Closing Date and, with respect to the making of

Additional Payments, as of the date of each subsequent Additional Payment, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly executed copy of this Purchase Agreement, the Bond Ordinance, the Indenture, the Lease and the Development Agreement, and any other instrument contemplated thereby and such documents shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser.

(b) The City shall confirm by a certificate that at and as of the Closing Date the City has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending or, to the actual knowledge of the City, threatened wherein any question is raised affecting in any way the legal organization of the City or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the obligations represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof.

(c) There shall be delivered to the City a certificate of the Purchaser, dated as of the Closing Date to the effect that (i) no litigation, proceeding or investigation is pending against the Purchaser or the Purchaser's Affiliates or, to the knowledge of the Purchaser, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Company Documents, or (B) in any way contest the existence or powers of the Purchaser or the Purchaser's Affiliates, (ii) no litigation, proceeding or investigation is pending or, to the knowledge of the Purchaser, threatened against the Purchaser or the Purchaser's Affiliates except litigation, proceedings or investigations in which the probable ultimate recoveries and the estimated costs and expenses of defense, in Purchaser's reasonable judgment, will not have a material adverse effect on the operations or condition, financial or otherwise, of the Purchaser and the Purchaser's Affiliates; (iii) the representations and warranties of the Purchaser in this Purchase Agreement and in the Company Documents were and are true and correct in all material respects and not misleading as of the date made and the Closing Date; (iv) at the Closing Date, no event of default has occurred and is continuing and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a breach of or an event of default under any of the Company Documents; and (v) such other matters as are reasonably requested by the other parties in connection with the initial issuance of the Bonds.

(d) In the case of each Additional Payment, the delivery by the Purchaser of such Additional Payment and the acceptance by the City of the portion of the Project to be acquired in connection with such Additional Payment shall be deemed to be reaffirmation as of the date of such Additional Payment by the parties of the accuracy of and their respective compliance with the representations and warranties set forth in this Purchase Agreement, including, without limitation, the foregoing paragraphs (a), (b) and (c) , and given as of the date hereof and the Closing Date.

#### **SECTION 4. PURCHASER'S RIGHT TO CANCEL**

The Purchaser shall have the right to cancel the Purchaser's obligation to purchase the Bonds by notifying the City in writing of the Purchaser's election to make such cancellation at any time prior to the Closing Date; *provided that* the Purchaser has paid or caused to be paid all costs of the City in connection with the Project, the Development Agreement, the Initial Funding Agreement (as that term is used and defined in the Development Agreement) and the Bonds accrued through the date of the City's receipt of such notice.

## **SECTION 5. CONDITIONS OF OBLIGATIONS**

The obligations of the parties hereto are subject to the receipt of the approving opinion of Gilmore & Bell, P.C., Bond Counsel, with respect to the validity of the authorization and issuance of the Bonds.

## **SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY**

The representations and warranties of each party are made as of the date of this Purchase Agreement and the Closing Date. All of the representations and agreements by either party shall survive delivery of the Bonds to the Purchaser and shall be reaffirmed by such parties from time to time at the times of the making of each Additional Payment by the Purchaser; *provided that* the delivery by the Purchaser of such Additional Payment and the acceptance by the City of the portion of the Project to be acquired in connection with such Additional Payment shall be deemed to be reaffirmation as of the date of such Additional Payment by the parties of the accuracy of and their respective compliance with the representations and warranties set forth in this Purchase Agreement and given as of the date hereof and the Closing Date.

## **SECTION 7. NOTICE**

Any notice or other communication to be given to the City under this Purchase Agreement may be given by mailing or delivering the same in writing to the City of Moberly, Missouri, 101 West Reed Street - City Hall, Moberly, Missouri 65270, Attention: City Manager; and any notice or other communication to be given to the Purchaser under this Purchase Agreement may be given by delivering the same in writing to EquipmentShare.com Inc., 5710 Bull Run Drive, Columbia, Missouri 65201.

## **SECTION 8. PAYMENT OF EXPENSES**

On the Closing Date the Purchaser shall pay all unpaid amounts due from the Purchaser under the Initial Funding Agreement and the Development Agreement.

## **SECTION 9. APPLICABLE LAW; CHOICE OF FORUM; ASSIGNABILITY**

This Purchase Agreement and its performance shall be governed by and construed under the laws of the State of Missouri applicable to contracts made and to be performed wholly within such state, without regard to choice or conflict of laws provisions. The parties hereto agree that

any action at law, suit in equity, or other judicial proceeding arising out of this Agreement shall be instituted only in the Circuit Court of Randolph County, Missouri or in federal court of the Eastern District of Missouri and waive any objections based upon venue or *forum non conveniens* or otherwise. This Purchase Agreement may be assigned by the Purchaser to any entity controlled by, under common control with, or controlling the Purchaser. As a condition precedent to such assignment, any such assignee shall agree in writing to be bound by the terms of this Purchase Agreement.

**SECTION 10. EXECUTION IN COUNTERPARTS**

This Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

Very truly yours,

**EQUIPMENTSHARE.COM INC.,** as  
Purchaser

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

Name:

Title:

ATTEST:

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

Name:

Title:

AGREED TO AND ACCEPTED as of this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**CITY OF MOBERLY, MISSOURI**

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

Jerry Jeffrey, Mayor

ATTEST:

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

Shannon Hance, City Clerk