

## **AUCTION PURCHASE AND SALE AGREEMENT**

**459 Green Briar Dr, Branson MO**

THIS AUCTION PURCHASE AND SALE AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2024, by Marlene Starling (the "Seller")

and \_\_\_\_\_ (the "Purchaser(s)"),  
and recites and provides as follows:

INDIVIDUAL:

PURCHASER(S): \_\_\_\_\_  
(Print Name) (Print Name)

PURCHASER'S  
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PURCHASER'S  
PHONE: Home: \_\_\_\_\_ Cell: \_\_\_\_\_  
Office: \_\_\_\_\_ E-mail: \_\_\_\_\_

### **RECITALS**

WHEREAS, the Seller owns the Property as more particularly described on Exhibit A(s) and by this reference made a part hereof (collectively, the "Property");

WHEREAS, Purchaser desires to purchase the Property and has submitted an offer for purchase as part of a live auction (the "Offer");

WHEREAS, the Offer is subject to the Terms & Conditions of Auction Sale, as more particularly outlined on Exhibit B and by this reference made a part hereof; and

WHEREAS, Seller agrees to sell the Property subject to the terms and provisions of this entire Agreement.

### **AGREEMENT**

NOW, THEREFORE, for and in good consideration of the mutual promises, covenants and conditions set forth herein, the receipt and sufficiency of which is acknowledged, the parties hereto agree as follows:

**Section 1. Sale and Purchase.** Subject to the terms and conditions hereof, Seller shall sell, and Purchaser shall purchase the Property. The last date upon which this Agreement is executed shall be hereinafter referred to as the "Commencement Date".

**Section 2. Offer** This Agreement, when executed by Purchaser and submitted to Seller, shall be irrevocable for 3 days from the date of submission, and shall not be withdrawn for any reason by Purchaser. If not accepted by Seller within that time by delivery of a signed copy of this Agreement to

the Purchaser, this Agreement and the Purchaser's offer shall become null and void and the Deposit held by the Auction Company shall be promptly returned to the Purchaser.

**Section 3.      Total Purchase Price.** The total purchase price for the Property shall be \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

(the "Purchase Price"). The Purchase Price includes the 10% Buyers Premium based on the following:

High Bid Price: \$ \_\_\_\_\_

Buyer's Premium (equal to 10% of the High Bid Price) \$ \_\_\_\_\_

Total Purchase Price (equals A + B) \$ \_\_\_\_\_

Earnest Money Deposit \$ \_\_\_\_\_

The Purchase Price shall be payable as follows:

Deposit. An Earnest Money Deposit of Five Thousand Dollars \$5,000 shall be held in a non-interest-bearing Real Estate Trust Account by the Escrow Agent and is non-refundable upon mutual execution of the contract between Purchaser and Seller, unless otherwise specified herein. The Deposit is due at the time of the Purchaser signing this Contract.

Remaining Balance. The balance of the Purchase Price, less the Deposit, is to be paid at Closing, as hereinafter defined, in cash, by wire transfer or other immediately available funds.

**Section 4.      Title Commitment, Exceptions, and Auction Terms**

Title Commitment. As part of the Property Documents, Seller delivered the most recent title commitment or policy, if any, in its possession to the Purchaser (the "Existing Title"). Purchaser has waived any objections to the Existing Title.

Permitted Exceptions. Purchaser shall accept title to the Property, subject to the following exceptions (the "Permitted Exceptions"):

Those matters affecting or relating to the title to, or the survey of, the Property which are of record on the Effective Date or as shown on the Existing Survey (or even if not shown on the Existing Survey, matters which would have been shown on a current updated or new survey).

The lien of non-delinquent taxes, assessments and other usual and customary charges assessed against the owners of real property in the state in which the Land is located.

All building and zoning laws, codes and regulations affecting the Property, including all proffers, special exceptions, conditions, site plan approvals, and other similar matters, if any, relating to the zoning of the Property.

All Permitted Exceptions provided for in Exhibit A.

C.      Auction Terms & Conditions. The auction Terms and Conditions attached hereto as Exhibit B are hereby incorporated into this Agreement as fully as if copied herein verbatim. To the extent that any term or condition of the Terms and Conditions may be in conflict with this Agreement, it is the intention of the Purchaser and Seller that this Agreement shall control.

**Section 5.      Closing.**

Closing shall take place at a date which shall be no later than FOURTY FIVE (45) days from the Commencement Date, which is the date of mutual execution of the Purchase and Sale Agreement by the Seller and Buyer. (the "Closing").

The Escrow Agent shall be: PREFERRED TITLE  
PATRICE TICE, CLOSING AGENT  
232 S VILLAGE CENTER  
NIXA MO 65714

At the Closing, Seller shall convey to Purchaser, by General Warranty Deed, insurable fee simple title to the Property free and clear of liens, claims, interests and encumbrances, subject only to standard permitted exceptions and existing easements and other conditions outlined within this Contract. Seller shall deliver possession of the Property to the Purchaser as of the date of Closing. The Purchaser accepts all previously disclosed matters of title provided by the Auction Firm prior to auction.

