



**YOUNG BROTHERS REAL ESTATE**  
**PROPERTY PURCHASE AND SALE AGREEMENT**

This Property Purchase and Sale Agreement (the "Agreement") is made and entered into this 23<sup>rd</sup> day of February, 2008, ("Effective Date" of Agreement) by and between:

BUYER:

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NOTE: If BUYER is married, intends to obtain financing for this transaction, and intends to reside in the Property as their homestead property, BUYER is hereby notified that under Florida Law Buyer's spouse must sign any mortgage encumbering the Property at Closing. Buyer is hereby notified that Buyer is advised to obtain the execution of this Agreement by Buyer's spouse also, or if Buyer fails to do so and Buyer's spouse refuses to sign the mortgage at a later date and as a result Buyer is unable to purchase the Property, that Buyer will be in default of this Agreement and suffer the forfeiture of the Bidder Registration Fee and Purchase Deposit.

SELLER: Kimberley B. Graham

PROPERTY ADDRESS: 380 Sophia Terrace, St. Augustine, FL 32095

LEGAL DESCRIPTION: 44/25-29 MARSHALL CREEK DRI UNIT SV-2 LOT 21  
OR2822/958

PARCEL ID #: 072079 0210

The parties agree and acknowledge that the property described hereinabove "the Property" has been sold at auction and that Buyer has signed a Bidder Registration Form and Auction Terms and Conditions agreement for the auction. The Bidder Registration Form and the Auction Terms and Conditions are herein incorporated by reference. Buyer may not withdraw this offer to purchase the Property until the end of the auction, and in the event that Buyer is the winning bidder, Buyer's offer must remain open until 11:59 p.m. of the date of the auction during which time Seller shall sign this Agreement and thus bind the parties to the terms and conditions hereof.

Seller warrants and represents that Seller is presently the fee simple owner of the property described above ("Property"). It is understood that the Property will be conveyed by general warranty deed subject to current taxes, covenants, restrictions and easements of record and permitted exceptions.

In consideration of the mutual covenants and conditions hereinafter set forth, the sufficiency of which is hereby acknowledged by the parties hereto, the parties agree as follows:

**1. AGREEMENT TO PURCHASE:** Seller, in consideration of the covenants and agreements herein contained and made by Buyer, agrees to sell, convey and assign to Buyer, and Buyer agrees to purchase and accept under the terms and conditions and for the purchase price set forth hereinbelow, the Property and all other easements, rights, privileges and appurtenances, if any, owned by Seller, in any way related to the Property.

**2. PURCHASE PRICE:** The Purchase Price for the Property is payable as described below. The Purchase Price is calculated by adding a Buyer's Premium of 10% to the Gavel Price as bid by Buyer in the auction of the Property, as such terms are defined in the Bidder Registration Form and Auction Terms and Conditions. The Purchase Price does not include Buyer's required prepaid escrows, closing costs that are the responsibility of Buyer, or any pro-rated taxes or assessments.

**(a) Winning Bid Amount** \$ \_\_\_\_\_  
*Final Gavel Price*

**(b) Buyer's Premium** \$ \_\_\_\_\_  
*10% of Winning Bid Amount.*

**(c) Purchase Price** \$ \_\_\_\_\_  
*Winning Bid Amount plus Buyer's Premium*

**(d) Escrow Amount Due** \$ \_\_\_\_\_  
*10% of Purchase Price*

**(e) Bidder Registration Fee** \$ \_\_\_\_\_  
*The Bidder Registration Fee has been made via an official or certified check, made payable to Buyer, and endorsed to Escrow Agent at even time herewith. The Bidder Registration Fee shall be applied to the Escrow Amount Due and Purchase Price at Closing.*

**(f) Purchase Deposit** \$ \_\_\_\_\_  
*The Purchase Deposit is due and payable in certified funds no later than 5:00 p.m. on the first business day following the date of execution hereof. The Purchase Deposit shall be applied to Escrow Amount Due and the Purchase Price at Closing.*

**(g) Balance due in certified funds on the Closing Date** \$ \_\_\_\_\_

*Not including Buyer Closing Costs*

**3. FINANCING:** BUYER AGREES AND ACKNOWLEDGES THAT BUYER'S OBLIGATIONS ARISING FROM THE AGREEMENT ARE NOT CONTINGENT UPON BUYER'S ABILITY TO OBTAIN FINANCING. IN THE EVENT THAT BUYER ELECTS TO PURSUE FINANCING FOR A PORTION OF THIS TRANSACTION AND IS UNABLE TO OBTAIN THE FINANCING THEN BUYER SHALL BE IN DEFAULT.

