

AGREEMENT FOR PURCHASE & SALE OF REAL PROPERTY

This Agreement For Purchase and Sale of Real Property entered into this the 24th day of November, 2020 by and between Michael T. Tabor, Chapter 7 Trustee for Joseph Ang Bankruptcy Case No. 20-10769 hereinafter called Seller(s), and _____ hereinafter called Buyer(s), and **ALEXANDER AUCTIONS & REAL ESTATE SALES**, hereinafter called Agent.

WITNESSETH

That the seller(s) have agreed to sell and the purchaser(s) have agreed to purchase, on the terms and conditions hereinafter set out, the following described real estate, (hereinafter called Property” or “property”), situated in the C Civil District of Shelby County, State of Tennessee described as follows:

HOUSE AND LOT LOCATED AT 4734 MAGNOLIA PARK CIRCLE WEST, COLLIERVILLE, TN 38017

TITLE SOURCE-

DEED REFERENCE: INSTRUMENT # 18129181 REGISTER’S OFFICE SHELBY COUNTY, TN

TAX REFERENCE: TAX MAP 206/C0258T, PARCEL C000130 – PLAT BOOK 274, PAGE 026 IN THE SHELBY COUNTY TAX ASSESSOR’S OFFICE

PROPERTY SELLS SUBJECT TO APPROVAL OF THE WESTERN DISTRICT BANKRUPTCY COURT, JACKSON, TN.

MICHAEL T. TABOR, BANKRUPTCY TRUSTEE WILL APPROVE ACCEPTANCE OF THE SALE AND PURCHASE AGREEMENT/CONTRACT BY PROVIDING A COPY OF THE ORDER SUBMITTED TO THE BANKRUPTCY COURT FOR APPROVAL OF THE SALE AND TRANSFER OF THE PROPERTY.

PROPERTY SOLD “AS IS” SUBJECT TO THE GENERAL TERMS AND CONDITIONS ATTACHED TO THIS SALE AND PURCHASE AGREEMENT/CONTRACT FOR FUTURE REFERENCE.

A. WHEREAS, the property was offered at auction in an Online Only Auction by Seller on November 24th, 2020. Buyer was the successful bidder for the property, under the terms and conditions of said auction, which included, but was not limited to, an agreement to execute this Agreement, as evidence of Buyer’s commitment to buy the property; and

B. WHEREAS, Seller desires to sell and Buyer desires to purchase, the property; and

NOW, THEREFORE, with reference to the foregoing recitals which are incorporated herein by this reference, and for other valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

TERMS, CONDITIONS AND CONTINGENCIES OF PURCHASE AND SALE:

1. **PURCHASE PRICE:** Subject to the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property for a purchase price of _____ U.S. Dollars (\$ _____) (hereinafter the "Purchase Price") payable in cash at the closing (as defined below). Buyer acknowledges that Buyer, by closing, has inspected and examined all factors concerning the Property and hereby affirms the purchase price has been adjusted to reflect an "AS IS" condition of the Property. Upon the close of escrow, Buyer shall conclusively be deemed to have released Seller from all responsibility relating to the Property, and to have accepted the Property in its condition "AS IS", without warranty or representation express or implied, except as expressly set forth herein.
- 1.1 **TRANSFER OF TITLE:** The Property is to be conveyed by special warranty deed or, if not called a "special warranty" deed in the state in which the Property is located, then the transfer of title shall be by that state's deed of conveyance that warrants to defend title only against lawful claims of the grantor and all persons claiming by, through or under grantor hereinafter, the "Deed"). The Deed shall be subject to easements, conditions and restrictions, leases, zoning, ordinances or laws of governmental authority and covenants of record that lawfully affect the property and subject to those matters that would be shown on a current, accurate survey of the Property or by an inspection thereof. In addition, the Deed shall be subject to the restrictions and "AS IS" language contained in the Agreement. The legal description to be used in the Deed transferring the Property to Buyer shall be the legal description that was used in the Deed that transferred the Property to Seller, unless a current survey has been made and the surveyor has provided a new legal description, or a recorded plat.
- 1.2 **SURVEY OF THE PROPERTY:** Buyer may, at Buyer's cost, obtain a survey to use for Buyer's purposes.
2. **DEPOSIT OF EARNEST MONEY, OPENING OF ESCROW AND CLOSING:** Upon execution of this Agreement by Buyer, Buyer shall deposit with Alexander Auctions & Real Estate Sales (hereinafter called "Agent"), to be deposited in Alexander Auctions & Real Estate Sales Escrow Account in the Simmons Bank whose address is 109 University Street, Martin, TN 38237, the amount of _____ Dollars (\$ _____) as earnest money (hereinafter "Escrow Deposit") with the execution of this contract and the amount of \$ _____ to be paid upon delivery of the deed as follows: \$ _____ cash at closing. Upon closing of the transaction contemplated by this Agreement (hereinafter "Closing"), the Escrow Deposit shall be credited toward the Purchase Price.