At the Closing, Escrow Agent shall deliver to Purchaser a settlement statement.

At the Closing, Escrow Agent shall deliver to Seller a settlement statement in form and substance reasonably satisfactory to Purchaser and Seller and such other documents, certificates and instruments as may reasonably be required to convey the Property to Purchaser.

**Section 6.      Closing Costs.** Notwithstanding anything to the contrary contained herein, the costs of Closing shall be paid as follows:

By Purchaser:

Half of Escrow Agent's closing fee;  
Proration of real estate taxes relating to the Property payable during the year in which closing occurs;  
Purchaser will responsible for taxes payable from and after the Date of Closing;  
All Transfer Tax and Recording fees; and  
All premiums, fees and costs associated with the issuance of any lender's or owner's title policy;

By Seller:

Half of Escrow Agent's closing fee  
Expenses of placing title in proper condition;  
Preparation of General Warranty Deed and other Seller's documents required hereunder;  
All delinquent and current real estate taxes through the closing date;  
Escrow Agent's document preparation fee; and  
Documentary stamps;

**Section 7.      Brokerage/Auctioneer Fees.** Seller shall pay to Bray Auctions LLC. a real estate commissions/auctioneer's fee pursuant to a separate written agreement. Other than \_\_\_\_\_ as broker for the Purchaser, the Purchaser represents and warrants to the Seller that it has not taken any action and is not aware of any facts that may give rise to a commission or brokerage fee being due as a result of the transfer of the Property. The Purchaser shall indemnify and hold the Seller harmless from and against any claims made for a commission due.

**Section 8.      Taxes and Assessments.** All past due and accrued real property taxes shall be pro-rated at Closing. The water rates and sewer charges, if any, shall be prorated and adjusted to the date of Closing.

## **Section 9. Seller's Representations.**

The Seller represents to Purchaser the following: The Seller has authority to sell the Property and is authorized to deliver a General Warranty Deed, and such other documents that are customary and necessary to convey the Property to the Purchaser.

## **Section 10. Property Condition.**

Disclaimer. Seller has not made, does not make and specifically disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, concerning or with respect to: (a) the nature, quality or condition of the Property, including, without limitation, the water, soil and geology; (b) the suitability of the Property for any and all activities and uses which Purchaser may conduct thereon; (c) the compliance of the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (d) the habitability, merchantability or fitness for a particular purpose of the Property; (e) the presence of any endangered or threatened species on the Property, as well as the suitability of the Property as habitat for any of those species; (f) the accuracy or completeness of any materials provided to Purchaser under the provisions of this Agreement or otherwise; or (g) any other matter with respect to the Property, as well as the suitability of the Property as habitat for any of those species; (f) the accuracy or completeness of any materials provided to Purchaser under the provisions of this Agreement or otherwise; or (g) any other matter with respect to the Property, without limiting the foregoing, Seller does not make and has not made any representation or warranty regarding the presence or absence of any hazardous substance on, under or about the property or the compliance or non-compliance of the property with any and all federal, state or local environmental laws, ordinances, regulations, orders, decrees or rules regulating, relating to or imposing liability or standards of conduct concerning any hazardous substances.

Acknowledgment of Inspection. Purchaser acknowledges and agrees that (a) Purchaser has had the opportunity to inspect the Property, (b) if this transaction is consummated, Purchaser will be purchasing the Property pursuant to Purchaser's independent examination, study, inspection and knowledge of the Property, and (c) Purchaser is relying upon its own determination of the value and condition of the Property and not on any information provided or to be provided by Seller. Purchaser is relying solely upon its own inspections, investigations, research and analyses in entering into this Agreement and is not relying in any way upon any representations or warranties (except those expressly provided in this Agreement), statements, plans, specifications, cost estimates, studies, reports, descriptions, guidelines or other information or material furnished by Seller or its representatives to Purchaser or its representatives, whether oral or written, express or implied, of any nature whatsoever regarding any such matters. Purchaser further acknowledges that any references by Seller or Bray Auctions LLC. regarding square footage, dimensions or area measurements for land or improvements thereon are approximate and were provided by Seller without representation to their accuracy. Purchaser acknowledges and agrees that verification or determination of the accuracy of such information is the responsibility of Purchaser. With respect to any personal property being conveyed hereunder, Purchaser shall not rely on any list of such property compiled by Seller, but rather, Purchaser shall compile its own list for review by Seller, which list, if approved by Seller, shall be countersigned by Seller as evidence of the list's accuracy, and such list shall constitute the personal property to be conveyed to Purchaser at Closing.

