



AUCTIONS  
by ATG

**AUCTION REAL ESTATE CONTRACT**

This Auction Real Estate Contract (“the Agreement”) is executed by and between the parties named in Section 1 of this Agreement. Pursuant to the terms of this Agreement, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the real property described in Section 2 of this Agreement, the legal description of which is attached hereto as Exhibit A and is hereby incorporated (“the Property”), for the amount specified in Section 3 of this Agreement as the Total Purchase Price.

**1. PARTIES.**

**A. Seller**

Name: BUILDERS BANK, 203 N. LaSalle Street, Suite M5, Chicago, IL 60601 Telephone: 312-750-9300 Fax: 312-696-0090

**B. Buyer**

Name: VILLAGE OF ORLAND PARK

~~None~~ Address: 14700 S. Ravinia Avenue

City, State, Zip: Orland Park, Illinois 60462

~~None~~ Phone: 708-403-6100

Business Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Buyer’s Attorney: E. Kenneth Friker, Klein, Thorpe and Jenkins, Ltd.

Business Phone: 708-349-3888

Fax: 708-349-1506

E-mail: ekfriker@ktjlaw.com

**2. THE PROPERTY.** All property sold under this Agreement is that certain real property (“the Property”) located at:

Street Address: 11100 W. 143<sup>rd</sup> Street

City, State, Zip: Orland Park, IL 60467

(street address) and more particularly described in Exhibit A, attached hereto, and incorporated herein for all purposes, together with all of its fixtures and improvements. Buyer acknowledges by initialing below that Buyer has received a copy of the legal description of the Property and has reviewed it prior to executing this Agreement. If the legal description of the Property is incomplete or inaccurate, this Agreement shall remain in full force and effect, and the legal description shall be completed or corrected to meet the requirements of the title company issuing the title policy prior to closing. The Property includes the permanent improvements thereon, including those items that Illinois law provides is part of the Property at the close of escrow. Seller makes no representations or warranties as to the existence, condition, ownership, or right of possession of any personal property located on the Property.

**3. PURCHASE PRICE.** The Total Purchase Price is equal to the Winning Bid amount.

**TOTAL PURCHASE PRICE:**

**Winning Bid Amount**

\$ 69,600.00

On the date Buyer signs this Agreement, Buyer shall deposit with Auctions by ATG (“Auctioneer”) the Earnest Money described in Section 4. On or prior to the Closing Date, Buyer shall deposit with the Escrow/Closing agent Buyer’s share of closing costs and prorations, plus Buyer’s expenses provided herein, plus an amount equal to the remainder of the Total Purchase Price.

**EXHIBIT A**

**BUYER'S PREMIUM:**

Buyer agrees to pay a buyer's premium in addition to the winning bid/purchase price amount. The Buyer's Premium equals five percent (5%) of the Winning Bid amount or \$2,500.00, whichever is greater. The Buyer's Premium shall be paid to Auctioneer at closing by Escrow/Closing Agent in cash, by cashier's check, or wire transfer of immediately available funds.

**Buyer's Premium Amount** (greater of 5% or \$2,500.00)      \$3,480

**Buyer's Initials:** \_\_\_\_\_

**4. EARNEST MONEY.**

A. Earnest Money, in the amount of \$ \_\_\_\_\_ \$3,500 \_\_\_\_\_ (the greater of five percent (5%) of Total Purchase Price or \$2,500.00), is hereby tendered by Buyer to Auctioneer ("Earnest Money Deposit"). The Earnest Money Deposit is to be comprised of:

- i. a cashier's check or cash in the amount of Two Thousand Five Hundred Dollars (\$2,500.00); plus
- ii. a cashier's check, personal check, company check, or cash equal to the difference between the total Earnest Money Deposit minus the value of the cashier's check or cash.

If the purchase and sale hereunder is consummated pursuant to the terms of this Agreement, the Earnest Money Deposit shall be applied to the cash portion of the Total Purchase Price at Closing. In all other events, the Earnest Money shall be disposed of by Seller as herein provided.

B. **RETURN OF EARNEST MONEY.** Any reference to a return of Buyer's Earnest Money Deposit in this Agreement shall mean a return of the Earnest Money Deposit, less any escrow cancellation fees, and less fees and costs payable for escrow services and products provided at Buyer's request. Upon return of the Earnest Money Deposit, this Agreement shall be terminated and the Buyer and Seller shall have no further liability, obligation, or responsibility to each other in connection with this Agreement. **BUYER SHALL NOT BE ENTITLED TO A RETURN OF BUYER'S EARNEST MONEY DEPOSIT IF BUYER MATERIALLY BREACHES THIS AGREEMENT.**

**5. FINANCING.**

A. Buyer understands and acknowledges that the purchase of the Property and this Agreement IS NOT contingent on the Buyer obtaining financing for the purchase of the Property. Notwithstanding that there is no financing contingency, the Seller may require Buyer to obtain pre-qualification prior to entering into this Agreement. If required, Buyer agrees to pre-qualify with Seller's lender at or before entering into this Agreement and cooperate with such lender in the processing of this transaction.

**Buyer's Initials:** \_\_\_\_\_

B. Buyer understands and acknowledges that Seller shall make no concessions or discount fees or costs for any financing programs such as VA, FHA, bond-assisted, city-assisted, or other loan programs, nor will escrow be extended for such purpose.

C. Buyer hereby authorizes Seller and/or its agent to check and such lender to report to Seller or Seller's agent regarding Buyer's current credit and loan status. If Buyer is obtaining financing, Buyer acknowledges that Buyer is doing so at Buyer's sole cost and expense. Buyer understands and agrees that obtaining of any financing is and shall remain Buyer's (and not Seller's) obligation. Buyer hereby authorizes any such lender to release copies of any written loan approval and commitment to Escrow/Closing Agent and/or Seller.

D. Neither Auctioneer nor Seller's broker is providing financial or lending services in this transaction. Auctioneer is not affiliated with any lender. Seller is an Illinois banking corporation.

**6. CONVEYANCE OF TITLE.** Insurable title shall be delivered to Buyer by Deed on a form acceptable to Seller in Seller's sole and absolute discretion. Seller shall be under no obligation to:

- A. remove any title exception;
- B. bring any action or proceeding or bear any expense in order to enable Seller to convey title to the Property in accordance with this Agreement; or
- C. otherwise make the title to the Property insurable. Any attempt by the Seller to remove such title exceptions shall not impose an obligation upon the Seller to remove such exceptions. The Buyer acknowledges that the Seller's title to the Property may be subject to court approval of foreclosure or to a mortgagor's right of redemption.

7. **TITLE APPROVAL.**SELLER HAS AN UNLIMITED RIGHT TO CANCEL THIS AGREEMENT IF SELLER DETERMINES, IN ITS SOLE DISCRETION, THAT IT IS UNABLE TO CONVEY INSURABLE TITLE, OR CORRECT TITLE ISSUES, OR OBTAIN TITLE INSURANCE FOR THE PROPERTY FROM A REPUTABLE TITLE COMPANY AT REGULAR RATES, OR DETERMINES IT MUST DEEM THIS AGREEMENT NULL AND VOID UNDER APPLICABLE LAW AND/OR ANY EXISTING AGREEMENT BINDING SELLER AND/OR THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, AGREEMENTS WITH MORTGAGE INSURERS, MORTGAGE BROKERS, OR THE PRIOR OWNER OF THE PROPERTY, THEN SELLER MAY CANCEL THIS AGREEMENT BY WRITTEN NOTICE TO BUYER AND ESCROW/CLOSING AGENT. IF SELLER GIVES SUCH CANCELLATION NOTICE, THE AUCTIONEER OR ESCROW/CLOSING AGENT SHALL RETURN TO BUYER, AS BUYER'S SOLE AND EXCLUSIVE REMEDY, THE EARNEST MONEY DEPOSIT. UPON RETURN OF THE EARNEST MONEY DEPOSIT TO BUYER, THIS AGREEMENT SHALL BE TERMINATED AND BUYER AND SELLER SHALL BE RELEASED FROM ANY FURTHER OBLIGATION TO EACH OTHER IN CONNECTION WITH THIS AGREEMENT, EXCEPT AS OTHERWISE PROVIDED HEREIN. BUYER GRANTS SELLER THE UNILATERAL RIGHT TO EXECUTE CANCELLATION INSTRUCTIONS IN THE EVENT THAT SELLER ELECTS TO CANCEL THE CLOSING AND THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT. Buyer understands and acknowledges that Seller's title to the Property may be subject to court approval of a foreclosure sale or to a mortgagor's right of redemption. In Seller's sole and absolute discretion, insurable title shall be furnished to Buyer by deed on a form acceptable to Seller. Seller shall not be obligated to remove any title exceptions, and any attempt by Seller to remove a title exception shall not impose upon Seller a duty to remove such exception. Seller shall not be obligated to bring any suit or action or incur any expense in order to convey title to the Property or otherwise make title to the Property insurable.

Buyer's Initials: \_\_\_\_\_

8. **CLOSING.**

A. **CLOSING DATE:** The Escrow/Closing Agent shall close the transaction referenced in this Agreement on the earlier of \_\_\_\_\_, (the "Closing Date"), or a date that is no later than thirty (30) days after the date Buyer executes this Agreement. If such date falls on a weekend or a state or federal holiday, such Closing Date shall be extended to the next business day. If Seller is unable to close by the Closing Date, the Closing Date shall automatically be extended for (30) days; provided, however, if Seller, Seller's agents, or the Escrow/Closing Agent give Buyer written notice during such thirty (30) day period that Seller is ready to close, then Closing shall occur within five (5) business days following the written notice. Buyer hereby agrees and acknowledges that any inability of Seller to close on the Closing Date shall be deemed no fault of Seller. If Seller fails to perform within the extended time, then Buyer may terminate this Agreement and receive the Earnest Money Deposit as its sole and exclusive remedy.