**4. BIDDER REGISTRATION FEE AND PURCHASE DEPOSITS:** The Purchase Deposit shall be made payable to Bartlett & Deal Title Services, LLC ("Escrow Agent") and will be held in Escrow Agent's escrow account, with all interest earned thereon payable to Escrow Agent as a fee for Escrow Agent's roles and duties hereunder. The Bidder Registration Fee check shall be endorsed to Escrow Agent immediately after Buyer becomes the winning bidder at the auction. The Purchase Deposit and Bidder Registration Fee are non-refundable upon payment, for any reason other than the refusal or inability by Seller to execute the Deed or other required documents to convey the Property to Buyer at Closing. In the event that Buyer fails to close on the purchase of the Property by the time required herein for any reason other than the refusal or inability by Seller to execute the Deed or other required documents to convey the Property to Buyer at Closing, then Buyer specifically authorizes Escrow Agent to disburse the Bidder Registration Fee and Purchase Deposit to the Auctioneer or Seller, as directed by written order or agreement from those parties. Escrow Agent shall not be required to obtain or require further written documentation or direction from Buyer or any other party to be allowed to disburse the Bidder Registration Fee and Purchase Deposit to Auctioneer and/or Seller.

**5. BUYER'S PREMIUM:** The Buyer's Premium is 10% of the winning bid (Gavel Price) and is added to the Gavel Price to determine the total Purchase Price. As such, the Buyer's Premium is considered by the parties to be a component of the Purchase Price and not a "closing cost" as such costs are otherwise listed or described herein.

**6. CLOSING:** The Closing shall take place at the offices of Bartlett & Deal Title Services, LLC ("Closing Agent") at 135 Professional Drive, Suite 101, Ponte Vedra Beach, FL 32082, 904-285-5299, by 5:00 p.m. on or before 30 calendar days from the date of execution hereof.

**7. CLOSING COSTS:**

- (a) Seller agrees to pay the costs of satisfaction of any outstanding mortgages and associated recording fees or express mail or wire fees, seller's attorney's fees (if any), and any commissions due to the Seller's broker or Auctioneer.
- (b) Buyer agrees to pay the costs of an owner's title insurance policy to be issued at the Florida Promulgated Rate in the amount of the Purchase Price by Closing Agent, Florida Documentary Stamp Tax on the Deed, the title search and exam fee, Closing Agent's settlement fee in the amount of \$250.00, other closing costs including, but not limited to, all fees associated with obtaining financing, a simultaneous lender's title insurance policy and any endorsements, survey,

intangible tax on any mortgage, note stamps, recording of Buyer-associated documents, and any other charges required by any Lender providing financing for the purchase.

**8. TITLE TO BE CONVEYED AND TITLE INSURANCE:** Seller has obtained a title insurance commitment, a copy of which is included in the Bidder's Package which is hereby incorporated by reference. Buyer's execution of this Agreement confirms Buyer's receipt of the Bidder's Package. The title commitment confirms that Seller is vested with marketable title to the Property. Title to the Property will be conveyed to the Buyer at closing via a General Warranty Deed. An ALTA Owner's Policy of Title Insurance will be issued by Bartlett & Deal Title Services, LLC, subject only to the standard exceptions such as matters that a current survey would reveal, taxes for the current year, zoning ordinances, covenants, restrictions and easements of record (the "Permitted Exceptions"). All matters listed on Schedule B-2 of the title insurance commitment included with the Bidder's Package shall be included as Permitted Exceptions.

Seller shall have the obligation at the time of closing to discharge any lien on the Property of an ascertained or ascertainable amount that was caused by Seller, including but not limited to delinquent taxes, judgments or mortgages.

**9. PRORATIONS:** All taxes, rentals, condominium or homeowner's association fees, and Community Development District (CDD) fees and assessments will be prorated through the day before closing based on the most recent information available to the Closing Agent. At closing the parties shall execute a Tax Re-proration Agreement which shall be a binding obligation on the parties to re-prorate property taxes upon receipt of the actual tax bill.

**PROPERTY TAX DISCLOSURE SUMMARY: Buyer should not rely upon Seller's current property taxes as the amount of property taxes that the Buyer will be obligated to pay in the year subsequent to the purchase. A change of ownership or property improvements triggers reassessment of the property that could result in higher property taxes. If you have any questions concerning valuation, contact the county property appraiser's office for more information.**

**10. PROPERTY CONDITION/CONTINGENCIES:** Buyer agrees that Buyer has been given an opportunity to inspect the Property prior to the Auction, and has been provided with the Bidder's Package containing information about the Property prior to the Auction so as to give Buyer a reasonable opportunity to conduct any due diligence prior to electing to bid. Buyer agrees that the Property is being purchased AS-IS with no right of further inspection. If Buyer elects to utilize a Lender in association with this transaction, and the Lender requires a Wood Destroying Organism Inspection ("WDO" Inspection), then Seller shall make the Property available for the WDO Inspection upon reasonable notice from Buyer. However, Buyer's obligations hereunder shall in no way be contingent upon the WDO Inspection. Buyer agrees and acknowledges that Buyer's obligations under this Agreement are not subject to any contingency other than Seller's obligation to deliver marketable title to the Property at Closing, and the Loss or Damage provision set forth hereinbelow.