AS IS. THE OCCURRENCE OF THE CLOSING WILL CONSTITUTE AN ACKNOWLEDGMENT BY PURCHASER THAT THE PROPERTY WAS ACCEPTED WITHOUT REPRESENTATION OR WARRANTY, STATUTORY, EXPRESS OR IMPLIED, AND OTHERWISE IN AN "AS IS, WHERE IS, AND WITH ALL FAULTS" CONDITION BASED SOLELY ON PURCHASER'S OWN INSPECTION THEREOF AND IN ACCORDANCE WITH ANY REVIEW OF THE PROPERTY CONDUCTED BY PURCHASER. THE SALE OF THIS PROPERTY IS NOT CONTINGENT UPON THE PURCHASER OBTAINING A CERTIFICATE OF OCCUPANCY.

**RELEASE.** PURCHASER HEREBY RELEASES SELLER AND ANY SERVICER, AGENT, REPRESENTATIVE, MANAGER, AUCTIONEER, AFFILIATE, OFFICER, PARTNER, SHAREHOLDER OR EMPLOYEE OF SELLER (A "SELLER RELATED PARTY") FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES WHICH PURCHASER OR ANY PARTY RELATED TO OR AFFILIATED WITH PURCHASER (A "PURCHASER RELATED PARTY") HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO THE PHYSICAL CONDITION OF THE PROPERTY, ANY CONSTRUCTION DEFECTS, ANY ERRORS OR OMISSIONS IN THE DESIGN OR CONSTRUCTION OF THE PROPERTY AND ANY ENVIRONMENTAL CONDITIONS AT, IN, ON OR UNDER THE PROPERTY, AND PURCHASER WILL NOT LOOK TO SELLER OR ANY SELLER RELATED PARTY IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF.

**SURVIVAL.** THE ACKNOWLEDGMENTS AND AGREEMENTS OF PURCHASER SET FORTH IN THIS SECTION 9 WILL SURVIVE THE CLOSING.

**PERSONAL PROPERTY; INTANGIBLE PROPERTY.** SELLER MAKES NO REPRESENTATIONS OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO SELLER'S TITLE TO THE PERSONAL PROPERTY OR THE INTANGIBLE PROPERTY.

**Section 11. Restrictive Covenants.** Seller discloses that the Property may be encumbered by covenants, conditions, and restrictions. Buyer is responsible for obtaining and reviewing applicable covenants, restrictions, by-laws or conditions governing the Property.

**Section 12. Condemnation.** If, prior to or during the Closing, all or any material part of the Property shall be condemned by governmental or other lawful authority, Purchaser shall have the option of: (a) completing the purchase, in which event all condemnation proceeds or claims thereof shall be assigned to Purchaser, or (b) terminating this Agreement, in which event this Agreement shall be terminated, and this Agreement shall then be deemed null and void, none of the parties hereto shall then have any further obligation to any other party hereto or to any third party, and the Seller shall return the Deposit in full to the Purchaser.

**Section 13. Risk of Loss.** All risk of loss or damage to the Property by fire, windstorm, casualty or other cause is assumed by Purchaser on the Closing Date.

**Section 14. Buyer Default.** If Purchaser shall default in the performance of any terms and conditions of this Agreement, or if the Closing shall not occur on or before the Closing Date because of the fault of Purchaser, then Seller, at its option, shall have the right to retain the Deposit paid as property of the Seller for damages the determination of which is different or incapable of determination. By retaining the Deposit, Seller does not waive any rights or remedies it may have because of Purchaser's default. It is intended hereby that all of the rights and remedies of Seller available either pursuant to the terms of this Agreement, or under the law or otherwise, are cumulative and not exclusive of any other such right or remedy.

**Section 15. Default by Seller.** If Seller fails or refuses to deliver the General Warranty Deed on or before the Closing Date upon receipt of the purchaser price from the Purchaser, then Purchaser shall have the right to terminate this Agreement, in which event this Agreement shall then be deemed null and void, and the Seller shall return the Deposit in full to the Purchaser.

**Section 16. Assignment.** This Agreement, or any part thereof, may be assigned to any third party by the Purchaser at its own discretion with prior consent of the Seller, provided, however any assignment by Purchaser shall not relieve the Purchaser of any liability hereunder.

**Section 17. Costs.** Except as otherwise specified in this Agreement, each Party hereto shall pay all of its own costs and expenses incurred in connection with the transactions contemplated hereunder, including, without limitation, any fees and disbursements of its accountants and counsel.

**Section 18. Notices.** All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given when mailed, by registered or certified mail, return receipt requested, or by overnight courier, or if faxed, in any case when received by the other party or parties. Any such demand, notice or communication hereunder shall be deemed to have been received on the date delivered to or received at the premises of the addressee (as evidenced, in the case of registered or certified mail, by the date noted on the return receipt). Notice for any party may be given by its respective counsel. Notices shall be directed to the following addresses (or such other addresses as may hereafter be furnished to the other party by like notice):

To Seller: Marlene Starling  
459 Green Briar Drive  
Branson MO 65616

To Auctioneer: Bray Auctions LLC.  
3900 S Broadway Ave, 2W  
Edmond, OK 73013  
(405) 408-2504  
[info@bidbray.com](mailto:info@bidbray.com)

To Escrow Agent: Patrice Tice  
Preferred Title  
232 S Village Center  
Nixa MO 65714

**Section 19. Entire Agreement.** This Agreement contains the entire agreement between Seller and Purchaser, and there are no other terms, conditions, promises, undertakings, statements or representations, expressed or implied, concerning the sale contemplated by this Agreement.