IF BUYER DESIRES TO EXTEND THE CLOSING DATE, BUYER MUST GIVE SELLER WRITTEN NOTICE AT LEAST FIVE (5) CALENDAR DAYS PRIOR TO THE SCHEDULED CLOSING DATE. IF SELLER, IN ITS SOLE AND ABSOLUTE DISCRETION, GRANTS BUYER A CLOSING DATE EXTENSION, IN WRITING, BUYER AGREES TO PAY TO SELLER A NON-REFUNDABLE FEE EQUAL TO AN ADDITIONAL FORTY DOLLARS (\$40.00) PER DIEM FOR EACH DAY OF EXTENSION THROUGH AND INCLUDING THE CLOSING DATE. Such extension shall specify the Closing Date. Any extension failing to specify the Closing Date shall be void. This fee will NOT be credited towards the Total Purchase Price. If the transaction fails to close, such accrued extension fee shall immediately be due and payable to Seller.

Buyer's Initials: \_\_\_\_\_

B. **CONDITIONS PRECEDENT TO CLOSING.** The Closing Date is further subject to each of the following conditions precedent (the failure of which will not, in and of itself, relieve any party of its obligations set forth elsewhere in this Agreement. Seller shall not have given written notice to Escrow/Closing Agent that Buyer is in default of this Agreement and the title insurance company ("the Title Company") shall have irrevocably committed to issue to Buyer an Owner's Policy of Title Insurance covering the Property, showing liability in the amount of the Purchase Price and showing insurable title to the Property vested as stated by Buyer, subject to any and/or all the following (the failure of which shall not be deemed a default of Seller):

- i. The Title Company's standard exceptions;
- ii. The following encumbrances and other matters:
  - a. Liens for all current general and special real property taxes and assessments not yet due and payable;

- b. Lien of supplemental taxes;
- c. Covenants, restrictions, reservations, rights, rights of way, conditions, and easements of record, if any;
- d. Rights of existing tenants and/or occupants of the Property, if any;
- e. A new first trust deed/mortgage (if any) to be recorded;
- f. Any facts or statements an accurate survey and/or an inspection of the Property may reveal or disclose;
- g. Any laws, ordinances, codes, or regulations (including ,but not limited to, environmental, zoning, and building) as to the use, occupancy, subdivision, or improvement of the Property, adopted or imposed by any governmental body, or the effect of any non-compliance withor violation thereof, including, but not limited to, any disclosure and/or report required by such law, ordinance, code, or regulation; and
- h. All other matters of record by which the Title Company agrees to provide insurance at no additional cost to Buyer.

C. **ESCROW INSTRUCTIONS.** Buyer and Seller have read and hereby agree to and accept the escrow instructions attached hereto as Exhibit C and hereby incorporated by reference. In the event of a conflict between the escrow instructions set forth in Exhibit C or as a separate document and this Agreement, including all other exhibits and addenda hereto, the terms of this Agreement and its other exhibits and addenda shall control.

9. **SELLER'S LIMITATION OF LIABILITY AND BUYER'S WAIVER OF IMPORTANT RIGHTS.**

A. **NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS AGREEMENT, SELLER'S LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDY, IN ALL CIRCUMSTANCES AND FOR ALL CLAIMS ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT OR SALE OF THE PROPERTY TO BUYER,SHALL BE LIMITED TO A RETURN OF BUYER'S EARNST MONEY DEPOSIT IF THE SALE TO BUYER DOES NOT CLOSE AND, IF THE SALE TO BUYER CLOSSES, THE LESSER OF BUYER'S ACTUAL DAMAGES OR \$5,000.00.**

B. **SELLER'S LIMITATION OF LIABILITY AND BUYER'S WAIVERS PROVIDED HEREIN ARE A MATERIAL PART OF THE CONSIDERATION THE SELLER SHALL RECEIVE PURSUANT TO THIS AGREEMENT AS HEREIN AGREED TO AND ACCEPTED BY THE BUYER AND SELLER.**

C. **BUYER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO RESCIND THE SALE OF THE PROPERTY, REDUCE THE PURCHASE PRICE, OR HOLD THE SELLER, ITS AGENTS, OR AUCTIONEER LIABLE FOR ANY AND ALL CLAIMS ARISING OUT OF, OR RELATING TO, BUT NOT LIMITED TO:**

- i. **THE CONDITION, LOT SIZE, SQUARE FOOTAGE, CONSTRUCTION, TREATMENT, REPAIR, LATENT OR APPARENT DEFECTS, BOUNDARIES, ENCROACHMENTS, EASEMENTS, OR LOCATION OF THE PROPERTY;**
- ii. **ANY STATEMENT, ACTIONS, OR REPRESENTATIONS MADE BY SELLER'S AGENTS OR BROKER OR AUCTIONEER;**
- iii. **SELLER'S TITLE TO THE PROPERTY;**
- iv. **ANY INFORMATION PROVIDED IN BROCHURES OR ON WEBSITES OF SELLER, OR SELLER'S AGENTS, OR BROKERS,OR AUCTIONEER;**
- v. **ANY INFORMATION PROVIDED IN ANY MULTIPLE LISTING SERVICE;**
- vi. **WHETHER THE PROPERTY IS OCCUPIED OR VACANT;**
- vii. **ANY COST OR EXPENSE BUYER INCURS IN MOVING, PROCURING STORAGE, RELOCATING, TERMINATING A LEASE, EVICTING AN OCCUPANT OR TENANT, OBTAINING OTHER LIVING ACCOMMODATIONS, OR ANY OTHER COST OR EXPENSE BUYER INCURS IN CONNECTION WITH THIS AGREEMENT;**
- viii. **ANY REPAIRS OR IMPROVEMENTS TO THE PROPERTY, INCLUDING REPAIRS OR IMPROVEMENTS REQUIRED BY LAW;**
- ix. **ANY ISSUE THAT WOULD BE DISCLOSED IN A SEARCH OF PUBLIC RECORDS OR IN AN INSPECTION OR SURVEY OF THE PROPERTY; AND**
- x. **ANY ENVIRONMENTAL MATTERS, HAZARDS, OR REMEDIATION, INCLUDING REMEDIATION OR REPAIRS REQUIRED BY LAW.**

Buyer's Initials: \_\_\_\_\_

D. **“AS IS, WHERE IS, AND WITH ALL FAULTS AND LIMITATIONS” PROPERTY CONDITION.** BUYER HEREBY AGREES, UNDERSTANDS, AND ACKNOWLEDGES THAT SELLER HAS OR MAY HAVE ACQUIRED THE PROPERTY THROUGH A FORECLOSURE SUIT, DEED IN LIEU OF FORECLOSURE, OR SIMILAR PROCESS OR LEGAL ACTION, OR AS A PURCHASE FROM A PRIOR SERVICER. BUYER FURTHER AGREES AND ACKNOWLEDGES THAT THE TOTAL PURCHASE PRICE MAY REFLECT DEFERRED MAINTENANCE. BUYER HEREBY AGREES AND ACKNOWLEDGES THAT SELLER HAS NEVER OCCUPIED THE PROPERTY AND HAS LITTLE OR NO DIRECT KNOWLEDGE OF THE CONDITION OF THE PROPERTY. THEREFORE, SELLER IS EXEMPT FROM DISCLOSURE PURSUANT TO THE RESIDENTIAL REAL PROPERTY DISCLOSURE ACT, AS SET FORTH IN 765 ILCS 77. BUYER AGREES AND UNDERSTANDS THAT BUYER IS PURCHASING THE PROPERTY “AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS” AND THAT BUYER MAY BE PURCHASING THE PROPERTY AS **LAND ONLY**, IN ITS PRESENT AND EXISTING PHYSICAL CONDITION. BUYER FURTHER AGREES AND ACKNOWLEDGES THAT NEITHER SELLER, NOR SELLER’S REPRESENTATIVES, NOR AUCTIONEER WARRANT OR REPRESENT THAT THE PROPERTY OR ANY ALTERNATIONS OR ADDITIONS MADE THERETO CONFORM TO LOCAL BUILDING CODES, ZONING LAWS, OR ANY OTHER APPLICABLE LAWS, RULES, OR REGULATIONS. FURTHER, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF ANY INSPECTION REPORTS OBTAINED BY OR ON BEHALF OF SELLER OR ITS AGENTS, AND SUCH REPORTS SHALL BE FOR INFORMATIONAL PURPOSES ONLY AND ARE NOT MADE A PART OF THIS AGREEMENT. IN CONSIDERATION OF SELLER’S EXECUTION OF THIS AGREEMENT, BUYER AGREES THAT NEITHER BUYER, NOR ANY PARTY ACTING ON BEHALF OF BUYER, SHALL IN ANY WAY PARTICIPATE IN ANY SUIT, ACTION, PROSECUTION, OR REGULATORY PROCEEDING AGAINST SELLER OR ANY PARTY ACTING ON BEHALF OF SELLER, INCLUDING, BUT NOT LIMITED TO, ANY REAL ESTATE AGENT, OR BROKER, OR AUCTIONEER.

