

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 BROOKS .

THIS AGREEMENT entered into this _____ day of January , 2023, by and between Lawton C. Heard Jr., as Court Appointed Receiver hereinafter referred to as "Seller(s)," 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, according to the legal description and Plat of Survey, which are by reference incorporated herein as Exhibit "A", attached hereto and made a part of this contract by reference (the "Property").

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 the ONLINE 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, at the CONTRACT PURCHASE PRICE of \$ _____.

Upon execution of this Contract, the sum of fifteen (15%) percent of the CONTRACT PURCHASE PRICE shall be paid, as earnest money, to J. Durham and Associates, Inc. ("Auctioneer/Broker") **as agent for Seller** by cashier's check, personal check or money order and shall be applied as part of the purchase price at the time the sale is closed. Closing shall be within 30 days of the date of this Contract, unless extended in writing for a reasonable time by mutual written agreement of Seller and Buyer. If no other time and place is specified, the closing will take place within 30 days of this Contract 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 QUIT CLAIM DEED, conveying the title to the property

subject to; any and all, hunting leases, right-of-way easements/deeds, leases, restrictive covenants, deed restrictions, deeded easements, cemeteries (known or unknown) and all other restrictions and easements whether recorded or not, whether visible or not and other matters provided herein. BUYER UNDERSTANDS THAT THERE IS NO DUE DILIGENCE PERIOD ALLOWED UNDER THIS CONTRACT. It is understood and agreed that the title herein required to be furnished by the Seller will be provided via a quit claim deed pursuant to the terms and conditions of a Court Order entered in Brooks County Superior Court Civil Action File No. 08-CV-192. Seller may provide Buyer with a copy of a title abstract concerning the property, however, furnishing such title abstract shall in no way be construed as a certification or warranty regarding the title to the property.

(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, as provided for elsewhere in this agreement. To the extent Auctioneer/Broker shall be required to wire any funds per the instructions of Buyer's attorney or closing agent, Buyer shall reimburse Auctioneer/Broker costs incurred by Auctioneer/Broker in association with said wiring.

(c) Ad valorem taxes for the year 2023 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) **The property MAY BE devoted to bona fide CURRENT USE ASSESSMENT OF BONA FIDE AGRICULTURAL PROPERTY (conservation/agricultural use), wherein the owner may be entitled to preferential tax assessment. To the extent the property (or any part thereof) IS currently subject to the above-described preferential tax assessment contract agreement, it shall be Buyer's sole responsibility to maintain any and all preferential tax treatment to the property. 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. Buyer shall at closing, execute any and all documents required by the Brooks County Tax Commissioner/Tax Assessor's office to keep the property enrolled in the above-described tax use program.

(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) THE PROPERTY IS BEING SOLD AND TRANSFERRED BY QUIT CLAIM DEED. THERE ARE NO CERTIFICATIONS OR WARRANTIES MADE BY THE SELLER CONCERNING THE TITLE TO THE PROPERTY.

(h) The Buyer assumes the risk of loss concerning any improvements situated on the property.

(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 have made any representation as to the status of the oil, gas, and mineral rights. The Seller agrees to convey any interest that Seller may possess 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.

(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.

(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:**

(a) THERE IS NO PERSONAL PROPERTY BEING SOLD WITH THIS PROPERTY.

(b) The Court Appointed Receiver, Lawton C. Heard, Jr., shall act as a limited settlement agent and shall accept the funds that are contemplated and necessary pursuant to this Agreement, and upon receipt of such funds, shall provided a quit claim deed conveying title to the property to the Buyer and disburse the funds according to the terms and conditions authorized by the Court in Brooks County Superior Court Civil Action File No. 08-CV-192.

(Intentionally Left Blank)

(Signatures on the Following Page)

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 _____, 2023.

“BUYER”

Witness

Signature:

“BUYER”

Witness

Signature:

BUYER'S NAME (Please Print)

ADDRESS

TELEPHONE NUMBER

“SELLER”

Witness

Signature:

The above contract of sale is confirmed this _____ day of _____, 2023.

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 in Brooks County Georgia. With an Offer Date of 1-26-2023.

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 a 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 _____

Seller's Initials: _____