**Section 20. Modification.** The terms of this Agreement may not be amended, waived or terminated orally, but only by an instrument in writing signed by the Seller and Purchaser.

**Section 21. Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

**Section 22. Severability of Provisions.** Any part, provision, representation, warranty or covenant of this Agreement that is prohibited or unenforceable or is held to be void or unenforceable in any particular jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties hereto waive any provision of law which prohibits or renders void or unenforceable any provision hereof.

**Section 23. Captions.** The captions and paragraph headings contained herein are for convenience only and shall not be used in construing or enforcing any of the provisions of this Agreement.

**Section 24. Acceptance.** This Agreement when executed on behalf of Purchaser shall be deemed an offer and shall remain in effect, unless withdrawn by the Seller, until THREE (3) days from the date of submission. If not accepted by Seller within that time by Seller by delivery of a signed copy of this Agreement to the Purchaser, this Agreement and the Purchaser's offer shall become null and void. THE PURCHASER ACKNOWLEDGES THAT THIS AGREEMENT IS SUBJECT TO SELLER APPROVAL.

**Section 25. Exhibits.** The exhibits to this Agreement are hereby incorporated and made a part hereof and are an integral part of this Agreement.

**Section 26. Successors.** This Agreement shall inure to the benefit of and bind the parties hereto and their respective successors and assigns. This Agreement cannot be assigned by the Purchaser to any party without the prior written consent of the Seller.

**Section 27. Governing Law and Court of Exclusive Jurisdiction.** This Agreement and all documents and instruments referred to herein shall be governed by the laws of the State of Oklahoma. Any disputes between the Seller and Purchaser regarding this Agreement will be decided exclusively by a Court based in Oklahoma.

**Section 28. Time of Essence.** TIME IS OF THE ESSENCE with respect to each and every provision of this Agreement. Whenever any action must be taken (including the giving of notice or the delivery of documents) under this Agreement during a certain period of time (or by a particular date) that ends (or occurs) on a weekend or federal holiday, then such period (or date) shall be extended until the next succeeding business day.

**Section 29. Patriot Act.** Purchaser is not, and will not be, a person or entity with whom Seller is restricted from doing business under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107 56 (commonly known as the "USA Patriot Act") and Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001 and regulations promulgated pursuant thereto (collectively, the "Anti Terrorism Laws"), including, without limitation persons and entities named on the Office of Foreign Asset Control Specially Designated Nationals and Blocked Persons List.

**Section 30. Non-Foreign Seller.** Seller represents that at the time of acceptance of this Agreement and at the time of Closing, Seller is not a "foreign person" as such term is defined in the Foreign Investments in Real Property Tax act of 1980 (26 USC Section 1445(f) et. Sec) ("FIRPTA"). If either the sales price of the property exceeds \$300,000.00 or the buyer does not intend to use the property as a primary residence then, at the Closing, and as a condition thereto, Seller shall furnish to Buyer an affidavit, in a form and substance acceptable to Buyer, signed under penalty of perjury containing Seller's United States Social Security and/or taxpayer identification numbers and a declaration to the effect that Seller is not a foreign person within the meaning of Section "FIRPTA."

IN WITNESS HEREOF, Purchaser and Seller agree that the Date of this Agreement shall be the date the Seller executes this Agreement.

**SELLER:**

\_\_\_\_\_

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date of Seller's Commencement

**PURCHASER:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Date of Purchaser's Offer

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Date of Purchaser's Offer

**EXHIBIT A:**

(Description of the Property)

Property Address: 459 GREEN BRIAR DRIVE, BRANSON MO

Legal Description: OAK HAVEN – EVAN SUB LT 3; EVANS SUB REPLAT LTS 28

\*The seller has requested a closing date of Nov 16<sup>th</sup>.



**EXHIBIT B:**

**PROPERTY ADDRESS:**

**459 GREEN BRIAR DRIVE, BRANSON MO**

**TERMS AND CONDITIONS**

**Buyer Registration:** By registering and accepting a number, all bidders agree to abide by all of the Terms of Sale.

**Bidder Verification:** The identity of all bidders will be verified, bidding rights are provisional, and if complete verification is not possible, Bray Auctions LLC. will reject the registration and bidding activity will be terminated.