Buyer's Initials: \_\_\_\_\_

E. **BUYER’S INSPECTION OF THE PROPERTY.**

**BUYER REPRESENTS AND WARRANTS TO SELLER THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT:**

- i. Buyer had adequate time and access to the Property to conduct a complete and thorough inspection of the Property, examine all matters concerning the Property, including but not limited to, title and all agreements relating to the Property, including, but not limited to, the disclosures and reports required by any law, rule, or ordinance;
- ii. Buyer has conducted and completed such inspection(s) or has waived the right to conduct any such inspection(s);
- iii. Buyer is purchasing the Property based solely upon Buyer’s own inspection and investigation of the Property;
- iv. Buyer has inspected, investigated, and is satisfied with all respects of the Property, including, but not limited to, the Property’s physical condition, environmental condition, location, value, view, insurability, title, physical and environmental integrity of any and all improvements on the Property, and all applicable common interest community and unit owner’s or homeowners association documents, rules, and regulations concerning the Property, and all other matters with respect to the Property;
- v. Buyer has verified all Multiple Listing Service (“MLS”) information regarding the Property. Buyer hereby agrees and acknowledges that Buyer has also consulted, to Buyer’s full satisfaction, all publicly available sex offender information and is aware of the Sex Offender Database Notice (Illinois Compiled Statutes (730 ILCS 152/115). If sex offenders live in the vicinity of the Property or a disease, natural death, suicide, homicide, or other crime has occurred on or in the vicinity of the Property, and Buyer considers such occurrence a material matter, Buyer must have and is hereby deemed to have investigated such occurrence pursuant to Buyer’s inspection(s) of the Property;
- vi. Buyer is aware of all laws, rules, ordinances, and requirements affecting the use, condition, and ownership of the Property, including, but not limited to, all zoning and land use regulations and local ordinances. Seller, its agents, and Auctioneer make no representations or warranties and understand that Buyer has investigated to Buyer’s satisfaction whether the Property is located in a flood hazard zone, earthquake fault zone, seismic hazard zone, fire hazard area, very high fire hazard severity zone, or area of potential flooding, or whether the Property is subject to any flood disaster or other insurance requirements, or whether the Property contains wetlands or other environmental constraints; and

vii. Buyer further understands and acknowledges that the Seller may be selling the Property as **LAND ONLY**, in its present and existing physical condition. Buyer acknowledges and agrees that prior to entering into this Agreement, Buyer had the opportunity to conduct Buyer's own due diligence, including, but not limited to, inspection(s) and investigation of the entire Property in order to determine its present value and physical condition, since Seller may not be aware of all the defects affecting the Property or other factors that Buyer considers material and important. Neither Seller, its agent, nor Auctioneer makes any representations or warranties regarding the Property's suitability to build or inhabit, the value of the Property, the Property's lines and boundaries, the Property's lot size or square footage, any legal or physical access to and boundaries of the Property, including features the Property may share in common with adjoining landowners, such as driveways, roads, walls, and fences, whose right to use or responsibility to maintain may affect the Property, and any easements, encroachments, or similar rights or matters that may affect the Property. Buyer understands and acknowledges that walls, fences, hedges, and other barriers or markers, whether natural or man-made, do not necessarily demarcate the Property's legal boundaries.

**Buyer's Initials:** \_\_\_\_\_

**F. BUYER INDEMNIFIES SELLER AND AUCTIONEER FOR BUYER'S INSPECTION OF AND ENTRY UPON THE PROPERTY.** In connection with any due diligence, inspection, investigation of, or visit to the Property by Buyer or any person or entity acting on Buyer's behalf ("Buyer's Inspection"), Buyer agrees to keep the Property free and clear of liens, repair any damage arising from Buyer's Inspection, and indemnify, defend, and hold harmless Seller and its agents and Auctioneer from all liability, claims, damages, and/or costs directly or indirectly arising from Buyer's Inspection. Buyer hereby agrees to carry, or require anyone acting on Buyer's behalf to carry, all applicable insurance policies, including, but not limited to, policies of liability and workers' compensation, and hereby agrees to defend and protect Seller, its agents, and Auctioneer from liability for any injuries to persons or property occurring during any Buyer Inspection prior to the Close of Escrow. Notwithstanding any other provision of this Agreement, Buyer's agreements made herein shall survive the Closing Date or the earlier termination of this Agreement.

**Buyer's Initials:** \_\_\_\_\_

**G. NO REPAIRS. BUYER AGREES AND ACKNOWLEDGES THAT SELLER IS SELLING THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS" AND SELLER SHALL HAVE NO LIABILITY FOR OR ANY OBLIGATION TO MAKE REPAIRS OR IMPROVEMENTS OF ANY KIND TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, BUYER'S INABILITY TO OBTAIN A CERTIFICATE OF OCCUPANCY, OR CERTIFICATE OF USE, OR MUNICIPAL CODE COMPLIANCE CERTIFICATE, IF REQUIRED, FOR THE PROPERTY. NOTHING DISCLOSED BY SELLER SHALL MAKE SELLER LIABLE FOR ANY REPAIRS OR IMPROVEMENTS TO THE PROPERTY THAT MAY BE REQUIRED, INCLUDING THOSE REPAIRS OR IMPROVEMENTS REQUIRED BY LAW.** If the Property is located in a jurisdiction that requires smoke detector certification, a certificate of occupancy, septic certification, or any other certification or permit or any form of improvement or repair to the Property, Buyer hereby agrees and acknowledges that Buyer shall be responsible for obtaining any and all such permits and repairs and improvements at Buyer's sole cost and expense. Buyer hereby agrees to file an application for all such permits and repairs within ten (10) days of the date this Agreement is executed by Buyer. Seller makes no representations or warranties regarding the Property's compliance or conformity with any building codes, laws, rules, or regulations. Buyer shall indemnify, defend, and hold Seller and Auctioneer harmless from and against all fines, penalties, costs, expenses, claims, and liabilities arising out of or relating to Buyer's obtaining, or Buyer's failure to obtain, a certificate of occupancy, certificate of use, or municipal code compliance certificate, if one is required. This indemnification shall survive the Closing Date and shall not be deemed to have merged into any of the documents executed or delivered at Closing.

**Buyer's Initials:** \_\_\_\_\_

**H. BUYER'S RECEIPT OF DISCLOSURES.** Buyer acknowledges and agrees that Buyer has received and/or had adequate opportunity to read and understand all disclosures and documents regarding the Property made available by Seller, Seller's broker, or Auctioneer in print or electronic form ("Disclosures") prior to entering into this Agreement including, without limitation:

- i. the pamphlet "Protect Your Family from Lead in Your Home";
- ii. the documents and information made available on the Internet at [www.auctionsbyatg.com](http://www.auctionsbyatg.com);

- iii. the written disclosures made available at the Property and at the location where the sale of the Property is conducted;
- iv. any real estate brokerage relationship disclosures, such disclosures made available and provided to Buyer during the registration process, prior to bidding at auction, and prior to entering into any Agreement for the purchase and sale of the Property; and
- v. the disclosures listed herein this Agreement and its Exhibits.

Buyer understands and acknowledges that any information provided by or on behalf of Seller with respect to the Property, including, without limitation, all information in the Disclosures and the Auction Brochure, was obtained from a variety of sources and that Seller and Seller's broker(s) and Auctioneer have not made any independent investigation or verification of such information and make no representations as to the accuracy or completeness of such information. **Buyer shall not have the right to cancel this Agreement by reason of any information, facts, condition, or other aspect of the Property discovered by Buyer subsequent to Buyer's execution of this Agreement.** Buyer further waives the right, under 42 U.S.C. Section 4852d and any other applicable law, to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

**Buyer's Initials:** \_\_\_\_\_

- I. **EXECUTION OF DISCLOSURES BY BUYER.** Buyer shall execute, deliver, and deposit with the Escrow/Closing Agent, at or prior to the date set for Closing, all federal, state, and local disclosures concerning the Property that Buyer is required to execute under applicable laws and regulations or required by the Escrow/Closing Agent.

**Buyer's Initials:** \_\_\_\_\_

**J. OCCUPIED PROPERTY.**

- i. Buyer hereby agrees and acknowledges that Seller makes no representations or warranties as to whether the Property is occupied as of the Closing Date.
- ii. Buyer understands and acknowledges that Buyer may be subject to the Protecting Tenant's at Foreclosure Act of 2009, set forth as Division A, Title VII, of the Helping Families Save Their Homes Act of 2009 [Pub. L. 111-22, 123 Stat 1632, S. 896 enacted May 20, 2009] ("the Act"), or state law, as applicable.
- iii. Buyer hereby expressly waives any right to rescind or cancel this Agreement based on the occupancy status of the Property.
- iv. The Property may be subject to the leasehold interests of various tenants. Seller has included in the Disclosures true copies of all known leases and amendments, if any, in Seller's possession. Seller makes no warranties or representations as to whether or not other leases of the Property are or will be in force, whether or not anyone else has a right of possession, whether or not any rent concessions were given to any tenant, whether or not any other agreements were made with the tenants, whether or not any rent charged violates any applicable rent control ordinance, statute, or law, whether or not any other violations of any applicable ordinance, statute, or law exists, and whether or not Seller or any tenant is in default under any lease. Because the Property was acquired by Seller through foreclosure, judicial sale, sheriff's sale, or deed in lieu of foreclosure, Seller has no security deposits or last month's rent to surrender to Buyer. Buyer shall be solely responsible for notifying tenants of the transfer of ownership of the Property and shall be liable to any and all tenants for repayment of any outstanding security deposit, less lawful deductions pursuant to applicable law. This provision shall survive the Close of Escrow.
- v. Buyer hereby agrees to defend, indemnify, and hold harmless Seller, its affiliates, parent companies, officers, directors, shareholders, Auctioneer, broker, agents, attorneys, and representatives from and against any claims, demands, actions, or expenses, including reasonable attorney's fees, arising out of any and all actions concerning security deposits, and for any eviction or unlawful detainer or other litigation or claim arising out of the tenancy, occupancy, or lease of the Property, including, but not limited to, any violation of any state or federal law, rule, or regulation regarding tenant's occupancy of the Property.

**Buyer's Initials:** \_\_\_\_\_

**K. POSSESSION.**

- i. Possession of the Property shall be delivered to Buyer at Closing, once the purchase and sale is fully funded and closed. The delivery of the Property shall be subject to the rights of any tenants or parties in possession of the Property prior to Closing. Buyer shall take possession of the Property in its present AS IS, WHERE IS, AND WITH ALL FAULTS AND LIMITATIONS condition. Buyer shall not take occupancy of the Property prior to Closing. Buyer shall install new locks on the Property immediately after Closing, and Buyer shall hold Seller, Auctioneer, and Seller's agents and other representatives harmless from and indemnify Seller, Auctioneer, and Seller's agents and representatives against any and all damages, claims, liens, losses, liabilities, costs, injuries, attorney fees and expense of any kind that may be made against Seller as a result of Buyer's failure to install new locks on the Property. **If the Buyer alters the Property or causes the Property to be altered in any way, or occupies the Property, or allows any other person to occupy the Property prior to Close of Escrow and funding of this transaction, without Seller's prior written consent, Buyer shall be in breach of this Agreement, Seller may terminate this Agreement, Buyer shall be liable to Seller for all claims arising out of or caused by such alteration or occupancy, and Buyer hereby waives all claims for improvements Buyer made to the Property, including, but not limited to, claims for unjust enrichment.**
- ii. **Keys and Remote Control Devices.** At Close of Escrow, Seller shall provide Buyer with the front door key to the Property to the extent Seller possesses such key. Seller may not provide any and all keys, including, but not limited to, garage door keys, back door keys, mail box keys, and security keys, and, if not provided, Buyer must obtain such keys at Buyer's sole cost and expense.

