

TRACT# _____

AUCTION # _____

S/B/L # _____



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**Nationwide Auction, Liquidation, Real Estate, Consulting & Mgmt. Services
Licensed & Bonded Auctioneers/Liquidators/Realtors/Certified Appraisers/Consultants**

CONTRACT FOR PURCHASE AND SALE OF REAL ESTATE

This contract should be reviewed by counsel prior to bidding as it contains terms and requirements which are not subject to modification. By bidding on any property being offered for sale, you acknowledge that you have either: (i) reviewed the contract with your attorney or, (ii) waived right of attorney review. Further note that failure of purchaser to secure financing prior to date of transfer does not constitute grounds for an extension or return of the down payment, buyer's premium or administrative fees.

1. **A. SELLER** – The seller(s) is/are _____
residing at _____

B. PURCHASER – The purchaser(s) is/are _____
residing at _____

C. BROKER - When referred to herein means Collar City Auctions, Inc., Auctioneer/Broker

D. SINGULAR ALSO MEANS PLURAL – Any singular word or term in this contract shall be read in the plural whenever the sense of this contract may require it.

2. **PROPERTY TO BE SOLD** – (called "the property"); **SOLD "AS IS" & "WHERE IS"**.
The property, which the seller agrees to sell and the buyer agrees to purchase "as is", is called Auction Tract # _____ located at/on _____
in the City/Town/Village of _____

County of _____ State of _____ This property includes all the seller's rights and privileges, if any, to all land, water, streets annexed to, and on all sides of the property. The Purchaser accepts the property in "as is" "where is" condition at time of purchase and transfer.

3. **ITEMS EXCLUDED FROM SALE** – The following items are excluded from the sale: Personal Property of Seller or Tenants, if any, plus: _____
ITEMS INCLUDED IN SALE: _____

4. **BUYER'S FEE** – The Buyer and Seller understand and agree that the "Buyer's Fee" or Flat Fee, whichever is greater, is paid by the Buyer to the Broker which is equal to _____ Percent of the Buyer's **BID PRICE** of \$ _____ for the property. It is separate from any sale commission due Broker from Seller, and is deemed earned by the Auctioneer / Broker when this contract is signed / accepted or approved by the parties, and is non-refundable upon signing / approval or acceptance by Seller and Buyer. **It is delivered to the Auctioneer/Broker for his sole use.**

5. **PURCHASE PRICE** – (Bid Price + Add-on Fees, if any) - The BID Price is (\$ _____ U. S. Funds)

6. **PAYMENT OF TOTAL PURCHASE PRICE** – The Buyer shall pay the total purchase price as follows, plus additional fees below:

- A. \$ _____ as a down payment upon signing this contract, receipt of which is acknowledged.
- B. \$ 750.00 Administrative / Advertising Fee To Benefit Auction Company _____ 20 "TIME BEING OF ESSENCE."
- C. \$ _____ Deed and Transfer Document Fee _____, 20 "TIME BEING OF ESSENCE."
- D. \$ _____ in cash or certified check at closing or transfer of title on or before _____, 20 _____
- E. \$ _____ Purchase Price (all the above). (Note: Additional fees may apply at transfer of title). Buyer's Fee is NOT included. See F. below

F. \$ _____ as the Buyer's Fee, **separate and in addition to the Bid Price**, to be paid on or before _____, 20 "TIME BEING OF ESSENCE." Balance due on or before _____ 20 "Time Being of Essence". \$100.00 Per Day Penalty Shall Apply Until Full Buyer's Premium is Received by CCARM.

- 7. **DEED:**
The property shall be transferred, from Seller to Buyer, by means of a _____ **Deed**. At closing or transfer of title, Seller shall transfer Title to the Buyer; subject to legal easements, rights of way, restrictions, rights, privileges, zoning and environmental protection laws, or other conditions of title as may then exist on, in, under or adjacent to property. The deed and real property transfer gains tax affidavit will be properly prepared and signed so that they will be accepted for recording by the County Clerk in the county in which the property is located. If the Seller is transferring the property as an executor, administrator, trustee, committee or conservator, the form of deed customarily used shall be sufficient.
- 8. **REPORT SALE TO IRS** – Seller shall report this sale to the IRS and use the appropriate forms and release Auctioneer / Broker and Auction Company of any obligation to do so.
- 9. **OTHER TERMS, If any:** Buyer shall receive the property free and clear of any and all liens or mortgages, if any. _____
- 10. **BUYER'S MORTGAGE EXPENSES (if any)** – Unless stated otherwise, this contract is for a cash sale and the Buyer understands and agrees it is not contingent upon the Buyer obtaining any loan to purchase the property. However, should Buyer obtain a loan, Buyer understands and agrees that the closing shall not be delayed by reason of any loan application or process of such loan, and that all lender mortgage loan fees, points, appraisal fees, title insurance and all other expenses incidental to any such loan shall be paid by Buyer. Buyer further agrees and understands that the Auctioneer / Broker is not obligated in any manner to make the property available for inspections post auction.

