

J. DURHAM AND ASSOCIATES, INC.
Realtors * Liquidators * Auctioneers
1216 Dawson Road, Suite 102
Albany, Georgia 31707
229-436-2733
www.jdurhamauctions.com

REAL ESTATE SALES CONTRACT

STATE OF GEORGIA, COUNTY OF _____

THIS AGREEMENT entered into this ___ day of _____, 2022, by and between _____ of _____ County _____, hereinafter referred to as "Seller," and _____ of _____ COUNTY _____, hereinafter referred to as "Buyer."

In consideration of the hereinafter-specified sales price and the mutual promises exchanged herein, Seller and Buyer agree as follows:

1. Seller hereby sells to Buyer and Buyer hereby purchases from Seller, with J. Durham and Associates, Inc., a licensed Real Estate Broker, herein referred to as "Auctioneer/Broker" acting as Seller's agent; the following described real property (the "property"):

All that described Property, being Property # _____ according to the auction brochure/plat/county tax parcel number and/or legal description, which are by reference incorporated herein as exhibit "A", attached hereto and made a part of this contract by reference (the "Property"). The Property has an address of: _____

2. PURCHASE PRICE:

The Buyer acknowledges that the CONTRACT PURCHASE PRICE is determined by adding a ten (10%) percent Buyer's premium to the Buyer's bid price at auction. The ten (10%) percent Buyer's Premium shall be paid to the Auctioneer/Broker as commission as herein provided.

() The property is sold by the Tract and the purchase price is \$ _____.

The purchase price shall be paid as follows: \$ _____ of said purchase price shall be paid, as earnest money, to J. Durham and Associates, Inc. ("Auctioneer/Broker") as agent for Seller in cash or by cashier's check, personal check or money order upon execution of this Contract and shall be applied as part of the purchase price at the time the sale is closed. The balance of the purchase price shall be paid by cashier's check at closing, unless otherwise specified in this Contract. Closing shall be within 30 days of the date of this Contract, unless extended in writing for a reasonable time (not to exceed ninety five (95) days) by Auctioneer/Broker or by mutual written agreement of Seller and Buyer. The extension of the closing date of this contract shall be made at the sole discretion of J. Durham & Associates, Inc., or by mutual written agreement of Seller and Buyer, with the maximum extension period not to exceed 95 days past the original closing date. At J. Durham & Associates, Inc.'s discretion, this extension or extensions may be made incrementally so long as the total extension does not exceed 95 days past the original 30 day closing date. **THE SALE WILL BE CLOSED BY MR. DAVE ORLOWSKI, ATTORNEY AT LAW, 1604 WEST THIRD AVE., ALBANY GEORGIA 31707, (229)431-3036. MR. ORLOWSKI WILL CHARGE THE BUYER A CLOSING FEE OF \$695.00 TO CLOSE THIS TRANSACTION. THE CLOSING FEE INCLUDES CONDUCTING THE CLOSING, COLLECTING AND DISBURSING FUNDS AT CLOSING AND PREPARING A CLOSING STATEMENT. IF THE BUYER NEEDS ADDITIONAL SERVICES, THEY WILL BE PROVIDED AT A REASONABLE FEE. ANY ADDITIONAL CLOSING FEES INCLUDING, BUT NOT LIMITED TO, RECORDING, FINANCING EXPENSES, TITLE SEARCH FEES, TITLE INSURANCE, OR APPRAISALS, WILL BE THE BUYER'S EXPENSE.** If no other