Buyer's Initials: \_\_\_\_\_

- L. AUCTIONEER'S TERMS AND CONDITIONS.** Buyer acknowledges and warrants that Buyer has received, read, and accepted Auctioneer's Terms and Conditions, which terms and conditions are hereby incorporated by reference. In the event of any conflict between the terms and conditions of this Agreement and Auctioneer's Terms and Conditions, the terms and conditions of this Agreement shall control.

Buyer's Initials: \_\_\_\_\_

- M. BUYER'S CERTIFICATE OF NON-AFFILIATION AND ARMS-LENGTH TRANSACTION.** Buyer hereby warrants to Seller and Auctioneer that Buyer, and/or any person acting on Buyer's behalf, is not affiliated with or related to the prior owner of the Property. Buyer further warrants that Buyer has not made any agreements, written or oral, expressed or implied, with the prior owner of the Property, or any person affiliated with or related to the prior owner of the Property, and that this Agreement to purchase and sell the property is an arms-length transaction.

Buyer's Initials: \_\_\_\_\_

**N. ADDITIONAL BUYER WAIVERS AND SELLER DISCLOSURES.**

- i. **MOLD.** Buyer understands that mold may cause health risks or damage to property and occurs naturally. If Buyer is concerned or desires additional information regarding mold in connection with the Property, Buyer hereby agrees to contact an appropriate professional, prior to executing this Agreement. Real property, including, but not limited to, the basement, is or may be affected by water or moisture damage, toxic mold, and/or environmental hazards or conditions. Seller further advises, and Buyer hereby agrees, that as a consequence of possible water damage and/or excessive moisture, the Property may be or has been irrevocably contaminated with mildew, mold, and/or other microscopic organisms. Buyer is hereby advised that exposure to certain species of mold may pose serious health risks, and those individuals with immune system deficiencies, infants and children, the elderly, individuals with allergies or respiratory problems, and pets are particularly susceptible to adverse health effects from mold exposure. Buyer understands and hereby acknowledges that Seller has advised Buyer to make his/her/its own evaluation of the Property and to have the Property thoroughly inspected. Buyer has been further advised by Seller that inhabiting the Property without complete remediation may subject the inhabitants to potentially serious health risks and/or bodily injury. Buyer acknowledges that it is the sole responsibility of Buyer to conduct any remediation on the Property. **Buyer also acknowledges that Buyer is buying the Property AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS. Buyer represents and warrants to Seller that Buyer has made his/her/its own inspection and evaluation of the Property to Buyer's complete satisfaction and Buyer accepts the Property AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS at the time of Closing. Buyer is electing to purchase the Property from Seller in an AS IS,**

**WHERE IS, WITH ALL FAULTS AND LIMITATIONS condition with full knowledge of the potential condition of the Property, the potentially serious health risks, and the potential liability that Buyer could incur as the owner of the Property for claims, losses, and damages arising out of any toxic mold contamination and/or other environmental hazards or conditions on the Property. Buyer agrees that the Total Purchase Price of the Property reflects the agreed upon value of the Property AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS, taking into account the aforementioned disclosures.**

**Buyer's Initials:** \_\_\_\_\_

- ii. **LEAD-BASED PAINT.** If the Property was built prior to 1978, the Seller shall notify the Buyer of any known lead-based paint or lead-based paint hazards in the Property, provide Buyer with any lead-based paint risk assessments or inspections of the Property in the Seller's possession, and provide Buyer with the Disclosure of Information on Lead-Based Paint Hazards and any report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your Family From Lead in Your Home." **Buyer hereby agrees to return a signed copy of the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards to Seller prior to Closing.** Lead-based paint Information was provided to Buyer prior to acceptance of this Agreement and Buyer acknowledges Buyer's opportunity to conduct lead-based paint risk assessments or inspections during Buyer's Inspection(s) of the Property. **Buyer hereby waives any further opportunity to conduct a risk assessment or inspection for the presence of lead-based paint or lead-based paint hazards.**

**Buyer's Initials:** \_\_\_\_\_

- iii. **RADON.** Buyer understands that Radon is a naturally occurring radioactive gas that, when accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines may have been found in buildings in the state where the Property is located. Buyer understands that additional information regarding radon and radon testing may be obtained from the county or state health unit. Buyer represents and warrants that he/she/it has not relied on the accuracy or completeness of any representations that have been made by the Seller and/or Seller's agents or Auctioneer as to the presence of radon and that the Buyer has not relied on the Seller's or Seller's agents' failure to provide information regarding the presence or effects of any radon found on the Property. Buyer hereby acknowledges that real estate brokers and agents and Auctioneer are not generally qualified to advise buyers on radon treatment or its health and safety risk.

**Buyer's Initials:** \_\_\_\_\_

- iv. **SQUARE FOOTAGE:** Buyer acknowledges that Seller has not measured the square footage of the Property (including the lot and home), nor has Seller's agents, nor Seller's Auctioneer, measured the square footage of the Property. Buyer hereby agrees and acknowledges that any square footage quoted on any marketing pieces, including, but not limited to, brochures, the MLS, advertisements, websites, and any other information relating to square footage provided to Buyer, has been based on information supplied to Seller and is deemed approximate and not guaranteed. Buyer further acknowledges that Buyer has not relied upon any such marketing information and that such marketing information does not constitute a representation and/or warranty made by Seller or its agents or Auctioneer. **Buyer hereby acknowledges and agrees that Buyer is buying the Property "As Is, Where Is, with All Faults and Limitations" and acknowledges Buyer's responsibility to perform any and all due diligence and investigation regarding Buyer's purchase of the Property, including measuring the square footage of the Property.**

**Buyer's Initials:** \_\_\_\_\_

v. **PROPERTY TAXES.** Buyer hereby acknowledges that Buyer should not rely on the Seller's current property taxes as the amount of property taxes that the Buyer may be obligated to pay in the year after Closing on the Property. A change in ownership or use, or improvements to the Property may trigger reassessments of the Property that could result in higher property taxes. If Buyer has any questions concerning property tax valuation for the Property, Buyer hereby agrees to contact the local appraiser's/tax assessor's office for information prior to executing this Agreement.

Buyer's Initials: \_\_\_\_\_

vi. **ASSESSMENTS.** If the Property is subject to a special assessment lien payable in installments that continue beyond the Closing Date, Buyer hereby agrees to be responsible for and pay any and all amounts that become due after the Closing Date.

Buyer's Initials: \_\_\_\_\_

vii. **CONDOMINIUM/PUD/HOMEOWNERS ASSOCIATION.** If the Property is in a common interest community or planned community, unless otherwise required by law, Buyer hereby agrees and acknowledges that Buyer, at Buyer's own cost and expense, was and is responsible for obtaining and reviewing the declaration of covenants, conditions, restrictions, and/or bylaws and other documentation regarding such common interested community or planned community. Buyer further agrees and acknowledges that, prior to executing this Agreement, Buyer reviewed all such documentation to the fullest extent Buyer deemed necessary and, upon executing this Agreement, Buyer is deemed to have accepted the declaration of covenants, conditions, restrictions, and/or bylaws of the common interested or planned community.

Buyer's Initials: \_\_\_\_\_

viii. **BUILDING AND ZONING CODES.** Buyer hereby agrees and acknowledges it is Buyer's responsibility to procure and review all information on building and zoning codes, and all information about transportation beltways and/or planned or anticipated land use within proximity of the Property. Seller makes no representations or warranties regarding the Property's compliance with or conformity to any building codes, zoning laws, or other related rules or regulations.

Buyer's Initials: \_\_\_\_\_

ix. **ENVIRONMENTAL HAZARDS.** Seller is not aware of any environmental defects or other hazards on the Property; however, Buyer is aware and agrees that this does not mean such defects or hazards do not exist. **BUYER IS OBLIGATED TO AND RESPONSIBLE FOR INVESTIGATING AND SEEKING ADDITIONAL INFORMATION REGARDING POTENTIAL HAZARDS OR DEFECTS ON THE PROPERTY, WHICH MAY INCLUDE, BUT ARE NOT LIMITED TO:**

- a. methamphetamine labs;
- b. contaminated soil (see [www.epa.gov/ebtpages/pollsoilcontaminants.html](http://www.epa.gov/ebtpages/pollsoilcontaminants.html));
- c. underground storage tanks (see [www.epa.gov](http://www.epa.gov));
- d. septic systems and wells (see [www.epa.gov/ebtpages/watergroundwaterwells.html](http://www.epa.gov/ebtpages/watergroundwaterwells.html));
- e. wood burning devices (see [www.epa.gov/iaq/pubs/combust.html](http://www.epa.gov/iaq/pubs/combust.html));
- f. radon (see [www.epa.gov/radon](http://www.epa.gov/radon));
- g. flood areas (see [www.epa.gov/ebtpages/emergnatuaraldisastefloods.html](http://www.epa.gov/ebtpages/emergnatuaraldisastefloods.html)); and
- h. other environmental hazards (see [www.epa.gov](http://www.epa.gov)).

Buyer's Initials: \_\_\_\_\_

- x. **METHAMPHETAMINE CONTAMINATION.** Neither Seller nor broker have actual knowledge of any potential contamination or suspected contamination by methamphetamine laboratory activity or of any order prohibiting its use or habitation. Buyer is encouraged to conduct such due diligence as Buyer may deem desirable or necessary in this regard.