As a material part of the consideration for Seller's execution of this Agreement, Buyer hereby agrees that Escrow shall close within forty-five (45) days after the date of the auction, which auction date for this Property is/was November 24th, 2020 (hereinafter the "Closing").

- 3; **LITIGATION:** In any litigation brought to enforce any of the terms of this Agreement, the successful party shall be entitled to recover, in addition to other damages, his attorney's fees and court costs incurred in said litigation.

4. **LIQUIDATED DAMAGES:** Buyer and Seller agree that if Buyer fails to perform the obligations and responsibilities as and when required by this Agreement, such failure shall constitute a material default by Buyer and shall vest in Seller the right to terminate this Agreement and the Escrow by giving written notice of termination to Buyer and Agent. If Seller elects to terminate this Agreement, the earnest money deposited shall be retained and divided equally between Seller(s) and Alexander Auctions & Real Estate Sales as liquidated damages and commission respectively. The right given Seller(s) to make the above election shall not be Seller(s)' exclusive remedy, and either party shall have the right to elect to affirm this contract and enforce its specific performance or recover full damages for its breach. Seller(s)' retention of such earnest money shall not be evidence of an election to declare this contract canceled, as Seller(s) shall have the right to retain his portion of earnest money to be credited against damages actually sustained, either in the enforcement of this Agreement by specific performance or in the recovery of full damages, whichever may apply.

5. **CONDITIONS PRECEDENT TO BUYER'S PERFORMANCE:** Buyer acknowledges that Buyer has made a general inspection of the Property or the property has been inspected by their personal representative with Power of Attorney to act in their behalf, prior to executing this Agreement, that Buyer is satisfied with the condition of the Property and that this sale is an "AS IS" Sale.

A. **Title Issues and Objections** Buyer shall be responsible for ordering at Buyers Expense a Title Opinion, title policy or title commitment for an Owner's Policy of Title Insurance. Buyer shall forward the Title Opinion or Updated Commitment, when received, to Alexander Auctions & Real Estate Sales and Seller. Buyer shall, within fifteen (15) business days following Buyer's receipt of the Title Opinion or Updated Commitment, notify Alexander Auctions & Real Estate Sales and Seller of Buyer's written objection(s) to any exceptions that are shown in the Title Opinion or Commitment. Seller shall have 90 days to cure any such objections shown in the Title Opinion or Updated Commitment. In no event shall such objections include the matters waived by this agreement as described herein. In the event, Seller cannot cure the objections that were shown in the Title Opinion or Updated Commitment, Buyer may either terminate this Agreement, as provided herein, or elect to purchase the Property despite its objections. In any event, Buyer's failure to respond, on or before five (5) days prior to the Closing, shall be deemed conclusive evidence of Buyer's approval of the condition of title, as shown on the Commitment.

In the event Seller cannot cure the objections shown in the Title Opinion or updated Commitment and Seller elects to terminate this Agreement, as provided herein, the earnest money deposit shall be refunded. If the transaction shall not be closed because of the title objections or refusal of the Seller to perform, then Seller shall pay the Agent the commission and expenses on demand. Failure or refusal of wife or husband of Seller or Buyer to execute deed or mortgage required hereunder shall be deemed default on the part of such Seller or Buyer.