time and place is specified, the closing will take place on the last day of the contract period at the office of Auctioneer/Broker as specified at the top of this Contract. The earnest money paid by Buyer shall be deposited into Auctioneer/Broker's escrow or trust account after all terms and conditions of this Contract have been agreed to and this Contract executed by Buyer and Seller and Confirmed by Auctioneer/Broker. This earnest money shall be deposited by Auctioneer/Broker in a checking or savings-type account in an insured financial institution and kept separate from other funds of Auctioneer/Broker. Interest, if any, earned on said earnest money shall accrue to Auctioneer/Broker as a handling charge. The earnest money can be disbursed by Auctioneer/Broker only as a result of one of the following occurrences: Final closing; upon written agreement signed by all parties having a bona fide interest in said funds; upon court order; or upon default of either party. Auctioneer/Broker may interplead the earnest money into a court of competent jurisdiction. In the event Auctioneer/Broker does elect to interplead the earnest money, Auctioneer/Broker's attorney shall be entitled to reasonable attorney's fees as a result of filing the interpleader, and payment of said attorney's fees shall first come from funds available from the earnest money and shall have first priority with regard to disbursement of said earnest money. No party shall seek damages from Auctioneer/Broker (nor shall Auctioneer/Broker be liable for the same) for any matter arising out of or related to the performance of Auctioneer/Broker's duties under this earnest money paragraph, and the parties indemnify Auctioneer/Broker accordingly. (This contract is NOT contingent upon financing of any kind.)

3. Possession of the property will be given to Buyer as follows: At Closing

4. The property is sold subject to the following conditions and stipulations:

(a) At closing, Seller shall deliver to Buyer a good and sufficient Limited Warranty Deed conveying the marketable and/or insurable title in fee simple to the property subject to; any and all right-of-way easements/deeds, leases, cemeteries (known or unknown) and all other restrictions and easements whether recorded or not, whether visible or not and other matters provided herein. It is understood and agreed that the title herein required to be furnished by the Seller shall be good and marketable and that marketability shall be determined in accordance with Georgia law as supplemented by the Title Standards of the State Bar of Georgia. It is also agreed that any defect in the title which comes within the scope of any of said Title Standards shall not constitute a valid objection on the part of the Buyer provided the Seller furnishes the affidavits or other title papers, if any, required in the applicable Standard to cure such defect.

(b) **Buyer shall pay GEORGIA real estate transfer tax. Buyer shall pay all title examination fees and any title insurance premiums, all closing fees and expenses, any loan closing costs associated with any loan being obtained by Buyer, and survey costs, if a survey is needed.** To the extent Auctioneer shall be required to wire any funds per the instructions of Buyer's attorney or closing agent, Buyer shall reimburse Auctioneer all costs incurred by Auctioneer in association with said wiring.

(c) Ad valorem taxes for the year 2022 will be prorated as of date of closing.

(d) The property, and the improvements thereon (if any), are being sold "as is - where is." Buyer acknowledges he has had ample opportunity to inspect the property and to have same inspected by his agents, and Buyer accepts the property in its present condition. Auctioneer/Broker and Seller have gathered information contained in promotional materials from sources deemed reliable but not guaranteed. **Buyer acknowledges that he has inspected the property or has had the opportunity to do so and chose not to inspect the property.** Buyer is relying solely on his own inspection and judgment. Further, all parties acknowledge and agree that the property is being sold "AS IS" with any and all faults. Neither Auctioneer/Broker nor Seller has made any representations concerning the property, including the presence or absence of wetlands, asbestos, underground storage tanks or any other environmental conditions which may affect the property, or the presence or absence of any form of benefits, supports, allotments, quotas, special property tax programs or subsidies of any kind or nature, except as are expressly stated in the Special Stipulations attached to this Contract.

Buyer is purchasing the property "AS IS, WHERE IS" and shall be completely and solely liable for any and all environmental clean-up issues, whether known or unknown. Buyer further acknowledges that J. Durham & Associates, Inc., nor the Seller, have made no warranties or representations with regard to the environmental fitness of the property and shall hold harmless and indemnify the Seller and J. Durham & Associates, Inc. from any and all claims regarding same.

Neither Seller nor Auctioneer/Broker make, nor have made, any warranties or representations to Buyer with respect to (i) the existence or nonexistence of any pollutants, contaminants or hazardous waste upon the Property prohibited by federal, state or local law or (ii) the existence or nonexistence of any claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration or escape of such substances at, from, under, onto, or into the Property.

Buyer shall rely upon Buyer's own environmental audit or examination of the Property, to determine such issues and acknowledges that no representations and warranties have been made by Seller or Auctioneer/Broker with regards to such matters.