11. **LOSS OR DAMAGE**: If the Property is damaged by any casualty prior to closing and cost of restoration does not exceed 10% of the Purchase Price of the Property, cost of restoration will be an obligation of Seller and closing will proceed pursuant to the terms of this Agreement with cost thereof escrowed at Closing. In the event the cost of repair or restoration exceeds 10% of the Purchase Price of the Property and Seller declines to repair or restore, Buyer may either take the Property as is, together with either the said 10% or any insurance proceeds payable by virtue of such loss or damage, or terminate this Agreement and have the Bidder Registration Fee and Purchase Deposit be refunded.

12. **PROPERTY DISCLOSURE**: Seller does hereby represent that Seller has legal authority and capacity to convey the Property with all improvements. SELLER REPRESENTS THAT SELLER HAS NO KNOWLEDGE OF FACTS MATERIALLY AFFECTING THE VALUE OF THE PROPERTY OTHER THAN THOSE WHICH BUYER CAN READILY OBSERVE. Buyer agrees to hold harmless and release Auctioneer and Closing Agent with respect to any undisclosed material adverse facts affecting the Property, which liability shall lie solely between Buyer and Seller.

13. **ASSIGNMENT**: This Agreement shall not be assignable without the prior express written consent of Seller.

14. **NOTICES**: Except as otherwise expressly provided herein, all notices, demands or other communications of any type, whether required by this Agreement or in any way related to the transaction contracted for herein, shall be void and of no effect unless given in accordance with the provisions of this paragraph. All such notices shall be in writing and delivered to the person to whom the notice is directed by certified United States Mail, return receipt requested. Any notice sent by mail shall be deemed delivered on the day such notice is delivered to the party as noted on the return receipt. If the recipient refuses to accept delivery, the notice shall be deemed delivered as of the date it was deposited in the mail. Notices shall be sent to the Buyer or Auctioneer at the address listed on the Bidder Registration Form, to Closing/Escrow Agent at the address set forth hereinabove, and to the Seller at the address indicated below. Either party hereto may change the address for notice specified above by giving the other party one (1) day advance written notice of such change of address by hand delivery or fax. Seller's address for notification shall be: \_\_\_\_\_.

15. **OCCUPANCY**: Seller represents that (a) \_\_\_\_ there are no parties in occupancy other than Seller, or (b) \_\_\_\_ Buyer will be purchasing Property subject to an existing lease, a copy of which is attached hereto and is herein incorporated by reference. If there are no parties in possession other than the Seller, Buyer will be given occupancy at closing and Seller agrees to remove all personal property not included in the sale and to deliver the Property to Buyer in clean and swept-out condition.

16. **PERSONAL PROPERTY**: Included in the purchase price is all fixed equipment such as, but not limited to, automatic garage door opener & controls, drapery hardware, attached lighting fixtures, mailbox, all ceiling fans, fence, plants and shrubbery as now installed on the Property, and all permanently installed kitchen appliances including stoves, microwaves,

dishwasher, and cabinetry. Unless otherwise set forth in writing, any refrigerator or washer/dryer unit is not included in the sale.

**17. DEFAULT:** In the event that Seller refuses to sign the Deed or other documents to convey the Property to Purchaser, then Purchaser may elect to either (a) terminate this Agreement and receive a refund of the Bidder Registration Fee and the Purchase Deposit as liquidated damages, or (b) bring an action for specific performance against Seller to enforce the terms and conditions of this Agreement. In the event that Buyer is in default of this Agreement then the Bidder Registration Fee and the Purchase Deposit shall be forfeited to Seller, to be split with Auctioneer or any other licensed broker who is a party to a separate agreement specifying such a split, as liquidated damages, upon receipt of which this Agreement shall be terminated. The parties agree that in the event of a default as described hereinabove that it would be difficult to ascertain the true amount of damages and as such the parties agree to the above liquidated damages as being fair and reasonable and as a preferable remedy to an actual determination of damages.