B. Delivery of Documents: Seller shall have executed, acknowledged (if required) and delivered all documents and instruments required of Seller to Agent, as required in this Agreement.

- 6. CONDITION OF "AS IS" PROPERTY: Buyer Acknowledges That Except For Any Express Warranties And Representations Contained In The Agreement And The Deed, Buyer Is Not Relying On Any Written, Oral, Implied Or Other Representations, Statements Or Warranties By Seller Or Any Agent Of Seller Or Any Real Estate Broker Or Salesman. All Previous Written, Oral, Implied Or Other Statements, Representations, Warranties Or Agreements, If Any, Are Merged Herein.**

Other Than As Specifically Disclosed Herein, Seller Has Not Made, Does Not Make, And Expressly Disclaims, Any Warranties, Representations, Covenants Or Guarantees, Expressed Or Implied, Or Arising By Operation Of Law, As To The Merchantability, Habitability, Quantity, Quality Or Environmental Condition Of The Property Or Its Suitability Or Fitness For Any Particular Purpose Or Use.

Upon Signing The Contract, Buyer Affirms That It Has (i) Investigated And Inspected The Property To Its Satisfaction And Is Familiar And Satisfied With The Condition Of The Property And (ii) Has Made Its Own Determination As To (a) The Merchantability, Quantity, Quality And Condition Of The Property, Including The Presence Of Toxic Or Hazardous Substances, Materials, Or Wastes Or Other Actual And Potential Environmental Contaminates, And (b) The Property's Suitability Or Fitness For Any Particular Purpose Or Use. Buyer Hereby Accepts The Property In Its Present Condition On An "As Is", "Where Is" And "With All Faults", Including Environmental, Basis And Acknowledges That (i) Without This Acceptance, This Sale Would Not Be Made (ii) That the Purchase Price Reflects The Existing Condition Of The Property, Including The Presence Of Environmental Contamination, If Any, Thereon, And (iii) Seller Shall Be Under No Obligation Whatsoever To Undertake Any Repair, Alteration, Remediation Or Other Work Of Any Kind With Respect To Any Portion Of The Property.

Except As Otherwise Agreed To Herein, Seller Is Hereby Released By Buyer And Its Successors And Assigns Of And From Any And All Responsibility, Liability, Obligations And Claims, Known Or Unknown, Including (1) Any Obligation To Take The Property Back Or Reduce The Price, Or (2) Actions For Contribution Or Indemnity, That Buyer Or Its Successors And Assigns May Have Against Seller Or That May Arise In The Future, Based In Whole Or In Part, Upon The Presence Of Toxic Or Hazardous Substances,

Materials, Or Wastes Or Other Actual Or Potential Environmental Contaminates On Within Or Under The Surface Of The Property.

Buyer Further Acknowledges That The Provisions Of This Paragraph Have Been Fully Explained To Buyer And That Buyer Fully Understands And Accepts The Same. The Provisions Of This Paragraph Shall Survive Closing, Whether Or Not Specifically Stated In The Deed.

7. **CONDITIONS PRECEDENT TO SELLER'S PERFORMANCE:** Seller's obligation to sell the Property is subject to the satisfaction of all the conditions set forth below in this Article 7, within the time periods specified. If any of these conditions are not satisfied within the stated applicable time period, Seller may terminate this Agreement and cancel the Escrow. In the event Seller terminates this Agreement pursuant to this Article or because Buyer is otherwise in breach of this agreement, the escrow funds shall be distributed to Seller as liquidated damages pursuant to Article 4 hereinabove. Seller may waive, in writing, any or all of the conditions, in whole or in part, without prior notice to Buyer.

A. **Delivery of Documents:** Buyer shall have executed, acknowledged (if required) and delivered all monies, documents and instruments to Agent, as required in this Agreement.

B. **Approvals By Buyer:** Buyer shall have, on a timely basis approved or waived the conditions to Buyer's performance, as described in Article 5 above.