BUYER WAIVES AND RELEASES SELLER AND J. DURHAM & ASSOCIATES, INC FROM AND AGREES TO ASSUME ANY PRESENT OR FUTURE CLAIMS ARISING FROM OR RELATING TO THE PRESENCE OR ALLEGED PRESENCE OF HARMFUL OR TOXIC SUBSTANCES IN, ON, UNDER OR ABOUT THE PROPERTY INCLUDING, WITHOUT LIMITATION, ANY CLAIMS UNDER OR ON ACCOUNT OF (I) THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980 AS THE SAME MAY HAVE BEEN OR MAY BE AMENDED FROM TIME TO TIME, AND SIMILAR STATE STATUES, AND ANY REGULATIONS PROMULGATED THEREUNDER, (II) ANY OTHER FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION, NOW OR HEREAFTER IN EFFECT THAT DEALS WITH OR OTHERWISE IN ANY MANNER RELATES TO, ENVIRONMENTAL MATTERS OF ANY KIND, OR (III) THIS CONTRACT OR THE COMMON LAW. THE TERMS AND PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING HEREUNDER.

(e) To the extent the property (or any part thereof) may be currently subject to preferential tax assessment, it shall be Buyer's sole responsibility to maintain any and all preferential tax treatment to the property, if any. Further, Buyer shall hold harmless and waive any claims against J. Durham & Associates, Inc. and Seller as a result in any change in the tax status of the property.

(f) **If Buyer fails to comply with any of the terms of this Contract, Buyer will be in immediate default,** and Seller shall have the option to either (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this Contract and receive the earnest money as liquidated damages. Seller shall give Buyer written notice of the default, but said written notice is not to be construed as giving Buyer a right to cure said default. Notwithstanding the forgoing, regardless of which option Seller may elect, Auctioneer/Broker shall be entitled to its full commission, based on the purchase price, plus any other amounts due under the auction contract with Seller, from the earnest money to the extent said funds are available, and Auctioneer/Broker shall first deduct from the earnest money its commission and other expenses, and pay the balance, if any, to Seller. This remedy is cumulative, not exclusive to those otherwise provided by law.

(g) Buyer shall have fifteen (15) days after the date of auction in which to examine the title, and all objections as to title shall be made in writing to Auctioneer/Broker as agent for Seller within that time, and Seller shall have a reasonable time thereafter, not to exceed 95 days, within which to remove such objections or to obtain title insurance to insure over said objections. If Seller cannot obtain title insurance to insure over the defects or objections and if the defects and objections are such as to render the title unmarketable, and not made marketable by the Seller, the Buyer may rescind this Contract and shall receive back his earnest money.

(h) Should any improvements on the property be damaged or destroyed by fire or the elements before sale is consummated, the loss shall fall on Seller. If such loss is total or if the loss is "substantial" (over fifty percent of the value of the property has been lost), then either party may terminate this Contract within twenty days after the loss, and Buyer will receive a refund of the earnest money. If such loss is total or substantial but neither party elects to terminate this Contract, or if the loss is less than substantial, then at the option of the Buyer, Seller shall repair or

restore the improvement to its former condition, or Buyer shall be allowed to deduct from the agreed purchase price the amount necessary to repair or restore premises to the condition of the same prior to the casualty. If the parties are unable to agree as to the amount necessary to repair or restore improvement to its former condition, or the parties are unable to repair or restore the premises to its former condition, whether the loss is substantial, as herein defined, then each party shall name one appraiser, and the two appraisers shall name an umpire, and the decision of the majority shall determine the amount to be deducted from the purchase price, which decision and award shall have the force and effect of a statutory award as provided by the laws of the State of GEORGIA. The cost of each appraiser shall be paid by the appointing party, and the cost of the umpire shall be split between the parties.

Should one party fail or refuse to appoint an appraiser within ten (10) business days after written notice from the other party of the appointment of that party's appraiser, the one appraiser so appointed shall decide the issue.

Should any merchantable or pre-merchantable timber on the property be destroyed prior to the closing of the sale, then such loss shall fall on Seller, and Buyer shall be allowed to deduct the value of the destroyed timber from the purchase price. In the event the parties are unable to agree upon the value of the destroyed timber, such value shall be determined by the arbitration procedure outlined in the immediately preceding paragraph.

