

## SOUTHERN ELITE AUCTIONS \* SALES CONTRACT

This agreement of sale is made and entered into on the date hereinafter expressed by and between the following parties:

SELLER(S): \_\_\_\_\_ PURCHASER(S): \_\_\_\_\_

Witnesseth, that Seller agrees to sell and Purchaser agrees to purchase from the Seller the property described below on the following terms and conditions: \_\_\_\_\_

Total Price: \$ \_\_\_\_\_ = High Bid: \$ \_\_\_\_\_ + Auction Premium: \$ \_\_\_\_\_

Earnest Money: \$ \_\_\_\_\_ (Receipt of which is hereby acknowledged by the Auctioneer)

Balance due: \$ \_\_\_\_\_ (Any and all closing costs above the balance due are the responsibility of the Purchaser)

### DISCLOSURES:

1. All measurements are considered more or less.
2. Title opinion, title insurance policy, recording fees, attorney fees, and loan fees are the Purchaser's sole cost and responsibility.
3. The Parties agree that under Code of Alabama Section 7-2-328 (1975), the sale by auction is complete when the Auctioneer so announces by the fall of the hammer or in other customary manner.
4. A lead paint disclosure is attached for properties constructed prior to 1978.

### TERMS AND CONDITIONS:

1. The following is required by the Alabama Real Estate Consumer Agency and Disclosure Act:  
**AGENCY DISCLOSURE: The Listing Company is SOUTHERN ELITE AUCTIONS** (Two blocks may be checked):  
 An agent of the Seller.  An agent of the Buyer.  An agent of both Seller and Buyer, and is acting as a limited consensual dual agent.  
 Assisting the Buyer as a transaction broker.  Assisting the Seller as a transaction broker.  
**AGENCY DISCLOSURE: Selling Company is \_\_\_\_\_** (Two blocks may be checked):  
 An agent of the Seller.  An agent of the Buyer.  An agent of both Seller and Buyer, and is acting as a limited consensual dual agent.  Assisting the Buyer as a transaction broker.  Assisting the Seller as a transaction broker.
2. The Seller will furnish a good and merchantable \_\_\_\_\_ Warranty Deed, excepting therefrom ad valorem taxes, existing restrictions, outstanding rights of redemption, easements, rights of way of record, setback lines, and applicable zoning ordinances unless otherwise specified herein.
3. Seller and Purchaser hereby agree to indemnify and hold the Auctioneer, Auction Company, and its representatives and apprentices harmless from and against any and all liability or loss that may be claimed against the Auctioneer as a result of this auction contract or the auction conducted under this contract. Said indemnity is to include any and all expenses and costs, including but not limited to attorney's fees, sustained as a result of any claims, suits, demands, costs, or judgements arising from this auction contract or the auction subject to it, from any person, firm, corporation, partnership, LLC, or any other entity for any reason whatsoever.
4. All taxes, insurance, and rents shall be prorated from the date of closing unless otherwise specified herein.
5. This transaction shall be closed and the balance due above paid in full on or before \_\_\_\_\_. The settlement agent shall be \_\_\_\_\_. Possession is to be given with deed delivery. Time is of the essence. Seller shall have a reasonable time to perfect title to the property.  Check here if settlement agent (as named herein) is holding the earnest money.
6. Should the Purchaser fail to carry out this contract in accordance with all its terms and provisions, the Seller shall have the option to do one of the following: 1. The Seller may declare the Purchaser in default and proceed against the Purchaser for breach of contract including a reasonable attorney's fee, in which event the Auctioneer is entitled to the compensation stipulated in the listing agreement. The earnest money herein mentioned shall be applied to legally ascertained damages. 2. The Seller may elect to reaffirm the contract and proceed for specific performance, in which event the Auctioneer is entitled to the compensation stipulated to in the listing agreement. 3. The Seller may accept the earnest money paid herein as liquidated damages and the earnest money so forfeited shall be divided equally between the Auctioneer and Seller after payment of the Auctioneer's expenses and advertising.