**Buyer's Initials:** \_\_\_\_\_

- xi. **SEX OFFENDER DATABASE NOTICE.** Illinois Compiled Statutes (730 ILCS 152/115 (a) and (b)) mandate that the Illinois State Police establish and maintain a statewide Sex Offender Database, accessible on the Internet, identifying persons who have been convicted of certain sex offenses and/or crimes against children and must register as a Sex Offender. Such statewide Sex Offender Database may be found at [www.isp.state.il.us/sor](http://www.isp.state.il.us/sor).

**Buyer's Initials:** \_\_\_\_\_

- xii. **AIRPORT NOISE.** Buyer understands and hereby agrees that it is Buyer's responsibility to investigate the impact of airport flight paths and the noise levels at different times of the day over the Property. For more information on airport noise, Buyer understands Buyer may consult with the Illinois Department of Transportation, Division of Aeronautics.

**Buyer's Initials:** \_\_\_\_\_

- xiii. **FAIR HOUSING ACT DISCLOSURE.** Buyer understands and is aware that under the Federal Fair Housing Act, it is illegal to discriminate in the rental or sale of housing on the basis of race, color, national origin, religion, sex, handicap, or familial status.

**Buyer's Initials:** \_\_\_\_\_

- xiv. **REAL ESTATE AGENCY DISCLOSURE.** Pursuant to 225 ILCS 454 Article 15, the parties to this Agreement are hereby advised that Auctioneer (Real Estate Broker License No. 478.026071) represents the Seller Exclusively. No contractual or agency relationship exists between the Buyer and Auctioneer.

**Buyer's Initials:** \_\_\_\_\_

**10. DEFAULT.**

**A. BUYER DEFAULT. BUYER AND SELLER AGREE THAT IF BUYER FAILS TO COMPLETE THIS PURCHASE BY REASON OF ANY DEFAULT OF BUYER, AS DETERMINED BY SELLER IN ITS SOLE DISCRETION:**

- i. **SELLER SHALL BE RELEASED FROM ANY OBLIGATION TO SELL THE PROPERTY TO THE BUYER; AND**
- ii. **BUYER AND SELLER EXPRESSLY AGREE THAT IT WOULD BE EXTREMELY DIFFICULT TO DETERMINE SELLER'S ACTUAL DAMAGES AS A RESULT OF SUCH A DEFAULT BY BUYER; THEREFORE, THE PARTIES AGREE THAT SELLER SHALL RETAIN AS LIQUIDATED DAMAGES, AND NOT AS A PENALTY, AND AS A REASONABLE PRE-ESTIMATE OF SELLER'S ACTUAL DAMAGES FOR BREACH OF THIS AGREEMENT, AN AMOUNT EQUAL TO THE EARNEST MONEY DEPOSIT, PROVIDED, HOWEVER, THE AMOUNT RETAINED SHALL BE NO MORE THAN FIVE PERCENT (5%) OF THE TOTAL PURCHASE PRICE, ANY EXCESS SHALL BE PROMPTLY RETURNED TO BUYER.**

**NOTWITHSTANDING ALL OF THE FOREGOING, SELLER RETAINS THE RIGHT TO PROCEED AGAINST BUYER FOR ENFORCEMENT OF BUYER'S INDEMNIFICATION/DEFENSE/HOLD HARMLESS OBLIGATIONS UNDER THIS AGREEMENT. IN NO EVENT SHALL BUYER HAVE THE RIGHT TO SEEK OR OBTAIN SPECIFIC ENFORCEMENT OF THIS AGREEMENT.**

**B. SELLER DEFAULT. BUYER AND SELLER AGREE THAT IF SELLER IS UNABLE TO PERFORM AS REQUIRED BY THIS AGREEMENT, THEN THIS AGREEMENT MAY BE CANCELLED UPON SELLER'S**

**WRITTEN NOTICE TO BUYER. IN SUCH EVENT, BUYER'S EARNEST MONEY DEPOSIT SHALL BE RETURNED TO BUYER; SUCH RETURN OF BUYER'S EARNEST MONEY DEPOSIT SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY IN SUCH EVENT. IN NO EVENT SHALL BUYER HAVE THE RIGHT TO SEEK OR OBTAIN SPECIFIC ENFORCEMENT OF THIS AGREEMENT.**

- C. **WAIVER OF SPECIFIC PERFORMANCE REMEDY.** AS A MATERIAL PART OF THE CONSIDERATION TO BE PAID OR RECEIVED BY SELLER AND BUYER UNDER THIS AGREEMENT, BUYER WAIVES ALL RIGHTS TO FILE AND MAINTAIN AN ACTION AGAINST SELLER FOR SPECIFIC PERFORMANCE AND TO RECORD A LIS PENDENS OR NOTICE OF PENDENCY OF ACTION AGAINST THE PROPERTY IF A DISPUTE ARISES CONCERNING THIS AGREEMENT. BUYER AGREES THAT THE PROPERTY IS NOT UNIQUE AND THAT, IN THE EVENT OF SELLER'S DEFAULT OR MATERIAL BREACH OF THE AGREEMENT, BUYER CAN BE ADEQUATELY AND FAIRLY COMPENSATED SOLELY BY RECEIVING A RETURN OF BUYER'S EARNEST MONEY DEPOSIT. UPON RETURN OF BUYER'S EARNEST MONEY DEPOSIT, THE AGREEMENT SHALL BE TERMINATED, AND BUYER AND SELLER HEREBY IRREVOCABLY INSTRUCT ESCROW/CLOSING AGENT TO RETURN ALL FUNDS AND DOCUMENTS TO THE PARTY THAT DEPOSITED THEM WITHOUT FURTHER DIRECTION.
- D. BUYER ACKNOWLEDGES AND AGREES AND CONFIRMS TO THE ESCROW/CLOSING AGENT THAT, BY SIGNING THIS AGREEMENT, SELLER SHALL HAVE THE RIGHT TO RETAIN OR SEEK THE RELEASE OF THE EARNEST MONEY DEPOSIT UNDER THIS SECTION OR CANCEL THE TRANSACTION UNDER SECTIONS 7 OR 9 WITHOUT ANY FURTHER ACTION, CONSENT, OR DOCUMENT FROM BUYER.

Buyer's Initials: \_\_\_\_\_

Seller's Initials: \_\_\_\_\_

11. **INTENTIONALLY OMITTED.**

12. **RISK OF LOSS.** If any material portion of the Property is damaged or destroyed prior to the Close of Escrow, as determined by Seller in its sole discretion, Seller shall give Buyer written notice thereof. Buyer shall have the option, exercisable within ten (10) business days after receipt of such written notice, to either:

- A. terminate this Agreement; or
- B. consummate this Agreement in accordance with its terms.

In any event, Seller shall not be deemed in default under this Agreement as a result of such damage or destruction. Buyer shall be deemed to have waived its right to terminate this Agreement if Buyer does not notify Seller in writing of its election to terminate this Agreement within ten (10) business days after receipt of Seller's written notice of material damage. Notwithstanding the foregoing, any termination notice given by Buyer under this Section shall be rendered ineffective if, within five (5) calendar days after Seller's receipt of such written notice, Seller delivers to Buyer Seller's written agreement to repair, at its sole cost and expense, all such damage. In such event, the date of Close of Escrow shall be deemed automatically extended to the third (3<sup>rd</sup>) business day following Seller's completion of such repair. Buyer shall not be entitled to any insurance proceeds or obtain any rights with respect to any claims Seller may have with regard to insurance maintained by Seller with respect to the Property.

13. **MISCELLANEOUS MATTERS.**

- A. **ASSIGNMENT OF BUYER'S INTEREST.** Buyer may not assign or record his/her/its right, title, or interest in this transaction without the express prior written consent of the Seller, which consent may be withheld in the sole and absolute discretion of Seller.
- B. **MULTIPLE LISTING SERVICE.** If broker or Auctioneer is a participant of an Association/Board Multiple Listing Service ("MLS"), the broker or Auctioneer is authorized to report the sale, its price, terms, and financing for the publication, dissemination, information, and use of the MLS, its parent entity, authorized members, participants, and subscribers.
- C. **TITLES, HEADINGS, AND CAPTIONS.** All titles, headings, and captions used in this Agreement have been included for administrative convenience only and do not constitute matters to be construed in interpreting this Agreement.
- D. **OTHER AGREEMENTS.** This Agreement constitutes the entire agreement between Buyer and Seller concerning the subject matter hereof and there are no oral or other written agreements between Buyer and Seller. All negotiations are merged into this Agreement. This Agreement shall not be modified or amended, except by an instrument in writing signed by Buyer and Seller. No oral promises, representations (express or implied), warranties, or agreements made by the Seller, broker, or auctioneer shall be deemed valid or binding upon the Seller unless expressly included in this Agreement.