**Auctioneer Rights:** All decisions of the Auctioneer are final. The Auctioneer reserves the right

to reject any bid or bidder and has the right to accept back-up contracts the day of sale. Bray Auctions LLC. has the sole authority to resolve any bidding disputes as they may arise. Bray Auctions LLC. reserves the right to remove or cancel the bids and or bidding rights and privileges of any party, deemed not to be in the best interest of the seller, at any time.

**Online Only Earnest Money Deposit:** At the close of the auction, the successful high bidder will be emailed, faxed or delivered the contract package to execute and return to Bray Auctions LLC. within 24 hours. The successful bidder will also be required to submit an Earnest Money Deposit via certified check or wire transfer to the designated Closing Agent for Escrow within 24 hours. The entirety of the remaining balance is due at closing. Purchaser shall be responsible for all wire transfer fees. Deposit funds are non-refundable unless title cannot be transferred

**Buyers Premium:** A 10% buyer's premium will be added to the high bid price to determine the Total Contract Price.

10% Buyer's Premium Example:

Bid Price:	\$100,000
Plus 10% Buyer's Premium:	<u>\$ 10,000</u>
Total Contract Price:	\$110,000

**Contracts:** A Contract Package will be sent by e-mail, fax or overnight to the successful high bidder, who must execute and email, fax or overnight mail back to Bray Auctions LLC. within 24 hours of receipt. If the successful high bidder does not execute and return the contract along with an earnest money deposit within 24 hours of receipt they will be considered in default and subject to legal action. This is a legal binding contract.

**Technical Issues:** Neither the company providing the software nor the auction company shall be held responsible for a missed bid or the failure of the software to function properly for any reason. The online bidding will begin to close at the specified time as per advertised. Please call 405-888-5366 if you need assistance with the online bidding platform.

**Bidding Process:** The Auctioneer reserves the right, but has no obligation, to bid on behalf of the Seller up to the undisclosed reserve price, unless the property is declared "Absolute" or the "Reserve has been met". The bidder's number is nontransferable.

**All Sales are Final:** By registering and bidding, the buyer acknowledges they understand and agree to the Terms of Sale. The Buyer acknowledges that they have read the Auction Purchase and Sale Agreement and the Terms and Conditions of the Auction Sale provided by Auctioneer and accept the Auction Purchase and Sale Agreement without any changes to the preprinted text.

**Representation:** Although information has been obtained from sources deemed reliable, the Auctioneers, Bray Auctions LLC., its representatives, employees, firm, broker, their attorney's nor the Seller make any guarantee or warranty of any kind expressed or implied as to the

accuracy of the information herein contained.

**Property:** The property, offered for sale at the Auction is being sold “AS IS”, “WHERE IS”, “WITH ALL FAULTS AND DEFECTS”, without warranty or guarantee of any kind, except as expressly provided for in the Auction Purchase and Sale Agreement and Terms and Conditions of the Auction Sale. Each potential Buyer is encouraged to perform his/her own independent inspections, inquiries and due diligence concerning the described property. The information is being furnished to bidders for the bidder's convenience and it is the responsibility of the bidder to determine that information contained herein is accurate and complete. Any reliance on the contents shall be solely at the recipient's risk. It is the Buyer's responsibility to inspect the property prior to bidding to make their determination as to the condition or seek professional inspection (at the Buyer's expense) of the property. Buyer(s) agrees to accept property with its current zoning, easements, and any and all right-of-ways that carry with it. All information is taken from sources deemed to be accurate and reliable, all measurements are approximate and not to scale. The Seller and the Auctioneers, Bray Auctions LLC., contractors, employees, firm, or brokers assume no liability in this matter. Any and all announcements made the day of auction take precedence over any and all previously written advertisements or any prior written or verbal terms of sale but shall in no event form the basis of any representation or warranty by Seller or Auctioneers. By bidding on the property, you are accepting all terms and conditions stated herein.

**Financing:** The purchase is not contingent on obtaining financing or qualification for financing.

**Buyer Default:** In the event a high bid is accepted and the Buyer fails to close or comply with the terms of the Auction Purchase and Sale Agreement, then the earnest money will be forfeited as liquidated damages, but such forfeiture shall not affect any other remedies available to Seller for such failure.

**Indemnity:** The Buyer assumes full responsibility and liability for any claim or actions based on or arising out of injuries, death, damage, loss of property, sustained or alleged to have been sustained by Buyer, its agent, principals, associates, friends, family and/or employees, in connection with or to have arisen out of or incidental to the auction including but not limited to the performance of this contract. Regardless of whether such claims or actions are founded whole or in part upon alleged negligence or negligent misrepresentation of Seller, Auctioneer, or the employees, agents, invitees, or licensees thereof, Buyer agrees to indemnify and hold harmless Seller, Auctioneer, and their representatives, and the employees, agents, invitees and licensees thereof in respect of any such matters and agrees to defend any claim or suit or action brought against Seller, Auctioneer, and their representatives, and the employees, agents, invitees and licensees thereof.