SEE ADDITIONAL BINDING TERMS ON REVERSE SIDE

WITNESS _____ BUYER
SS # or FED I.D. _____

WITNESS _____ BUYER
SS # or FED I.D. # _____

PHONE # BUS. () _____ RES. () _____
FAX # () _____ CELL () _____

DATED _____ 20 _____ TIME _____ AM/PM

WITNESS _____ SELLER
SS # or FED I.D. # _____

WITNESS _____ SELLER
SS # or FED I.D. # _____

PHONE # BUS. () _____ RES. () _____
FAX # () _____ CELL () _____

DATED _____ 20 _____ TIME _____ AM/PM

BUYER'S ATTORNEY
NAME _____
ADDRESS _____
PHONE # () _____
FAX # () _____
E-MAIL: _____

SELLER'S ATTORNEY
NAME _____
ADDRESS _____
PHONE # () _____
FAX # () _____
E-MAIL: _____

11. **BROKER AGENT(S) FOR SELLER ONLY** – It is clearly understood and agreed by both the Buyer and the Seller that the **AUCTIONEER / BROKER OR ANY AUCTION COMPANY REPRESENTATIVES REPRESENT(S) ONLY THE SELLER.** Buyer acknowledges receipt (written) notice of this fact.
12. **DEFAULTS OF SELLER/BUYER AND PAYMENT OF ALL COMMISSIONS TO AUCTIONEER / BROKER:**
- A. SELLER DEFAULT** – Seller understands and agrees that if Seller defaults in performing this contract:
1. Seller shall be liable to and pay the Auctioneer /Broker for all commissions and expenses due Broker from this sale including the **BUYER'S FEE** (when applicable). Payment, in full, is due and payable to and unconditionally earned by broker when the Auctioneer/Broker says "SOLD" and / or upon execution of this agreement by the Purchaser.
 2. All persons identified as Seller shall be jointly and severally liable to the Auctioneer / Broker for all commissions, expenses, **BUYER'S FEE**, and collection expenses under 12.D, due to the Auctioneer / Broker.
- B. BUYER DEFAULT** - Buyer understands and agrees that if Buyer defaults in performing this contract the following apply:
1. **BUYER'S FEE** – Buyer shall be liable to and pay the Auctioneer / Broker the **BUYER'S FEE** as stated in paragraph 4, not as a penalty, but as liquidated damages, plus any additional fees incurred. Payment shall be made to broker (from escrow, if on deposit with the Auctioneer / Broker) on the contract closing date or date of default by Buyer, whichever occurs first.
 2. **SELLER MAY ACCEPT DOWN PAYMENT AS LIQUIDATED DAMAGES FOR BUYER DEFAULT, AT OPTION OF SELLER, AS FOLLOWS:**
 - a. Buyer shall forfeit to Seller as liquidated damages, and the Auctioneer / Broker is hereby authorized to pay over to the Seller from escrow, if being held by Auction Company, all down payments held by the Auctioneer / Broker under this contract, excluding monies owed to the broker. Broker shall deduct all sums due from Seller for expenses of sale and / or commission from the down payments, at the time paid over. If Broker receives payment for commissions under paragraph 12.B, only expenses of sale owed to the Auctioneer / Broker by Seller shall be deducted, unless Buyer's Fee has not been paid then that amount shall be deducted by the Auctioneer / Broker.
 - b. "**DOWN PAYMENTS**" – The term "down payments" does not include the **BUYER'S FEE**, which the Auctioneer / Broker is entitled to be paid under subparagraph 12.B.(1.), independent of any sale expenses and/or commission due from Seller.
- C. LIQUIDATED DAMAGES TO THE AUCTIONEER / BROKER FOR COMMISSIONS WHEN BUYER'S FEE IS INVOLVED:**
1. Buyer and Seller both agree that in the event of a default by the Buyer under this contract, the Auctioneer / Broker shall retain the **BUYER'S FEE** plus any advertising or additional fees owed, not as a penalty, but as liquidated damages for all commissions, including **BUYER'S FEE**, due the Auctioneer / Broker from this sale.
- D. AUCTIONEER / BROKER TO BE PAID COLLECTION EXPENSES TO OBTAIN PAYMENT OF ANY COMMISSION, SALE EXPENSES and/or BUYER'S FEE DUE** – Seller and Buyer agree that, in addition to any commission and / or expenses of sale due to the Auctioneer / Broker from Seller, or **BUYER'S FE** due Broker from Buyer from this sale and agreement, the Auctioneer / Broker shall be entitled to receive payment for all collection expenses incurred to collect (including, but not limited to reasonable attorney fees) all or any commission, **BUYER'S FEE**, and / or expenses of sale not paid to the Auctioneer / Broker by the responsible party when due. Such collection expenses are due and must be paid to the Auctioneer / Broker immediately upon demand, and without regard to whether litigation is pending, commenced or concluded. Buyer acknowledges that a 2% monthly finance charge shall be added to any or all monies owed to the Seller and / or the Auction Company + a \$50.00 weekly late fee per property until full payment is received.
13. **TITLE INSURANCE / ABSTRACT OF TITLE** - Expenses for Title and Tax Searches shall be PAID BY THE BUYER.
14. **STATE TRANSFER TAX** – Buyer agrees to pay on behalf of seller all transfer tax / deed stamps payable and recording fees in connection with the transfer of title as well as prorated taxes, water, sewer, utilities and rents, when applicable.