8. **CLOSING OF ESCROW**

A. **Demands:** Agent is hereby authorized and instructed to obtain demands for payment of any recorded liens against the Property and, after approval of such demands by Seller (which approval shall not be unreasonably withheld), to pay such demands and secure the release of such liens at the Closing out of the funds deposited into Escrow by Seller or Buyer.

B. **Allocations Of Costs And Expense:** The expenses of Agent and costs and expenses of consummating the transaction contemplated in this Agreement shall be paid in the following manner:

1. **By Buyer:** Buyer shall pay for (a) the cost of Attorney's Title Opinion, (b) the cost of Commitment and Owner's Policy of Title Insurance referred to in Article 5(A) and Article 8(C) the cost of recording the Deed to Buyer, including Revenue Stamps and /or any transfer tax, if applicable; including closing fee's charged by the Buyer's Attorney, Mortgagor or Buyer's Closing Agent; (d) any and all costs associated with the cost of recording any documents for Buyer's benefit, if any.

2. The **2020 taxes to be assumed by purchaser.**

3. **By Seller:** Seller shall pay (a) any expense associated with the Property to the date of Closing; (b) the proration of real property taxes (if applicable), assessments and personal property taxes, if any, with respect to the Property based upon the latest available

tax information; (c) the cost of deed preparation; and (d) the cost of removal of any liens caused by Seller.

4. If any errors or omissions are made regarding adjustments and prorations as aforesaid, the parties shall make the appropriate corrections promptly upon the discovery thereof. If any estimations are made at the Closing regarding adjustments or prorations, the parties shall make the appropriate correction promptly when accurate information becomes available. Any corrected adjustment or proration shall be paid in cash to the party entitled thereto.

C. Policy of Title Insurance: At the Closing, Buyer's Attorney or Title Company shall deliver to Buyer a Commitment for Title Insurance or a Policy of Title Insurance in the amount of the Purchase Price, committing to insure, or insuring title vested in Buyer, free of encumbrances, except:

1. All non-delinquent general and special real property taxes and assessments.

2. Easements, encumbrances, covenants, conditions, restrictions, reservations, rights-of-way and other matter of record or that would be shown by a current and accurate survey of the Property of whatever kinds or nature, including, but not limited to, those matters relating to utility lines, road, sewers, right of surface entry, and the zoning and use regulations of any municipal, county or state agency or body affecting the Property, as shown on the Commitment approved by Buyer. Buyer may, at Buyer's cost, arrange for such additional title insurance coverage as is available under applicable State and local underwriting requirements and practice.

9. **REPRESENTATIONS AND WARRANTIES OF SELLER:** Seller hereby represents and warrants to Buyer:

A. If other than a natural person, Seller is duly organized, validly existing and in good standing in the State of its information, and has all requisite power and authority to own and sell property and conduct business in the State where the Property is located, and each individual executing this Agreement on behalf of Seller represents and warrants that he/she is duly authorize to execute and deliver this Agreement on behalf of Seller.

B. To the best of the actual knowledge of Seller, without investigation, no notices of any violation relating to the Property or its use have been received by Seller; there are no writs, injunctions, decrees, orders or judgments outstanding and there are no lawsuits, claims, proceedings or investigations pending or threatened relating to the ownership, use, maintenance or operation of the Property; nor, to the best knowledge of Seller, are there any bases for such lawsuits, claims, proceedings or investigations being instituted or filed..

10. **REPRESENTATIONS AND WARRANTIES OF BUYER:** Buyer hereby represents and warrants to Seller:

A. If other than a natural person, Buyer is duly organized, validly existing, in good standing in the State of its formation, and has all requisite power and authority to purchase and own property and conduct business in the State where the Property is located, and each individual executing this Agreement on behalf of Buyer represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of Buyer.