**Environmental Disclaimer:** The Seller and Bray Auctions LLC., agents, contractors and employees do not warrant or covenant with Buyer(s) with respect to the existence or nonexistence of any pollutants, contaminants, mold, or hazardous waste prohibited by federal,

state or local law or claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration or escape of such substances at, from or into the demised premises. Buyers are to rely upon their own environmental audit or examination of the premises.

**Acreage and Square Feet:** All acreages and square feet descriptions are approximate. If there is a discrepancy between Bray Auctions LLC., or its representative and the actual acreage and/or square feet as determined by a surveyor or appraiser, the price will not be adjusted. The statements, while not guaranteed, are from reliable sources. Any costs incurred in establishing boundaries shall be the responsibility of the buyer(s). Each sale is subject to easements, right-of-way, reservation and/or restrictions of record.

**Closing:** TIME IS OF THE ESSENCE. The balance of the purchase price will be within 30 days from the Commencement Date, which is the date of mutual execution of the Purchase Sale Agreement by the Seller and Buyer. The Seller at closing will convey the real estate with a Special or General Warranty Deed, as specified by the Purchase Sale Agreement. Buyer is responsible for all customary closing costs associated with closing to include but not limited to all transfer and recording closing fees, financing expenses, title fees, title insurance, survey, easement and appraisal. Taxes will be prorated from date of closing.

BY REGISTERING TO BID, YOU HAVE ACKNOWLEDGED:

- I have read and agree to the Terms and Conditions of Auction Sale as set forth herein.
- I have read, understand and agree to all of the terms and conditions in the Auction Purchase & Sale Agreement and will sign the Auction Purchase & Sale Agreement without making any changes to the pre-printed text.
- I understand that I do not have an agency relationship with Bray Auctions LLC., auctioneers, firm, broker and all parties employed by or associated with.

- I accept full responsibility for due diligence on the real estate I am bidding on.
- I understand that all real estate will be sold “As-Is, Where-Is”.
- I understand if I am the successful bidder the sale of this property is not contingent upon obtaining a Certificate of Occupancy.
- I understand that, in the event I am the successful bidder of real estate, that a 10% Buyers Premium will be added to the high bid and payable at closing as the Total Purchase Price.
- I understand that, in the event I am the successful bidder of real estate, and if I fail to close per the Auction Purchase & Sale Agreement, my earnest money deposit(s) will be forfeited.
- I understand these Terms and Conditions will become part of the Auction Purchase and Sale Agreement if I am the winning bidder.
- In the case of a conflict between the Auction Purchase and Sales Agreement and Terms and Conditions of Auction Sale for Real Estate, the Auction Purchase and Sale Agreement shall control.

**BY REGISTERING TO BID, YOU HAVE ACCEPTED THESE TERMS AND CONDITIONS OF AUCTION SALE.**

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Signature

## TERMS AND CONDITIONS

**Buyer Registration:** By registering and accepting a number, all bidders agree to abide by all of the Terms of Sale.

**Bidder Verification:** The identity of all bidders will be verified, bidding rights are provisional, and if complete verification is not possible, Bray Auctions LLC. will reject the registration and bidding activity will be terminated.

**Auctioneer Rights:** All decisions of the Auctioneer are final. The Auctioneer reserves the right to reject any bid or bidder and has the right to accept back-up contracts the day of sale. Bray Auctions LLC. has the sole authority to resolve any bidding disputes as they may arise. Bray Auctions LLC. reserves the right to remove or cancel the bids and or bidding rights and privileges of any party, deemed not to be in the best interest of the seller, at any time.

**Online Only Earnest Money Deposit:** At the close of the auction, the successful high bidder will be emailed, faxed or delivered the contract package to execute and return to Bray Auctions LLC. within 24 hours. The successful bidder will also be required to submit an Earnest Money Deposit of Five Thousand Dollars (\$5,000) of the total contract price via certified check or wire transfer to the designated Closing Agent for Escrow within 24 hours. The entirety of the remaining balance is due at closing. Purchaser shall be responsible for all wire transfer fees. Deposit funds are non-refundable unless title cannot be transferred

**Buyers Premium:** A 10% buyer's premium will be added to the high bid price to determine the Total Contract Price.

10% Buyer's Premium Example:	Bid Price: \$100,000
	Plus 10% Buyer's Premium: <u>\$ 10,000</u>
	Total Contract Price: \$110,000

**Contracts:** A Contract Package will be sent by e-mail, fax or overnight to the successful high bidder, who must execute and email or overnight mail back to Bray Auctions LLC. within 24 hours of receipt. If the successful high bidder does not execute and return the contract along with an earnest money deposit within 24 hours of receipt they will be considered in default and subject to legal action. This is a legal binding contract.