(i) Notwithstanding anything to the contrary in this Contract, the parties agree that in the event a settlement agent is designated to close this sale, payment of all funds required under this agreement shall be paid to such agent, and all disbursements made pursuant to the settlement statement prepared for such closing shall be made by such settlement agent's checks.

(j) Auctioneer/Broker herein has acted as Agent for Seller in this transaction as disclosed in Exhibit "B" attached hereto and shall be paid a sales commission by Seller. **Auctioneer/Broker has not acted as agent for Buyer in this transaction.** The settlement agent is hereby authorized and directed to pay Auctioneer/Broker earned commission at sale closing from Seller's funds.

(k) Neither Seller nor Auctioneer/Broker are positive as to the status of the oil, gas, and mineral rights. The Seller agrees to convey all its interest in any oil, gas, or mineral rights to the Buyer at closing. This sale is subject to any prior reservation or sale of oil, gas, and mineral rights, if any.

(l) Seller and Buyer agree that each shall execute and deliver such papers as may be necessary or proper to carry out the terms of this contract at such reasonable time and place as Seller may set for the consummation of sale. This agreement shall not be transferred or assigned without the written consent of all parties to this agreement and any permitted assignee shall fulfill all the terms and conditions of this agreement. Notwithstanding anything contained herein to the contrary, Seller's responsibility in connection with the Property shall cease at closing, and closing shall constitute Buyer's acceptance of the Property unless provision is otherwise made in writing. Buyer and Seller agree to comply with and to execute and deliver such certifications, affidavits and statements as are required at the closing in order to meet the requirements of Internal Revenue Code Section 1445.

5. In the event Buyer and/or Seller has any dispute or controversy with J. Durham & Associates, Inc. arising under, out of or in connection with, or in relation to this Agreement, or any amendment hereof, or the breach hereof, Buyer's and/or Seller's dispute or controversy shall be subject to mediation as a condition precedent to arbitration in Section 6 below. The parties shall endeavor to resolve claims, disputes and other matters in question between them by mediation in Terrell County, Georgia in accordance with the American Bar Association Alternative Dispute Resolution Service Rules of Procedure for Mediation and applying the laws of the State of Georgia. Mediation shall proceed in advance of arbitration, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing. The parties shall share the mediator's fee and any filing fees equally. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

6. In the event Buyer and/or Seller has any dispute or controversy with J. Durham & Associates, Inc. arising under, out of or in connection with, or in relation to this Agreement, or any amendment hereof, or the breach hereof not resolved by mediation as set forth in Section 5 above, said dispute or controversy shall be determined and settled by arbitration in Terrell County, Georgia, in accordance with the American Bar Association Alternative Dispute Resolution Service Rules of Procedure for Arbitration and applying the laws of the State of Georgia. Any award

rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereon may be entered in any court having jurisdiction thereof. The costs shall be borne by the non-prevailing party. During the pendency of any such arbitration and until final judgment thereon has been entered, this Agreement shall remain in full force and effect unless otherwise terminated as provided hereunder. The provisions set forth herein shall survive expiration or other termination of this Agreement regardless of the cause of such termination.

7. This Contract constitutes an offer only by the Buyer and is not accepted by the Seller until confirmation by Auctioneer/Broker is executed below, which confirmation or rejection shall be made within 120 hours of the completion of this auction.

(a) The parties to this contract expressly agree that the laws of the State Of Georgia shall govern the validity, construction, interpretation, and effect of this contract. The parties of this contract expressly agree that if any litigation should arise between the parties to this contract that, in any way, involves this contract or should, in any way, involve the land referenced in this contract that the venue for such action shall be Terrell County, Georgia.

(b) Any duplicates of this Agreement, showing that the parties have properly executed the original Agreement, shall be deemed an original agreement.

(c) This Agreement may be executed in any number of counterparts, each of which shall be an original, and each of such counterparts shall together constitute but one and the same agreement.

8. The following stipulations shall, if in conflict with the printed matter, control:

THIS IS A LEGALLY BINDING CONTRACT.
IF NOT UNDERSTOOD, SEEK COMPETENT ADVICE.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this _____ day of _____, 2022.