- E. ATTORNEYS' FEES.** In any action, proceeding, or arbitration arising out of this Agreement, the prevailing party (defined as the party who prevails as to a substantial part of the litigation or claim) shall be entitled to reasonable attorneys' fees and costs.
- F. SEVERABILITY/INTERPRETATION.** In the event that any portion of this Agreement shall be judicially determined to be invalid or unenforceable, the same shall, to the extent, be deemed severable from this Agreement and the invalidity or unenforceability thereof shall not affect the validity and enforceability of the remaining portion of this Agreement. The remainder of this Agreement shall remain in full force and effect and shall be construed to fulfill the intention of the parties hereto. Buyer and Seller acknowledge that each party has reviewed this Agreement and has had adequate opportunity to consult legal counsel with respect thereto, and that the rule of construction, to the effect that any ambiguities are to be resolved against the drafting party, shall not be employed in the interpretation of this Agreement or any amendments hereto.
- 14. AUCTION BROKER FEE.** If and when this purchase and sale is consummated and the Total Purchase Price is fully funded, Seller hereby agrees to pay Auctioneer, at closing, a fee under terms and conditions specified in a separate agreement between Auctioneer and Seller.
- Buyer and Seller hereby agree and acknowledge that neither has actual knowledge of any other fees paid or due or owing to any other person or entity other than to Auctioneer, including, but not limited to, all fees paid to or due or owing to any third party in connection with the selection or purchase of the Property.
- 15. COOPERATING AND LISTING BROKER COMPENSATION.** Real estate brokers are not parties to this Agreement between Buyer and Seller. Specific instructions relating to listing and cooperating broker commissions shall be provided to Escrow/Closing agent in a separate document.
- A. Cooperating Broker:** Cooperating broker (if any) shall accept a commission based on the High Bid Price, provided such cooperating broker has complied with Auctioneer's Terms and Conditions and the requirements and procedures stated therein.
- B. Listing Broker:** Seller agrees to pay compensation to Listing Broker, as specified in a separate agreement between Seller and Listing Broker.
- 16. TIME IS OF THE ESSENCE.** Time is of the essence in performance of this Agreement. Buyer shall perform each and every covenant under this Agreement and satisfy every condition imposed upon Buyer under this Agreement in the time specified by the terms of this Agreement.
- 17. GOVERNING LAW AND VENUE.** All questions with respect to the construction of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of Illinois in the courts of Cook County, Illinois. The state and federal courts located in Cook County, Illinois, shall be proper forums for any legal dispute between the parties arising in connection with this Agreement, which courts shall be the exclusive forums for all such claims, demands, suits, actions, or proceedings. The parties irrevocably consent to the service of process in connection with any such dispute by registered or certified mail, postage prepaid, at their respective addresses, as set forth herein or otherwise provided pursuant to this Agreement.
- 18. COUNTERPARTS AND ELECTRONIC SIGNATURES.** This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Facsimile, documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such facsimile, scanned, and electronic signatures having the same legal effect as original signatures. Seller and Buyer agree that this Agreement, and any Addendum thereto, or any other document necessary for the consummation of the transaction contemplated by this Agreement may be accepted, executed, or agreed to through the use of an electronic signature, in accordance with the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"), Title 15, United States Code, Sections 7001 *et seq.*, the Uniform Electronic Transaction Act ("UETA"), and any applicable state law. Any document accepted, executed, or agreed to in conformity with such laws will be binding on both Buyer and Seller the same as if it were physically executed and Buyer hereby consents to the use of any third party electronic signature capture service providers as may be chosen by Seller or Auctioneer.
- 19. FURTHER ASSURANCES.** The parties hereby agree to execute such other documents, and to take such other actions as may reasonably be necessary, to further the purposes of this Agreement.
- 20. GENDER/NUMBER/REFERENCES TO SELLER.** Whenever the context indicates that such is the intent, words in the singular number shall include the plural and vice versa, and the masculine shall include the feminine and vice versa. Pronouns shall be deemed to refer to all genders. All provisions herein for the benefit of Seller shall be deemed to be for the benefit of Seller and all of Seller's agents and sub-agents (including, without limitation, Auctioneer(s) and any Seller's real estate broker(s)) and each of their respective officers, directors, shareholders, employees, attorneys, representatives, affiliates, and subsidiaries.

21. **SURVIVAL OF INDEMNIFICATION/DEFENSE/HOLD HARMLESS.** Any indemnification, defense, or hold harmless obligation of Buyer, for the benefit of Seller in this Agreement, shall survive the Closing Date and/or termination of this Agreement.
22. **SELLER'S DELIVERY OF DEED IS FULL PERFORMANCE.** Seller's delivery of the Deed to the Property to Escrow/Closing Agent shall be deemed full performance of this Agreement and shall discharge all of Seller's obligations under this Agreement.
23. **EMINENT DOMAIN.** In the event that the Seller's interest in the Property, or any part thereof, shall have been taken by eminent domain, or shall be in the process of being taken on or before the Closing Date, either party may terminate this Agreement and the Earnest Money Deposit shall be returned to the Buyer and neither party shall have any further rights or liabilities hereunder, except as otherwise specifically provided in this Agreement.
24. **FORCE MAJEURE.** No Party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war, epidemics, power failures, earthquakes, or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such Party through use of alternate sources, workaround plans, or other means.
25. **ADDITIONAL DOCUMENTS.** All parties signing this Agreement hereby acknowledge receipt of a copy of this Agreement.
26. **NOTICE.** This Agreement shall bind and inure to the benefit of the parties and their successors in interest. All notices, approvals, and other communications contemplated, given, or required under this Agreement shall be in writing and shall be deemed given and received upon receipt if:
- A. delivered personally;
  - B. mailed by registered or certified mail return receipt requested, postage prepaid;
  - C. sent by a nationally recognized overnight courier; and/or
  - D. delivered via facsimile transmission, provided receipt is confirmed by telephone or by a statement generated by the transmitting machine, in any case to the Parties at the following addresses or facsimile numbers (or at such address or facsimile number for a Party as will be specified by like notice).

Notice to the Buyer shall be given as set forth in Section 1.B., herein, and to the Seller with a copy addressed to: Seller, c/o Auctions by ATG, One South Wacker Drive, 24<sup>th</sup>Floor, Chicago, IL 60606, or to such other address or addresses as may from time to time be designated by either party by written notice to the other.

27. **AUCTION/SALE PROCESS.** Neither Seller, Seller's agent, nor Auctioneer have made or are making any representation or warranty as to the manner in which the auction/sale process will be managed.
- A. For properties being auctioned with a suggested opening bid and sold subject to seller confirmation: Seller may select the winning bid in its sole and absolute discretion. No obligation to sell shall be binding on Seller unless and until a written contract of sale or purchase agreement is signed and delivered by Seller. Seller may rescind any oral acceptance of a winning bid prior to the execution and delivery of this Agreement for any reason, including, but not limited to, the receipt of a subsequent higher bid or offer to purchase, whether such higher bid or offer to purchase was received pursuant to Auctioneer's Terms and Conditions or otherwise. Seller may withdraw any property from the auction at any time prior to the announcement of the completion of the sale by the Auctioneer.
  - B. For properties being auctioned with a stated minimum bid, Seller will accept the final high bid if it is equal to or greater than the stated minimum bid. If no bidders meet or exceed the stated minimum bid, the Seller is not obligated to sell the property. Seller may withdraw any property from the auction at any time prior to the announcement of the completion of the sale by the Auctioneer.
28. **PROHIBITED PERSONS AND TRANSACTIONS.** Each party represents and warrants to the other that neither it, nor any of its affiliates, nor any of their members, directors, or other equity owners (excluding holders of publicly traded shares), and none of their principal officers and employees:
- A. is listed as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control ("OFAC");
  - B. is a person or entity with whom U.S. persons or entities are restricted from doing business under OFAC regulations or any other statute or executive order (including the September 24, 2001, "Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"); and/or
  - C. is engaged in prohibited dealings or transactions with any such persons or entities.

29. **AUTHORITY TO EXECUTE.** If Buyer is a partnership, association, corporation, limited liability company, or trust, the signatory hereto represents and warrants that he/she/it is duly authorized under applicable law to enter into this Agreement on behalf of such entity and that such entity is duly formed and in good standing, having unabated powers to conduct its activities, including the power to contract.
30. **BUYER SHOULD CONSULT AN ATTORNEY PRIOR TO SIGNING THIS LEGALLY BINDING CONTRACT. THIS IS A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT, CONSULT AN ATTORNEY AND/OR FINANCIAL ADVISOR OR ANY OTHER APPROPRIATE COUNSEL BEFORE SIGNING. BUYER HAS BEEN ADVISED BY SELLER, SELLER'S BROKER, AND AUCTIONEER TO SEEK LEGAL, FINANCIAL, CONSTRUCTION, AIR QUALITY, ENVIRONMENTAL, AND/OR PROFESSIONAL INSPECTIONS BY QUALIFIED PROFESSIONALS REGARDING BUYER'S PURCHASE OF THE PROPERTY AND THE TERMS OF THIS AGREEMENT. BY SIGNING THIS AGREEMENT, BUYER REPRESENTS AND WARRANTS THAT BUYER HAS CONSULTED WITH, HAD THE OPPORTUNITY TO CONSULT WITH, OR WAIVED THE RIGHT TO CONSULT WITH LEGAL OR OTHER PROFESSIONAL COUNSEL BUYER DEEMS NECESSARY.**
31. **LANGUAGE IN BOLD OR CAPITALIZED.** FOR EMPHASIS AND BUYER'S BENEFIT, SOME PROVISIONS HAVE BEEN FORMATTED IN BOLD TYPE AND/OR CAPITALIZED. HOWEVER, EACH AND EVERY PROVISION IN THIS AGREEMENT IS SIGNIFICANT AND SHOULD BE REVIEWED AND UNDERSTOOD. NO PROVISION SHALL BE IGNORED OR DISREGARDED BECAUSE IT IS NOT IN BOLD OR EMPHASIZED IN SOME MANNER, AND THE FAILURE TO BOLD, CAPITALIZE, OR EMPHASIZE IN SOME MANNER ANY TERMS OR CONDITIONS IN ANY PROVISION OF THIS AGREEMENT SHALL NOT AFFECT THE ENFORCEABILITY OF ANY SUCH TERMS OR CONDITIONS.

32. **NO ATTORNEY REVIEW PERIOD OR ATTORNEY REVIEW CONTINGENCY.** BUYER HAS HAD AMPLE OPPORTUNITY TO REVIEW, AND TO HAVE THEIR ATTORNEY OR OTHER APPROPRIATE COUNSEL REVIEW, THIS AGREEMENT ON THE AUCTIONEER'S WEBSITE AND HEREBY AGREES AND ACKNOWLEDGES THAT THIS AGREEMENT IS NOT SUBJECT TO ANY ATTORNEY REVIEW PERIOD OR CONTINGENCY. THIS AGREEMENT IS FINAL AND BINDING ON THE PARTIES IN ITS PRESENT FORM.