**Auction Administrative Fee:** In the event a winning bidder fails to submit the signed Purchase Sale Agreement and Earnest Money Deposit as provided in the Terms and Conditions, the winning bidder will be charged an administrative fee of \$2,500.00 on the credit card provided at auction registration. Additional default remedies are reserved by Bray Auctions LLC. and the Seller as provided in the Auction Terms & Conditions and the Purchase Sale Agreement. All administrative fees are non refundable.

**Technical Issues:** Neither the company providing the software nor the auction company shall be held responsible for a missed bid or the failure of the software to function properly for any reason. The online bidding will begin to close at the specified time as per advertised. Please call 405-888-5366 if you need assistance with the online bidding platform.

**Bidding Process:** The Auctioneer reserves the right, but has no obligation, to bid on behalf of the Seller up to the undisclosed reserve price, unless the property is declared “Absolute” or the “Reserve has been met”. The bidder’s number is nontransferable.

**All Sales are Final:** By registering and bidding, the buyer acknowledges they understand and agree to the Terms of Sale. The Buyer acknowledges that they have read the Auction Purchase and Sale Agreement and the Terms and Conditions of the Auction Sale provided by Auctioneer and accept the Auction Purchase and Sale Agreement without any changes to the preprinted text.

**Representation:** Although information has been obtained from sources deemed reliable, the Auctioneers, Bray Auctions LLC., its representatives, employees, firm, broker, their attorney’s nor the Seller make any guarantee or warranty of any kind expressed or implied as to the accuracy of the information herein contained.

**Property:** The property, offered for sale at the Auction is being sold “**AS IS**”, “**WHERE IS**”, “**WITH ALL FAULTS AND DEFECTS**”, without warranty or guarantee of any kind, except as expressly provided for in the Auction Purchase and Sale Agreement and Terms and Conditions of the Auction Sale. Each potential Buyer is encouraged to perform his/her own independent inspections, inquiries and due diligence concerning the described property. The information is being furnished to bidders for the bidder's convenience and it is the responsibility of the bidder to determine that information contained herein is accurate and complete. Any reliance on the contents shall be solely at the recipient's risk. It is the Buyer’s responsibility to inspect the property prior to bidding to make their determination as to the condition or seek professional inspection (at the Buyer’s expense) of the property. Buyer(s) agrees to accept property with its current zoning, easements, and any and all right-of-ways that carry with it. All information is taken from sources deemed to be accurate and reliable, all measurements are approximate and not to scale. The Seller and the Auctioneers, Bray Auctions LLC., contractors, employees, firm, or brokers assume no liability in this matter. Any and all announcements made the day of auction take precedence over any and all previously written advertisements or any prior written or verbal terms of sale but shall in no event form the basis of any representation or warranty by Seller or Auctioneers. By bidding on the property, you are accepting all terms and conditions stated herein.

**Financing:** The purchase is not contingent on obtaining financing or qualification for financing.

**Buyer Default:** In the event a high bid is accepted and the Buyer fails to close or comply with the terms of the Auction Purchase and Sale Agreement, then the earnest money will be forfeited as liquidated damages, but such forfeiture shall not affect any other remedies available to Seller

for such failure.

**Indemnity:** The Buyer assumes full responsibility and liability for any claim or actions based on or arising out of injuries, death, damage, loss of property, sustained or alleged to have been sustained by Buyer, its agent, principals, associates, friends, family and/or employees, in connection with or to have arisen out of or incidental to the auction including but not limited to the performance of this contract. Regardless of whether such claims or actions are founded whole or in part upon alleged negligence or negligent misrepresentation of Seller, Auctioneer, or the employees, agents, invitees, or licensees thereof, Buyer agrees to indemnify and hold harmless Seller, Auctioneer, and their representatives, and the employees, agents, invitees and licensees thereof in respect of any such matters and agrees to defend any claim or suit or action brought against Seller, Auctioneer, and their representatives, and the employees, agents, invitees and licensees thereof.

**Environmental Disclaimer:** The Seller and Bray Auctions LLC., agents, contractors and employees do not warrant or covenant with Buyer(s) with respect to the existence or nonexistence of any pollutants, contaminants, mold, or hazardous waste prohibited by federal, state or local law or claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration or escape of such substances at, from or into the demised premises. Buyers are to rely upon their own environmental audit or examination of the premises.

**Acreage and Square Feet:** All acreages and square feet descriptions are approximate. If there is a discrepancy between Bray Auctions LLC., or its representative and the actual acreage and/or square feet as determined by a surveyor or appraiser, the price will not be adjusted. The statements, while not guaranteed, are from reliable sources. Any costs incurred in establishing boundaries shall be the responsibility of the buyer(s). Each sale is subject to easements, right-of-way, reservation and/or restrictions of record.

**Closing:** TIME IS OF THE ESSENCE. The balance of the purchase price will be within 30 days from the Commencement Date, which is the date of mutual execution of the Purchase Sale Agreement by the Seller and Buyer. The Seller at closing will convey the real estate with a Special or General Warranty Deed, as specified by the Purchase Sale Agreement. Buyer is responsible for all customary closing costs associated with closing to include but not limited to all transfer and recording closing fees, financing expenses, title fees, title insurance, survey, easement and appraisal. Taxes will be prorated from date of closing.