B. In addition to any other representations and warranties contained in this Agreement, Buyer, whether a natural person or a legal entity, represents and warrants that in making its decision to purchase the Property, Buyer represents that it has relied and will rely solely upon its own independent investigation of the Property, Seller's specific representations and warranties contained in this Agreement and the Commitment, and is not relying on any statement or act or omission of Seller, its attorneys, employees, agents or representatives, except as specifically set forth in this Agreement.

C. Except As Expressly Set Forth Herein, Seller Shall Have No Liability To Buyer, And Buyer Shall Release Seller From All Risks And Liability (Including Contractual And/Or Statutory Actions For Contribution Or Indemnity), For, Concerning, Or Regarding (1) The Nature And Condition Of The Property, Including, But Not Limited To, The Suitability Thereof For Any Activity Or Use; (2) Any Improvements Or Substances Located Thereon; Or (3) The Compliance Of The Property With Any Laws, Rules Ordinances, Or Regulations Of Any Government Or Other Body. The Foregoing Includes A Release Of Seller From Claims Based On Seller's Negligence In Whole Or In Part And Claims Based On Strict Liability. Buyer And Its Successors And Assigns Have, And Shall Be Deemed To Have, Assumed All Risk And Liability With Respect To Presence Or Remediation Of All The Known And Unknown Toxic Or Hazardous Substances, Materials, Or Wastes Or Other Actual Or Potential Environmental Contaminates On, Within Or Under The Surface Of The Property, Including Both Known Or Unknown, Apparent, Non-Apparent Or Latent, And Whether Existing Prior To, At, Or Subsequent To, Transfer Of The Property.

D. Buyer represents and warrants that Buyer has the certified funds to close this sale and understands that there is no contingency for Buyer securing financing to fund the Closing of this sale.

11. **ASSIGNMENT:** Buyer may assign its rights or delegate its obligation under this Agreement; however, the original contracting party shall remain liable for any and all obligations herein through the closing of this transaction.
12. **RISK OF LOSS:** The risk of hazard or casualty loss or damage to property shall be borne by the Seller until transfer of title. If casualty loss exceeds twenty per cent (20%) of the purchase price, Seller or Buyer may elect to terminate this agreement with a refund of earnest money to Buyer.
- a. In the event, the property becomes the subject matter of a taking under the power of eminent domain by any governmental agency prior to closing, Buyer shall have the option to terminate this agreement and the earnest money refunded to Buyer.
 - b. In the event, this agreement is terminated in accordance with Article 12 and/or Article 12(a) and 12(b). Seller shall pay the Agent the commission and sale's expenses on demand.
13. **AUCTIONEER'S REMARKS:** The parties hereto acknowledge that this purchase is being made at public auction and the parties are thereby bound by all terms and conditions stated in the auctioneer's remarks. All announcements made from the auction stand will take precedence over any previous advertisements, announcements or statements.

Property is sold subject to the general terms and specific terms which are attached to this contract for future reference.

14. **AGENT INFORMATION:** The agency for the seller, its agents and affiliates, will not be responsible or liable for:
- A. Quotas, bases, or allotments controlled by the ASCS office in and for said County in which the above described property is located.
 - B. Any existence of wetland classification or wetland violations as designated by the ASCS or NRCS.
 - C. Amount of acres or location of boundary lines of the above described property.
 - D. The removal of fixtures or appurtenances from the above described property.
 - E. Nor warrant in any way the title to the above described property.
 - F. Nor is in any way to be responsible for accuracy of survey, if any.
 - G. Nor is in any way to be responsible for any environmental hazards, hazardous materials, contaminants, sewerage contaminants, sewerage tanks, lagoons, disposal lines, underground tanks, garbage or trash dumps of any type or any environmental problems or contaminants to the land/property and improvements located thereon.
 - H. Nor is any way responsible for the absence or condition of a sewerage septic tank and disposal system, sewerage disposal lines or lagoons.
15. **TAX CERTIFICATION:** Section 1455 of the Internal Revenue Code provides that the transferee of a United States real property interest must deduct and withhold a tax based on the

amount realized by the transferor on the disposition, if the transferor is a foreign person. Seller is not a foreign person, and the "FIRPTA" certification will be provided to Agent by Buyer at Closing.