Buyer's Initials: \_\_\_\_\_

**SELLER(S)**

**BUYER(S)**

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name of Seller (Print)

\_\_\_\_\_  
Name of Buyer (Print)

\_\_\_\_\_  
Signature of Seller

\_\_\_\_\_  
Signature of Buyer

\_\_\_\_\_  
Name of Seller (Print)

\_\_\_\_\_  
Name of Buyer (Print)

\_\_\_\_\_  
Signature of Seller

\_\_\_\_\_  
Signature of Buyer

**BUYER'S AGENT/BROKER (if any)**

Buyer's Agent/Broker hereby represents that he/she has registered prior to the Auction, pursuant to Auctioneer's Terms and Conditions, as a Registered Agent/Broker, that he/she accepts Auctioneer's Terms and Conditions in their entirety and specifically as to the compensation due to the cooperating Agent/Broker set forth below, if any, and that this is the only compensation Agent/Broker shall receive or is entitled to for this transaction from Seller, Seller's broker, or Auctioneer. Agent/Broker further represents that he/she is not a principal in the transaction (as such terms are defined in Auctioneer's Terms and Conditions).

\_\_\_\_\_  
Name of Agent/Broker (Print)

\_\_\_\_\_  
Name of Brokerage

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

Signature

\_\_\_\_\_  
License No.

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF THE PROPERTY**

THE EAST 330.0 FEET OF THE SOUTH 9 ACRES OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

## EXHIBIT B

### WAIVER AND RELEASE REGARDING PROPERTY CONDITION AT CLOSING

(TO BE EXECUTED ONLY AT CLOSING)

This Waiver and Release regarding the condition of the Property at Closing is given by \_\_\_\_\_, (“Buyer”) to \_\_\_\_\_, (“Seller”) and Auctioneer in connection with the purchase of the property located at \_\_\_\_\_, (“the Property”) pursuant to the Auction Real Estate Contract executed by and between Buyer and Seller on the date of \_\_\_\_\_, (“this Agreement”).

1. Buyer acknowledges that Seller acquired the Property through foreclosure, deed in lieu of foreclosure, forfeiture, tax sale, a right of eminent domain, or a similar process. Accordingly, Seller has little or no direct knowledge concerning the condition of the Property. Buyer has inspected the Property or was given the right to inspect the Property to determine the condition of the Property and discover any defects. **Buyer acknowledges and accepts the Property in “AS IS” condition at the time of Closing, including, but not limited to, any hidden defects or environmental conditions affecting the Property (including, but not limited to, mold, mildew, microscopic organisms, lead-based paint, fuel oil, allergens, or other toxic substances of any kind), whether known or unknown, and whether or not such defects or conditions were discoverable through inspection.** Buyer acknowledges that Seller and its agents and representatives, including, but not limited to, Auctioneer, have not made, and Seller specifically negates and disclaims any representations, warranties, promises, covenants, agreements, or guarantees, implied or expressed, oral or written, with respect to:
  - A. the physical condition or any other aspect of the Property, including the structural integrity or the quality or character of materials used in construction of any improvements, availability and quantity or quality of water, stability of the soil, susceptibility to landslide or flooding, sufficiency of drainage, water leaks, water damage, environmental conditions, or any other matter affecting the stability or integrity of the Property or its improvements;
  - B. the conformity of the Property or the improvements to any zoning, land use, or building code requirements, or compliance with any laws, rules, ordinances, or regulations of any federal, state or local governmental authority, or the granting of any required permits or approvals, if any, of any governmental bodies that had jurisdiction over the construction of the original structure, any improvements, and/or remodeling of the structure; and
  - C. the habitability, merchantability, marketability, profitability, or fitness for a particular purpose of the Property or improvements, including redhibitory vices and defects, apparent, non-apparent, or latent, which now exist or which may hereafter exist, and which, if known to Buyer, would cause Buyer to refuse to purchase the Property.
2. Buyer represents and warrants to Seller and Auctioneer the following:
  - A. Buyer is purchasing the Property solely in reliance on its own investigation and inspection of the Property and not on any information, representation, or warranty provided or to be provided by Seller, its servicers, representatives (including, but not limited to, Auctioneer), brokers, employees, agents, or assigns;
  - B. neither Seller, nor its servicers, employees, representatives, brokers, agents, or assigns, nor Auctioneer, has made any representations or warranties, implied or expressed, relating to the condition of the Property or the contents thereof, except as expressly set forth in this Agreement;
  - C. Buyer has not relied on any representation or warranty from Seller or Auctioneer regarding the nature, quality, or workmanship of any repairs or improvements made by Seller;
  - D. Buyer has inspected, or has been given the opportunity to inspect, any repairs or improvements made by Seller to the Property, and accepts the repairs and improvements under the terms and conditions of this Agreement, and such repairs or improvements have been performed to the complete satisfaction of Buyer; and
  - E. Buyer will not occupy, or cause or permit others to occupy, the Property unless and until any necessary certificate of occupancy, smoke detector certification, septic certification, or any similar certification or permit has been obtained from the appropriate governmental entity.

3. AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY SELLER, UNDER THE TERMS OF THIS AGREEMENT, AS NEGOTIATED BY BUYER AND SELLER, BUYER WAIVES:
- A. ANY AND ALL CLAIMS ARISING FROM THE ADJUSTMENTS, OR PRORATIONS, OR ERRORS IN CALCULATING THE ADJUSTMENTS OR PRORATIONS THAT ARE OR MAY BE DISCOVERED AFTER CLOSING;
  - B. ANY CLAIMS FOR FAILURE OF CONSIDERATION AND/OR MISTAKE OF FACT, AS SUCH CLAIMS RELATE TO THE PURCHASE OF THE PROPERTY, OR ENTERING INTO, OR THE EXECUTION OF AND CLOSING UNDER THIS AGREEMENT;
  - C. ANY REMEDY OF ANY KIND, OTHER THAN AS EXPRESSLY PROVIDED IN THIS AGREEMENT, TO WHICH BUYER MIGHT OTHERWISE BE ENTITLED AT LAW OR EQUITY BASED ON MUTUAL MISTAKE OF FACT OR LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, RESCISSION OF THIS AGREEMENT;
  - D. TRIAL BY JURY, EXCEPT AS PROHIBITED BY LAW, IN ANY LITIGATION ARISING FROM OR CONNECTED WITH, OR RELATED TO THIS AGREEMENT;
  - E. ANY CLAIMS OR LOSSES BUYER MAY INCUR AS A RESULT OF CONSTRUCTION OR OTHER DEFECTS, WHICH MAY NOW OR HEREAFTER EXIST, WITH RESPECT TO THE PROPERTY;
  - F. ANY RIGHT TO AVOID THIS SALE, OR REDUCE THE PRICE, OR HOLD SELLER RESPONSIBLE FOR DAMAGE ON ACCOUNT OF THE CONDITION OF THE PROPERTY, LACK OF SUITABILITY AND FITNESS, OR REDHIBITORY VICIES AND DEFECTS, APPARENT, NON-APPARENT, OR LATENT, DISCOVERABLE, OR NONDISCOVERABLE; AND
  - G. ANY CLAIM ARISING FROM ENCROACHMENTS, EASEMENTS, SHORTAGES IN AREA, OR ANY OTHER MATTER THATWOULD BE DISCLOSED OR REVEALED BY A SURVEY OR INSPECTION OF THE PROPERTY OR SEARCH OF PUBLIC RECORDS.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Day Month Year

\_\_\_\_\_  
Signature of Buyer

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of buyer

**EXHIBIT C**  
**ESCROW INSTRUCTIONS**

1. **CLOSING INSTRUCTIONS TO ESCROW/CLOSING AGENT.** At the Close of Escrow, Escrow/Closing Agent is hereby irrevocably instructed to complete the following:
  - A. Record the Deed conveying title to the Property to Buyer. The term “Deed” shall mean a Special Warranty, Limited Warranty, Quitclaim, or Bargain and Sale Deed, or other form of deed acceptable to Seller in Seller’s sole and absolute discretion. The Deed to be delivered at Closing shall be a deed that grants only whatever title that grantor may have and that grantor will only defend title against persons claiming by, through, or under the grantor, but not otherwise;
  - B. Pay all fees, costs, and deed and transfer taxes for the sale of the Property that are required to be paid by Seller under this Agreement, the portion of any fees charged by the Escrow/Closing Agent that is payable by Seller (if any), and other expenses relating to the sale of the Property that are required to be paid by Seller under this Agreement;
  - C. Pay all fees, costs, and transfer taxes for the sale of the Property that are required to be paid by Buyer under this Agreement, the portion of any fees charged by the Escrow/Closing Agent that is payable by Buyer (if any), and other expenses relating to the sale of the Property that are required to be paid by Buyer under this Agreement;
  - D. Pay all property management and broker related fees and commissions to be paid by Seller, including fees and commissions to the Seller’s broker and to the Buyer’s broker, identified on the signature page of this Agreement, as well as any such fees and commissions contemplated under any separate written agreement executed by Seller; and
  - E. Pay to Seller the balance of the Purchase Price and any other funds remaining after the Close of Escrow.
2. **PREVIOUS ESCROW/TRANSACTION.** If there was an escrow previously opened at any escrow company, title company, or with any closing agent and/or a separate contract exists by and between Seller and any third party covering the sale of the Property (“Previous Transaction”), the Close of Escrow under this Agreement is subject to and contingent upon Seller’s ability to successfully cancel the Previous Transaction, if any, prior to or concurrently with the Close of Escrow. This condition precedent shall be deemed satisfied when Escrow/Closing Agent is in possession of a copy of signed cancellation instructions from Seller and the buyer in the Previous Transaction. Failure to cancel such Previous Transaction shall not be deemed a default of Seller.
3. **DELIVERIES TO ESCROW/CLOSING AGENT.**
  - A. **BY SELLER.** Prior to the Close of Escrow, Seller shall deposit with the Escrow/Closing Agent (the “Seller’s Deliveries”) a Deed transferring Seller’s interest in the Property to Buyer, executed by Seller.
  - B. **BY BUYER.** Prior to the Close of Escrow, Buyer shall deposit with the Escrow/Closing Agent (the “Buyer’s Deliveries”):
    - i. immediately available good funds, as defined in Section 3.C., below, in an amount equal to the Purchase Price, less the Earnest Money Deposit previously deposited into Escrow, plus Buyer’s share of closing costs and prorations provided herein, plus Buyer’s expenses set forth in Section 4.B., below; and
    - ii. any and all other instruments required by Lender, Escrow/Closing Agent, or otherwise to consummate Buyer’s acquisition of the Property.
  - C. **FINAL FUNDS TO CLOSE ESCROW.** All parties acknowledge that good funds are required to close this Escrow. “Good funds” are defined by 215 ILCS 155/26.
4. **COSTS AND PRORATIONS.**
  - A. **PRORATIONS.** The Escrow/Closing Agent shall prorate the following expenses as of the Close of Escrow, regardless of state or local custom:
    - i. all real property taxes and assessments based upon the last full year actual and ascertainable tax bill;
    - ii. municipal water and sewer charges;
    - iii. rents;
    - iv. condominium or planned unit development or similar community assessments;
    - v. cooperative fees;
    - vi. maintenance fees;

- vii. homeowners association regular, special, and emergency dues and assessments imposed prior to the date of Close of Escrow.