BY REGISTERING TO BID, YOU HAVE ACKNOWLEDGED:

- I have read and agree to the Terms and Conditions of Auction Sale as set forth herein.
- I have read, understand and agree to all of the terms and conditions in the Auction Purchase &



Sale Agreement and will sign the Auction Purchase & Sale Agreement without making any changes to the pre-printed text.

- I understand that I do not have an agency relationship with Bray Auctions LLC., auctioneers, firm, broker and all parties employed by or associated with.
- I accept full responsibility for due diligence on the real estate I am bidding on.
- I understand that all real estate will be sold “As-Is, Where-Is”.
- I understand if I am the successful bidder the sale of this property is not contingent upon obtaining a Certificate of Occupancy.
- I understand that, in the event I am the successful bidder of real estate, that a 10% Buyers Premium will be added to the high bid and payable at closing as the Total Purchase Price.
- I understand that, in the event I am the successful bidder of real estate, and if I fail to close per the Auction Purchase & Sale Agreement, my earnest money deposit(s) will be forfeited.
- I understand these Terms and Conditions will become part of the Auction Purchase and Sale Agreement if I am the winning bidder.
- In the case of a conflict between the Auction Purchase and Sales Agreement and Terms and Conditions of Auction Sale for Real Estate, the Auction Purchase and Sale Agreement shall control.

## **Auctioneer's Disclaimer**

The following information is provided to you as a matter of convenience only, and no representation or warranty, expressed or implied, is made as to its accuracy or completeness.

Prospective Purchasers of the auction property are responsible for conducting such due diligence of their own as they consider appropriate, prior to bidding. Please review all information supplied and seek appropriate assistance prior to bidding at auction.

All information contained within this Property Information Packet was derived from reliable sources and is believed to be correct, but is not guaranteed. Buyers shall rely entirely on their own judgment and inspection. All documents and information are being furnished to the bidder for the bidder's convenience and it is the responsibility of the bidder to determine that information contained herein is accurate and complete. Any reliance on the contents shall be solely at the bidder's risk.

These documents are being provided without any warranty or representation, express or implied, as to its content, its suitability for any purpose or its accuracy, truthfulness or completeness.

All parties acknowledge and agree that the Property is being sold "AS IS" with any and all faults, the Seller shall have no obligation for repairs or replacements noted in any inspection(s) made by or for Purchaser. Such repairs or replacements shall be the sole responsibility of Purchaser.

Purchaser and Seller acknowledge that the Purchase Sale Agreement will not be amended and the property will sell "AS IS" without contingencies. Auctioneer has the right to sell this Property in any form or fashion that is legal and ethical in order to produce the best offer to the Seller.

## **Broker Participation Terms**

**Auction Date:** \_\_\_\_\_

**Property Address:** \_\_\_\_\_

**A commission of 20% of the 10% Buyer's Premium charged or 20% of any negotiated commission will be paid to any properly licensed real estate broker whose Buyer/Bidder is the successful purchaser for this property, and who actually closes and pays the Total Purchase Price and Closing Costs for this property. It is understood and agreed that the Broker commission structure will be based on the stated Terms and Conditions of sale.**

**To earn the foregoing commission:** Participating broker must register his/her buyer/bidder by filling out the broker registration form in full and fax or email to Bray Auctions, LLC., to be received no later than the day prior to the auction. Commission is contingent upon and will only be paid if the broker participation form is received by Bray Auctions LLC. no later than 5 pm on the day prior to the auction closing.

Send form to:

Bray Auctions, LLC.

700 W 15th St. Suite 5

Edmond, OK 73013

Email: [info@bidbray.com](mailto:info@bidbray.com)

FAX: (405) 708-5019

**Broker agrees that Broker will not claim any exceptions to the foregoing procedures.**

**Broker agrees that no oral registration will qualify Broker for commission.**

**Broker agrees that if the commission is reduced due to negotiations between buyer and seller the commission to the broker shall be 20% of total commission earned.**

**Broker agrees that Broker's commission will be due upon closing of the purchase by his Buyer/Bidder with all consideration paid in full.**

**Broker/Agent must accompany their buyer/bidder to the auction if the auction is live.**

**Broker shall not be entitled to said commission on account of any sale to an entity of which (or any affiliate of which) the broker is a principal, employee, or affiliate, or immediate family member.**

**Broker agrees that he/she shall hold harmless and indemnify Bray Auctions, LLC., including its reasonable attorney's fees, from any and all claims with regard to such commission.**

**Broker must attach a copy of these terms, executed by the Broker below, with each registration.**

**I agree to the terms set forth herein.**

**Broker Signature:** \_\_\_\_\_

**Agent Signature:** \_\_\_\_\_