15. **DATE AND PLACE OF TRANSFER OF TITLE** – The transfer of title to the property from Seller to Buyer shall take place as specified by the Seller's Attorney or Seller's Agent at a designated location to be determined by Seller or Seller(s) agent or by mail, if acceptable to the Seller. **Closing shall occur on or before _____ "Time Being of Essence".**
16. **POSSESSION** – Buyer shall be given possession of the property at closing or transfer of title, unless otherwise agreed to in writing signed by the parties and subject to any occupancy of a tenant. If occupied, Purchaser shall be responsible for any and all eviction proceedings. Personal property is excluded from the sale, unless on site at transfer of title.
17. **REPAIR OF DAMAGE PRIOR TO CLOSING / TRANSFER OF TITLE** - In the event Buyer has neither possession nor legal title to the property and any improvement is damaged by any cause or act of God prior to closing, at the sole and exclusive option of the Seller, Seller may within 30 days and by written notice to Buyer, elect to repair such damage. Seller shall then have a reasonable time to collect insurance proceeds, if any, and cause such damage to be repaired in a good and workman like manner at the Seller's expense. The closing shall be extended for completion of such repairs. Otherwise, Risk of Loss prior to closing shall be as set forth under **STATE GENERAL OBLIGATIONS LAW** and shall apply to this contract as though set forth herein. If the Seller elects NOT to repair any damages, upon signing of this agreement, the Purchaser agrees to accept the property "as is" at time of transfer and waives all rights of claims against the Seller and Auction Company, if any exist.
18. **NOTICES** - Any notice contemplated by this agreement is deemed given on date of receipt, if in writing and delivered by any party to the other (Seller, Buyer, or Auctioneer / Broker) by any of (1), or (2), or (3) (a) through (d):
- (1) in the same manner as a summons in a civil action; or
 - (2) by certified mail return receipt requested; or
 - (3) by delivery to the party's authorized agent or attorney either:
 - (a) in the same manner papers are served on an attorney in a civil action, or
 - (b) by certified mail return receipt requested,
 - (c) service by facsimile is NOT accepted
 - (d) if (3) (a) or (b) is used, in addition, a copy of the notice must be mailed first class mail to the other party at the address shown in this agreement; however, notice is deemed given when received by the agent or attorney.
 - (4) The person who signs this agreement for any party, Buyer or Seller, is the person to whom notices shall be given for such party, unless otherwise agreed in writing.
19. **ESCROW ACCOUNT DEPOSITS** – It is hereby agreed that the down payments, paid by the Buyer are to be deposited and held in the Auctioneer's / Broker's Escrow Account until closing or day of default, whichever occurs first. Down payments shall be credited against the purchase price at closing, but must first be applied to any commissions owed by Seller to the Auctioneer / Broker with any excess paid over to Seller.
20. **WHEN COMMISSION and/or BUYER'S FEE, FLAT FEE, ADMINISTRATIVE FEE, ETC. EARNED BY THE AUCTIONEER / BROKER / AUCTION COMPANY** - Any commission due the Auctioneer / Broker from Seller and the Buyer's FEE plus any other fees paid by Buyer (when included) are deemed earned by the Auctioneer / Broker upon either acceptance / approval or signing of this contract by the Seller and Buyer.
21. **ENTIRE AGREEMENT** - This contract constitutes the entire agreement between Seller and Buyer, and neither is relying on any statements, promises, representations, inducements, agreements or warranties express or implied, oral or written, that are not set forth herein; except that each undersigned warrants having the authority and capacity to sign as and/or for Seller and Buyer, respectively. Seller and Buyer agree that "hold harmless" shall apply to Auctioneer / Broker in all cases. Auctioneer / Broker /Auction Company shall not be responsible for any errors or omissions. Buyer agrees not to bring any action or legal proceeding against Auctioneer / Broker or Auction Company at any time now or in the future and agrees to pay reasonable attorney fees and costs incurred by the Auction Company in defense of such action brought by the Buyer. In addition, buyer shall compensate Auction Company \$275.00 per man hour with regard to any and all time applied to preparation, defense and supplying of additional information, copies etc. and shall be pre-paid prior to providing service.
22. **CHANGES TO CONTRACT MUST BE SIGNED AND IN WRITING** - Any changes to this contract are not effective unless in writing and signed by Seller and Buyer or their duly authorized agents. However, any change in the obligation of the Buyer to pay an Auctioneer / Broker Commission and / or the **BUYER'S FEE**, or any terms affecting the Auctioneer / Broker, shall not be effective without the written consent of the Auctioneer / Broker.
23. **BINDING UPON PARTIES, ETC.** - This agreement is binding upon and shall inure to the benefit of the Seller and Buyer, and their respective heirs, executors, legal representatives, successors and assigns, trustees and all trusts whether revocable or irrevocable.