Payment of special assessment district bonds and assessments, and payments of homeowner's condominium or planned unit development assessments are assumed by Buyer without credit toward the Purchase Price. Seller shall provide Escrow/Closing Agent with any rent rolls in Seller's possession that would assist Escrow/Closing Agent in prorating rents. If the regular homeowners association dues were paid prior to the date of Close of Escrow for period of time subsequent to such date, then Buyer shall pay to Seller that portion of the assessment attributable to the period of time after the date of Close of Escrow. Any homeowners or condominium association transfer fees or document fees payable in connection with the sale of the Property from Seller to Buyer shall be paid by Buyer. Insurance premiums will not be prorated. Seller cannot endorse or assign existing insurance policies (if any) to Buyer, and Seller may cancel any existing insurance on the Property as of the date of Close of Escrow.

- B. **SELLER'S EXPENSES.** Seller shall pay the Auction Broker fee described in Section 14 of this Agreement. Except as provided herein, Seller shall not be responsible for any amounts due, paid, or to be paid after the Close of Escrow. In the event Seller has paid any taxes, special assessments, or other fees at or prior to Close of Escrow, and there is a refund of any such taxes, assessments, or fees after the Close of Escrow, and Buyer, as current owner of the Property, receives the payment, Buyer will immediately submit the refund to Seller. Escrow/Closing Agent is hereby authorized to pay from Seller's proceeds Seller's expenses, as set forth in this Section.
- C. **BUYER'S EXPENSES.** Buyer shall pay, notwithstanding state or local custom, all costs of credit reports, loan fees, loan points, and other costs of obtaining the New First Mortgage/Trust Deed Loan, lender's title insurance charges for the policy of the lender of the New First Mortgage/Trust Deed Loan, the premium for the Owner's Title Insurance Policy identified in Section 8 of this Agreement, escrow fees and charges, unless otherwise agreed to in writing by Seller, tax service fees, recordation fees for the deed, and any mortgage or deed of trust, any documentary transfer tax, real property transfer taxes, or deed tax that may be imposed by the State, County, and/or City in which the Property is located, and Buyer's share of prorations and charges under Section 4.A. of this Exhibit C and first month's condominium/homeowners association membership fees and assessments, if any, and other closing costs of Buyer. All other costs and expenses, including any cost, expense, or transfer tax imposed by any state or local entity not otherwise addressed herein, shall be paid by Buyer. Any and all termite clearances and reports and any inspections required by any lender and/or repairs recommended or required by any termite and/or property inspection report, including, but not limited to, any roof certifications, shall all be at the sole cost and expense of Buyer. Buyer authorizes Escrow/Closing Agent to debit the Buyer's account a fee in the amount of Twenty Dollars (\$20.00) at the Close of Escrow in the event Buyer fails to deposit with Escrow/Closing Agent a change of ownership statement, if required by Escrow or applicable law. The foregoing costs and expenses shall be paid by Escrow/Closing Agent on Buyer's behalf from funds deposited into escrow by Buyer.
- D. **PRE-CLOSING EXPENSES.** Buyer and Seller are aware that the Escrow/Closing Agent may incur certain expenses during the course of processing this transaction, which must be paid prior to the Close of Escrow. Such costs may include, but are not limited to, demand request fees, homeowners association document fees, courier fees, overnight mail service, and city building and/or inspection reports, if applicable. Escrow/Closing Agent is authorized and instructed to release funds for payment of such costs prior to the Closing Date from funds deposited into Escrow by Buyer. The parties acknowledge that the funds are not refundable and Escrow/Closing Agent is specifically released from all responsibility and/or liability for payment of any funds pre-released through the Escrow. At Close of Escrow, Escrow/Closing Agent is authorized to charge the appropriate party for costs incurred or credit either one, if necessary.
- E. **POST-CLOSING AND SUBSEQUENT NOTICE OF COSTS, LIENS, OR ASSESSMENTS.** The acceptance of the deed of conveyance by Buyer will be deemed to constitute full compliance by Seller with all of the terms and conditions of this Agreement. Seller shall NOT be responsible for any unpaid real estate taxes and/or assessments, levies, fees, fines, penalties, homeowners association fees, dues, and charges, utility charges, or any other charges not readily obtainable from a title search prior to Closing. IF AT ANY TIME AFTER THE CLOSING, BUYER OR HIS/HER/ITS ASSIGNS OBTAINS ACTUAL OR CONSTRUCTIVE NOTICE OF ANY COSTS, LIENS, ASSESSMENTS, OR JUDGMENTS ASSOCIATED WITH THE PROPERTY THAT WERE NOT OF RECORD AT THE TIME OF THE CLOSING, INCLUDING, WITHOUT LIMITATION, CODE VIOLATIONS, TAXES, FEES, CHARGES, UTILITY LIENS, OR HOMEOWNERS ASSOCIATION OR CONDOMINIUM ASSESSMENTS, BUYER SHALL SOLELY BE RESPONSIBLE FOR THEIR PAYMENT AND SATISFACTION AND BUYER HEREBY RELEASES SELLER, ITS EMPLOYEES, OFFICERS, DIRECTORS, AUCTIONEER, BROKER, AND AGENTS OF ANY AND ALL LIABILITY IN CONNECTION THERETO, REGARDLESS OF WHETHER:
  - i. SELLER OWNED THE PROPERTY AT THE TIME SUCH COSTS WERE ASSESSED OR INCURRED; OR
  - ii. SELLER HAD ACTUAL OR CONSTRUCTIVE NOTICE OF THE EXISTENCE OF SUCH COSTS, LIENS, ASSESSMENTS, OR JUDGMENTS.

Buyer is responsible for verifying any possible liens, judgments, or assessments that may not be of record and hereby releases Seller from any and all liability related to any such liens, judgments, or assessments. Notwithstanding anything to the contrary in this Agreement, any provision that contemplates performance or observance subsequent to any termination or expiration of this Agreement, including paragraphs A, B, C, and D under this Section 4, shall survive the Closing, funding, and delivery of the deed and/or termination of this Agreement by any party and continue in full force and effect.

**5. CANCELLATION OF ESCROW.**

- A. DEFAULT.** If, due to a failure of a party to perform any of its obligations hereunder, the Escrow does not close by no later than the date provided in Section 8, then the non-defaulting party may cancel the Escrow by written notice to the defaulting party and the Escrow/Closing Agent and the defaulting party shall pay all cancellation fees of the Escrow/Closing Agent and the Title Company. The parties shall be further subject to the provisions of Section 11 of this Agreement.
- B. NO DEFAULT.** If any of the conditions precedent to the Close of Escrow are not satisfied or not waived by the date for Closing and both parties have performed all of their respective obligations hereunder, then either party may cancel the Escrow by written notice to the other party and the Escrow/Closing Agent. In such event, Escrow/Closing Agent shall return to Buyer (as Buyer's sole and exclusive remedy) the Earnest Money Deposit, less an amount equal to Buyer's expenses set forth in Section 4.C. of this Exhibit C, and Seller and Buyer shall each bear one half (1/2) of the cancellation fee of the Escrow/Closing Agent and the Title Company. Upon return of the Earnest Money Deposit, as provided in this Section, this Agreement shall be terminated, and Buyer and Seller shall be released from any further obligation, each to the other, in connection with this Agreement. Buyer grants Seller the unilateral right to execute cancellation instructions in the event that Seller elects to cancel Escrow.

**6. CLOSE OF ESCROW.**

IF BUYER DESIRES TO EXTEND THE CLOSING DATE, BUYER MUST GIVE SELLER WRITTEN NOTICE AT LEAST FIVE (5) CALENDAR DAYS PRIOR TO THE SCHEDULED CLOSING DATE. IF SELLER, IN ITS ABSOLUTE AND SOLE DISCRETION, GRANTS BUYER A CLOSING DATE EXTENSION, BUYER AGREES TO PAY TO SELLER A NON-REFUNDABLE FEE EQUAL TO AN ADDITIONAL FORTY DOLLARS (\$40.00) PER DIEM FOR EACH DAY OF EXTENSION, THROUGH AND INCLUDING THE CLOSING DATE. IF SELLER APPROVES THE EXTENSION, BUYER SHALL DELIVER THIS ADDITIONAL NON-REFUNDABLE FEE TO THE ESCROW/CLOSING AGENT ON OR BEFORE THE ORIGINAL CLOSING DATE. THIS ADDITIONAL, NON-REFUNDABLE FEE WILL NOT BE CREDITED TOWARD THE TOTAL PURCHASE PRICE. IF BUYER FAILS TO PERFORM WITHIN THE EXTENDED TIME, SELLER MAY TERMINATE THIS AGREEMENT AND RECEIVE THE ADDITIONAL, NON-REFUNDABLE FEE AND THE EARNEST MONEY DEPOSIT.

- 7. BUYER AND SELLER AGREE TO THESE ESCROW INSTRUCTIONS.** Seller and Buyer have read and agreed to all of the escrow instructions detailed in this Exhibit C and hereby incorporated in this Agreement. In the event of a conflict between the escrow instructions set forth in this Exhibit C or as a separate document and this Agreement, including all other Exhibits and Addenda hereto, the terms of this Agreement and its Exhibits and Addenda shall control.

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Signature of Buyer

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Signature of Seller