**18. BINDING EFFECT:** This Agreement shall be binding upon and inure to the benefit of Seller and Buyer and their respective heirs, personal representatives, successors and assigns. This Agreement merges with and supersedes all prior or contemporaneous written or oral representations, warranties, agreements or understandings between the parties. This Agreement shall not be changed, altered or modified and no provision waived, except by an instrument in writing signed by the party against whom enforcement of any such change, alteration, modification or waiver is sought. This Agreement sets forth the entire agreement of Seller and Buyer with respect to the matters described herein, and no agreement, written or oral, shall be binding upon Seller or Buyer unless incorporated herein.

**19. ATTORNEY'S FEES AND COSTS:** In the event litigation, mediation or arbitration arises as a result of a dispute or default under this Agreement, the prevailing party shall be entitled to attorney's fees and costs of any such action.

**20. CHOICE OF LAW, JURISDICTION AND VENUE:** This Agreement shall be interpreted under the laws of the State of Florida. Jurisdiction and venue shall lie in the appropriate court of competent jurisdiction in the county in which the Property is located.

**21. ESCROW AGENT DUTIES.** The parties agree that Escrow Agent's duties shall include (a) holding the Bidder Registration Fee and Purchase Deposit in a bank account of Escrow Agent's choosing, with all interest earned thereon to inure to the benefit of Escrow Agent as payment for Escrow Agent's services; (b) disburse any escrowed funds in accordance with the terms and conditions of this Agreement and the above-referenced incorporated documents; and (c) to account for the funds if requested by either party. In the event that either party wishes for Escrow Agent to make a distribution of all or part of the Escrowed Funds, then that party shall so direct Escrow Agent in writing. Upon receipt of such writing Escrow Agent may make a determination as to whether the terms and conditions of this Agreement clearly dictate the requested disbursement in which case Escrow Agent may elect to make the disbursement without further authorization from either party, or, if Escrow Agent, within Escrow

Agent's sole discretion, feels that the disbursement is not clearly dictated by the applicable terms and conditions of this Agreement and the incorporated above-referenced documents, then Escrow Agent may require written authorization for the disbursement of the other party. In such event, if the other party does not provide authorization for the disbursement, or provides a conflicting disbursement order, then Escrow Agent may elect to pay the disputed Escrowed Funds into the registry of the appropriate court and utilize Escrow Agent's counsel to file an action for interpleader against both parties, which shall require those parties to present themselves before the court and argue for disbursement of the funds. Upon payment into the court registry of the escrowed funds, Escrow Agent shall be released from further liability or duty to the parties hereunder. Escrow Agent's counsel shall be entitled to recover a reasonable attorney's fee as approved by the court for filing the required interpleader action. The parties acknowledge and agree that Escrow Agent's counsel is Bartlett, Deal & Briley, PA, 135 Professional Dr., Suite 101, Ponte Vedra Beach, FL 32082, and the parties hereby waive any conflict of interest relating from Escrow Agent's duties hereunder, or related to the shared or joint ownership of Escrow Agent and Escrow Agent's counsel, and specifically acknowledge and agree that Escrow Agent's counsel has and does serve as counsel to Auctioneer, and that Bartlett, Deal & Briley, PA may represent Seller or Auctioneer with respect to any such interpleader action. In the event that either party brings any action against Escrow Agent and Escrow Agent in connection with Escrow Agent's duties hereunder, then the prevailing party shall be entitled to a recovery of reasonable attorney's fees and court costs.

**22. TIME IS OF THE ESSENCE.** The parties agree that time is of the essence with respect to all timeframes in this Agreement.

**23. MERGER CLAUSE.** In the event that any provision of this Agreement is determined to be void or unenforceable, the remaining provisions of this Agreement shall remain in full force and shall be given such effect as to reasonably achieve their intended purpose with the offending provision stricken.

**24. EFFECTIVE DATE AND DATES FOR PERFORMANCE.** The Effective Date of this Agreement is the date on which the Auction was conducted. All time periods herein shall be measured in calendar days, unless specifically set forth otherwise hereinabove. In the event that any date for performance hereunder falls on a weekend or State holiday, then the date for performance shall be 5:00 p.m. of the next business day.

**25. COOPERATING BROKERS.** The Buyer agrees that it has not engaged the services of any Broker with respect to this transaction unless such Broker has been registered prior to the start of bidding by the completion by Buyer and that Broker of a COOPERATING BROKER REGISTRATION FORM. Buyer agrees that in the event that the Cooperating Broker Registration Form was not completed and signed by the parties 48 hours prior to the inception of bidding, then Buyer shall be solely responsible for the payment of any costs related to any claims by a Broker to compensation associated with this transaction, including reasonable attorney's fees and costs incurred by Auctioneer or Seller defending any such claim.



A Florida limited liability company  
BY: Blake F. Deal III, Managing Member