7. Should the Seller fail to carry out this contract in accordance with all of its terms and provisions, the Purchaser shall have the option to do one of the following: 1. The Purchaser shall be entitled to a refund of his earnest money plus reimbursement from the Seller for any sums expended for title opinions, and upon payment by the Seller of such sums, this contract shall be at an end. 2. Buyer may without demanding a return of his earnest money, proceed with a suit for specific performance of this contract. In all cases of Seller default, the Seller will owe the Auctioneer the full amount of compensation stipulated in the listing agreement.
8. The defaulting party shall pay the reasonable costs and expenses that may arise out of enforcing this agreement, including reasonable attorney's fees.
9. Any controversy or claim arising out of, or relating to, the execution, interpretation, performance, or breach of any provision of this Agreement and any future claims between the parties, regardless of their contractual relationship, shall be settled by arbitration. The arbitration must be arbitrated by the parties in accordance with the rules of the American Arbitration Association, with the exception of the rules with respect to payment of fees and appointment of an arbitrator. Moreover, any controversy or claim between the parties to this Agreement, regardless of whether such controversy or claim arises out of, or relates to, this agreement, shall likewise be settled by arbitration in accordance with the rules of the American Arbitration Association. If any party to a dispute desires to arbitrate the dispute, either before or after a lawsuit is filed, such party shall demand arbitration by giving the other party or parties written notice. If the parties cannot agree on an arbitrator within fourteen (14) days after the date of such notice, each party shall name an arbitrator within ten (10) days. The two (2) arbitrators shall select (1) arbitrator within ten (10) days, and the selected one (1) arbitrator shall arbitrate the dispute(s). Payment of all arbitration fees and expenses shall be divided equally between the parties. In the event that any court determines the preceding sentences are not to be enforced in whole or in part for any reason, then the parties intend that the preceding sentences shall only apply to any controversy or claim arising out of, or relating to, the course of dealings between the parties on account of the relationship created by this agreement. Course of dealings includes agreements other than, and subsequent to, this agreement entered into between the parties. Arbitration shall be held in Madison County, Alabama.
10. This sale is not contingent upon financing. PURCHASER ACKNOWLEDGES AND AGREES THAT PURCHASER'S OBLIGATIONS UNDER THIS SALES CONTRACT SARE NOT CONTINGENT UPON PURCHASER OBTAINING A LOAN FROM ANY LENDER. ACCORDINGLY, PURCHASER SHALL BE OBLIGATED TO PERFORM ITS OBLIGATIONS UNDER THIS CONTRACT WHETHER OR NOT PURCHASER CAN OBTAIN A LOAN TO FINANCE THE PURCHASE OF THE PROPERTY.
11. Purchaser and Seller hereby acknowledge and agree that the Auctioneer shall hold the earnest money in its Trust Account in accordance with the terms and provisions of this contract, and that the Auctioneer shall be relieved of all liability and held harmless by both Seller and Purchaser in the event of a dispute over the earnest money. The earnest money will be paid out only under one of the following conditions: (1) At settlement of the sale herein to the closing attorney (2) A mutually agreed upon release of liability signed by all parties with disbursement instructions (3) Interpleader into a court of competent jurisdiction (4) Court order from a court of competent jurisdiction.
12. DISCLAIMER OF WARRANTIES / "AS IS" CONEYANCE:
  - a) Purchaser warrants and acknowledges to and agrees with Seller and Auctioneer that Purchaser is purchasing the Property in an "AS IS, WHERE IS" condition "WITH ALL FAULTS" and specifically and expressly without any warranties, representations, or guarantees, either express or implied, of any kind, nature, or type whatsoever, from or on behalf the Seller.
  - b) Purchaser acknowledges to and agrees with Seller and Auctioneer that with respect to the property, Seller and Auctioneer have