"BUYER"

Witness _____

Signature: _____

BUYER'S NAME (Please Print) _____

ADDRESS _____

TELEPHONE NUMBER _____

"SELLER"

Witness _____

Signature: _____

The above contract of sale is confirmed this _____ day of _____, 2022.
Brokerage Firm License Number GA 013242
Brokerage License Number GA 101739

J. DURHAM AND ASSOCIATES, INC.

BY: _____

EXHIBIT "B"
AGENCY/TRANSACTION BROKER

This Exhibit sets forth the relationship of the Broker(s) to Purchaser and Seller for the purchase and sale of real property located at: _____, GEORGIA, _____, with an Offer Date of _____ 2022

BROKERAGE AND AGENCY

Seller and Purchaser acknowledge that if they have entered into a client relationship with a Broker, that Broker has disclosed on a prior basis (1) the types of brokerage relationships offered by the Broker, (2) any other brokerage relationship which would conflict with the client's interest, and (3) the compensation of Broker and whether commissions would be shared with other Broker's.

Seller and Purchaser agree to indemnify and hold Broker harmless against all claims, damages, losses, and expenses and/or liabilities arising out of or related to the purchase and sale of the real property listed above, except those arising from Broker's intentional wrongful acts. No Broker shall owe any duty to Purchaser or Seller greater than is set forth in the Brokerage Relationships in Real Estate Transactions Act, O.C.G.A. § 10-6A-1 et seq.

In this Exhibit, the term "Broker" shall mean a licensed Georgia real estate broker and the broker's affiliated licensees.

The relationship of the listing Broker and the selling Broker to the Purchaser and Seller is as specified below. Only the part of this Exhibit that is selected is part of the Offer for the purchase and sale of the real property listed above:

Listing Broker: *{Select A or B below. The section not marked shall not be part of this Exhibit}*

- A. SELLER AGENCY: Listing Broker has entered into a client relationship with Seller.
 B. DUAL AGENCY: Listing Broker has entered into a client relationship with Purchaser and Seller.

Selling Broker: *{Select A,B,C,D, or E below. The section not marked shall not be part of this Exhibit}*

- A. PURCHASER AGENCY: Selling Broker has entered into a client relationship with Purchaser
 B. DUAL AGENCY: Selling Broker has entered into a client relationship with Purchaser & Seller.
 C. SELLER AGENCY: Selling Broker has entered into a client relationship with Seller.
 D. TRANSACTION BROKERAGE: Selling Broker has not entered into a client relationship with Purchaser or Seller.
 E. SELLER SUBAGENCY: Listing Broker has entered into a client relationship with Seller and has appointed Selling Broker as its subagent.

If dual agency or transaction brokerage is selected above, the applicable disclosure below is incorporated herein. Otherwise, the disclosure(s) is not a part of this Exhibit.

Dual Agency Disclosure

Seller and Purchaser are aware of Broker's dual agency role and have determined that the benefits of Broker's role outweigh the detriments. Seller and Purchaser have been advised (1) that in this transaction the Broker has acted as a dual agent, (2) that the Broker represents two clients whose interests may be different or adverse, (3) that as a dual agent, Broker may not disclose information made confidential by request of either client unless it is allowed or required to be disclosed and (4) that the clients do not have to consent to dual agency. The clients referenced above have voluntarily consented to dual agency and have read and understood their brokerage engagement agreements. The Broker and/or affiliated licensees have no material relationship with either client except as follows:

_____. A material relationship means one actually known of a personal, familial or business nature between the Broker and affiliated licensees and a client which would impair their ability to exercise fair judgment relative to another client.

Affiliated Licensee Assignment: The Broker has assigned _____ (Selling Licensee) to work with Purchaser and _____ (Listing Licensee) to work with Seller. Each shall be deemed to act for and represent exclusively the party to whom each has been assigned.

Transaction Brokerage Disclosure

Seller and Purchaser are aware that if they are not represented by a Broker they are each solely responsible for protecting their own interests. Seller and Purchaser acknowledge that the Broker may perform ministerial acts for either party as a Transaction Broker.

Selling Broker's Initials _____
(or Broker's Affiliated Licensee)

Purchaser's Initials: _____

Listing Broker's Initials _____
(or Broker's Affiliated Licensee)

Seller's Initials: _____