16. **NOTICES:** Any notice, delivery or demand (other than those which must be given to Agent) shall be given by one party to the other by overnight carrier sent "next business day service", or by mail deposited in the United States mail, postage prepaid, certified, return receipt requested, addressed to the other party at their respective addresses as follows:

SELLER:

Michael T. Tabor, Bankruptcy Trustee

P. O. Box 320

Milan, TN 38358

(731) 234-9123

BUYER:

AGENT:

ALEXANDER AUCTIONS & REAL ESTATE SALES

239 UNIVERSITY STREET * PO BOX 129

MARTIN, TN 38237 * EMAIL: alexanderauctions@frontiernet.net

PHONE: (731) 587 – 4244 * FAX: (731) 587-2698

17. **MISCELLANEOUS:**

A. Time is of the essence as to each and every provision of this Agreement.

B. This Agreement contains the entire agreement between the parties hereto with respect to the matters covered herein and may be amended only by evidence of written documentation signed by both Buyer and Seller prior to its submittal to any third party or entity for purposes of implementation, change or effect.

C. Each party will, whenever and as often as it shall be required by the other party, execute, acknowledge and deliver such further instructions as may be reasonably requested in order to complete the sale, conveyance and transfer herein provided for, and to do any and all other acts and to execute, acknowledge and deliver to Agent any and all documents as may be reasonably requested in order to carry out the intent and purposes of this Agreement.

D.. Should any part, term or provision of this Agreement, or any document dealing with any entity set forth within this Agreement and required herein to be executed or delivered at the Closing be declared invalid, void or unenforceable, all remaining parts, terms and provisions

hereof shall remain in full force and effect and shall in no way be invalidated, impaired or otherwise affected thereby.

E. The prevailing party in any action instituted to enforce or interpret any provision of this Agreement shall be entitled to all fees, expenses and costs, including reasonable attorney's fees as fixed by the Court.

F. This Agreement shall be construed in accordance and interpreted, governed and enforced under and according to the laws of the State in which the Property is located.

G. No representations, promises, conditions or warranties with reference to the execution of this Agreement have been made or entered into between the parties hereto other than as herein expressly provided, and except to the extent that express warranties are contained herein.

H. **POSSESSION:** The Buyer shall be entitled to possession of the Property at the Closing, unless stated different hereafter; Possession to be given **with deed**, and the property is selling subject to any leases and specific terms and conditions. Possession shall be delivered outside of Escrow, and Agent shall incur no liability with respect thereto.

I. In addition, the parties hereby agree that each party has reviewed and revised this Agreement and that the normal rule of construction, to the effect that any ambiguities are resolved against the drafting party, shall not be employed in the interpretation of this Agreement and no other rule of strict construction shall be used against any party. All exhibits and schedules attached or to be attached hereto, and all other agreements and instruments referred to herein, are hereby incorporated herein by reference, as fully as if copied herein verbatim.

J. **METHOD OF EXECUTION:** The parties agree that signatures and initials transmitted by facsimile, other photocopy transmittal, or by transmittal of digital signature as defined by the applicable State or Federal Law will be acceptable and may be treated as originals and that the final Purchase and Sale Agreement containing all signatures and initials may be executed partially by original signature and partially on facsimile, other photocopy documents, or by digital signatures as defined by the applicable State or Federal Law.

K. Until this Agreement is signed by the Seller, this offer may not be withdrawn within forty-eight (48) hours after Buyer signs the Purchase Agreement.

L. Each party represents that it has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate this transaction.

NOTE: Any provisions of this Agreement which are preceded by a "☐" must be marked to be a part of this Agreement. By affixing your signature below you also acknowledge that you have reviewed each page and received a copy of this Agreement.

WITNESS our hands, in duplicate, this _____ day of November, 2020.

Buyer

Seller

Buyer

Seller

Alexander Auctions & Real Estate Sales

Subject to clearance of any check given, undersigned Agent acknowledges Buyers receipt of above mentioned earnest money which is held in trust subject to the terms of this contract.

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