- not, do not, and will not make any warranties or representations, express or implied, or arising by operation of law, including, but not limited to, warranty as to the value, physical condition, square footage, size or area of the property, matters of municipal code violation including but not limited to the presence of open open building permits, unresolved code violations, or unpermitted improvements, acreage, environmental condition (including but not limited to wetlands, lead based paint, radon gas, asbestos, underground storage tanks, illegal or illicit pharmaceutical manufacturing, or any other hazard), zoning compliance, good repair, operability, habitability, tenantability, suitability, merchantability, profitability, marketability, past or present compliance with any rules, regulations, covenants, or restrictions, development potential, or fitness for any particular purpose of the property.
- c) Purchaser acknowledges that it is the Purchaser's responsibility to make such legal, factual, and other inquiries and investigations, as Purchaser deems necessary, desirable, or appropriate with respect to the property. Purchaser acknowledges Purchaser has executed this contract based solely on their own independent due diligence investigations and findings, and not in reliance on any information provided by the Seller and Auctioneer or their affiliates, agents, officers, employees, or representatives. Purchaser acknowledges that Purchaser has not relied, and is not relying, upon any information, document, sales brochures, or other literature, maps, or sketches, projection, pro forma, statement, representation, guarantee, or warranty (whether express or implied, oral or written, material or immaterial) that may have been given or made by or on behalf of the Seller or Auctioneer.
  - d) Purchaser shall look only to the Seller, and not the Auctioneer, as to all matters regarding this Agreement and the Property. The Auctioneer shall not be responsible or liable in any way if the Seller fails or refuses to or cannot close title hereunder, or if the Property is affected in any way, in need of attention or repairs, or is in any other way unsatisfactory to Purchaser as Purchaser may determine either before or after closing.
  - e) Without in any way limiting the generality of the preceding subparagraphs (a) through (d), Purchaser specifically acknowledges and agrees that Purchaser hereby waives, releases, and discharges any claim it has, might have had, or may have against the Seller or Auctioneer with respect to the condition of the property, either patent or latent; Purchaser's ability or inability to obtain or maintain building permits, either temporary or final certificates of occupancy or other permits or licenses for the use or operation of the property, and/or certificates of compliance for the property, the actual or potential income or profits to be derived from the property, the real estate taxes or assessments now or hereafter payable thereon, the compliance with any environmental protection, pollution, or land use laws, rules, regulations, or requirements, and any other state of facts which exist with respect to the property.
13. Seller and Purchaser acknowledge that they have not relied upon the advice or representation of the Auctioneer involved with this sale relative to (1) the legal or tax consequences of this contract and the sale, purchase, or ownership of the property (2) the structural condition of the property including the condition of the roof and basement, termite, fungus, mold, and/or wood infestations (3) the electrical, heating, air conditioning, plumbing, and water heating systems and appliances (4) the age and square footage of the improvements and the size, area, and acreage of the property (5) the availability of utilities or sewer service (6) the character of the neighborhood (7) the investment or resale value of the property (8) any other matter affecting their willingness to sell or purchase the property on the terms and price herein set forth (9) the rights of way to the property, the street access to the property, and/or the ingress or egress to the property. Seller and Purchaser acknowledge that if such matters are of concern to them in their decision to sell or purchase the property they have sought and obtained independent advice relative thereto.
  14. It is the Purchaser's sole responsibility to perform all inspections (physical, legal, economic, environment, archeological, or otherwise) on the property and to be satisfied as to its condition prior to making an offer on the property; review all property information and due diligence materials; independently verify any information they deem important including information available in the public records; and inquire of public officials as to the applicability of and compliance with land use and environmental laws, building ordinances, zoning, health and safety codes, and any other local, state, or federal laws and regulations. The purchaser is responsible for the costs of any and all inspections, surveys, engineering reports, environmental studies, including but not limited to lead based paint test, or for any other work performed at Purchaser's request and Purchaser shall pay for any damage which occurs to the property as a result of such activities. Purchaser shall not permit any claims or liens of any kind against the Property for inspections, surveys, engineering reports, or for any other work performed on the property at the Purchaser's request. Purchaser agrees to indemnify, protect, and hold the Seller and Auctioneer harmless against any liability, damage, cost, or expense incurred, either directly or indirectly, by Seller, as a result of Purchaser's inspection, examination, or survey of the property, either prior to, on, or after the hereof. This indemnity includes the Seller's right to recover all costs and expenses incurred by the Seller to enforce this section, including Seller's reasonable attorney's fees. Purchaser agrees to repair any damage caused by such inspections and to restore the property to its condition prior to the inspection. This provision shall survive the closing and/or any termination of this contract.
  15. The Auctioneer has made no representations or warranties as to the physical condition of the real estate and/or any improvements therein. The Auctioneer is not familiar with the environmental condition of the property and has made no statements or warranties that said real estate is or is not free from any hazardous and/or toxic substances. Purchaser of said real estate releases and holds harmless the Auctioneer from and against all claims, losses, demands, costs, expenses (including attorney's fees and other legal costs), liabilities, damages, and judgements arising out of or related to Auctioneer's relations to said real estate, and the Purchase acknowledges their understanding, acceptance of and agreement with the conditions, releases, indemnities, representations, and warranties set forth.
  16. All terms, conditions, and warranties not performed at the time of delivery of deed shall survive such delivery.
  17. All parties to the contract acknowledge that each of them and their counsel have had an opportunity to review this agreement, and this agreement will not be construed against either party, merely because the other party may have prepared it.
  18. This document contains the entire agreement between the parties hereto and no promises, statements, covenants, conditions, and representations have been made by either party hereto, other than those expressly set forth herein, and nothing outside of the four corners of this documents have been relied upon. No additions, deletions, or modifications to, or from this agreement shall be binding upon any party hereto, unless such addition, deletion, or modification shall be set down in writing, properly executed by all parties hereto, and attached as a part hereof.

**THE PARTIES HERETO VOLUNTARILY, KNOWINGLY, IRREVOCABLY, AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN THE AUCTIONEER, SELLER, OR PURCHASER ARISING OUT OF OR IN ANY WAY RELATED TO THIS DOCUMENT, THE AUCTION SALE, OR THE CLOSING OF THE SAME.**

**ADDITIONAL PROVISIONS:**

Executed electronically by the parties as indicated by time stamp below, or as dated below if handwritten:

Purchaser: _____	Purchaser: _____
Purchaser: _____	Purchaser: _____
Seller: _____	Seller: _____
Seller: _____	Seller: _____
Auctioneer: _____	