



A.B. Cole & Associates, Auction & Realty, LLC

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VAAF 796

### AGREEMENT TO PURCHASE REAL ESTATE AT AUCTION

1. The undersigned Purchaser(s) being the last and highest bidder at public auction for real estate described as (legal description): **202 Opal Lane, Montross, VA 22520** and having bid the sum of: \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_)

agrees to purchase said real estate on the terms and conditions set forth below in Items (a) through (j)

#### 2. Terms and Conditions:

- (a) A deposit of 10% day of auction in cash or certified funds made out to the bearer is required.
- (b) Balance in Full on or before January 11, 2010.
- (c) Possession to be given upon closing
- (d) Sale price includes real estate and all furniture, fixtures and equipment
- (e) Warranty Deed
- (f) Taxes prorated to closing
- (g) No Liens on property
- (h) Subject to normal utility easements
- (i) A 10% Buyers Premium has been added to the hammer price to reflect the gross sales price
- (j) Property being sold pursuant to terms and conditions of sale distributed prior to the sale and being attached hereto and made a part hereof, with all its terms and conditions being incorporated and made a part of this agreement.

3. In addition, it is further agreed that; failure to timely close shall forfeit deposit and seller will retain as liquidated damages and waive further claims against purchaser



***TERMS & CONDITIONS for REAL ESTATE***

Positive ID required. \$15,000 deposit day of auction by certified check made payable to bearer is required to bid on Real Estate. 10% deposit is due day of auction. Additional payment, if necessary may be made by personal check. 10% Buyers Premium shall be added to the last highest bid price. The high bid price plus the Buyers Premium equal Gross Sales Price.

***ADDENDUM - J***

**Terms and Conditions**

**2020 Opal Lane, Montross, VA 22520**

**December 9, 2009 Noon**

**A. PROPERTY INFORMATION**

1. Seller will convey Property by General Warranty Deed. This property is being sold "as-is", subject to any state of facts, an accurate survey or personal inspection of the property may reveal, rights of tenants and parties in possession, if any, existing rights-of-way, easements, encroachments, restrictive covenants, zoning regulations, governmental agencies, regulations, environmental condition.
2. No improvements or repairs will be made by the Sellers on any of the Property.

**B. NOTICE OF AGENCY RELATIONSHIP**

United Country-A.B. Cole & Associates (UC-ABCOLE) is acting as AGENT FOR THE SELLER in this transaction and is to be paid a fee by Seller pursuant to a separate written agreement between Seller and UC-ABCOLE. UC-ABCOLE. is not acting as agent for the purchaser in this transaction.

**C. PROPERTY INSPECTION**

1. It is the Purchaser's responsibility to inspect the property the improvements thereon and the immediate surroundings, and to be satisfied as to their condition prior to offer, and to inquire of public officials as the applicability of and compliance with land use laws, codes, ordinances, zoning laws and any subdivision laws and regulations.
2. All information contained in disseminated materials, including, but not limited to photographs, square footages, dimensions, acreages, zoning, taxes, dates or ages of the Property, etc. was provided by the Seller and is believed to be correct, however neither Seller nor UC-ABCOLE. make any guarantee or warranty as to the accuracy or completeness of such information. Purchaser is advised to make their decision to purchase based on their own investigation and inspection.

Initials \_\_\_\_\_Purchaser \_\_\_\_\_Seller

#### D. TERMS OF SALE

The Purchaser of said property will at the time and place of sale, sign a Memorandum of Purchase agreeing to comply with all of the terms and conditions of the sale therein contained. All sales are for cash. The Deposit shall be Ten Percent (10%) of the Gross Sales Price with the balance due in full upon closing in 20 business days. The Deposit shall not be refundable except in the case of a material default by Seller under the Purchase Agreement. Purchaser is guaranteed a General Warranty Deed free of any lien. Should any cloud or defect of title be discovered, the seller will be given a reasonable amount of time to correct. The Seller reserves the right to reject all bids, extend the time to receive bids, withdraw the property from sale, waive or modify the deposit requirement, and/or extend the period of time for settlement. Should the Seller be unable, in Seller's sole discretion, for any reason to convey title to this property, then it shall be a term of this sale that the Purchaser's sole remedy in law or in equity shall be the refund of deposit only. Upon refund of the deposit, the sale shall be void and of no effect.

#### E. CLOSING

##### **TIME IS OF THE ESSENCE IN CLOSING THE PURCHASE OF THE PROPERTY**

*Closing shall be on or before the 11<sup>th</sup> day of January, 2010, time being of the essence* All closing monies shall be deposited and held in a non-interest bearing account by UC-ABCOLE or trust account of attorney representing Seller. Failure to provide required documents in the time specified may result in default. The closing date may be extended by the Seller in Seller's sole discretion. The Purchaser shall be solely responsible for all closing expenses including the Grantor's tax, except preparation of deed which will be paid by the Seller. Taxes will be prorated through date of closing. The Purchaser agrees to reimburse Seller for prepaid taxes.

#### F. PURCHASE AND SALE AGREEMENT

1. The fully executed Purchase Agreement (together with all related Addenda thereto) shall control all terms and conditions of the sale. Upon full execution of the Purchase Agreement, all Purchasers will be required to close the purchase of the Property on closing day, unless extended by the Seller in sole discretion.
2. **NO ORAL CHANGES TO THE TERMS OF THE PURCHASE AND SALE AGREEMENT WILL BE PERMITTED. ANY CHANGES TO THE PURCHASE AGREEMENT SHALL BE IN WRITING AND AGREED TO BY ALL PARTIES..**
3. If for any reason the Purchaser fails or refuses to deposit the required funds and/or execute the Purchase and Sale Agreement, the seller reserves the right to declare the buyers rights void and any partial deposit will be forfeited.
4. The risk of loss from fire, casualty, or otherwise, and all liabilities of ownership of the property passes to Purchaser upon the conclusion of the aforementioned sale.

Initials \_\_\_\_\_Purchaser \_\_\_\_\_Seller

## G. REMEDIES FOR BREACH

In the event of breach of this contract by Seller, upon Buyer's request, all earnest monies shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer or Auctioneer against Seller for such breach. Both Buyer and Auctioneer shall have the right to pursue any and all rights and remedies against Seller as they may have, both legal and equitable. Additionally, the Seller shall be liable for the Auctioneer's commission and for other expenses, including all attorney's fees incurred by the Auctioneer and the Buyer in connection with this transaction or the enforcement of this agreement.

In the event of breach of this contract by the Buyer, including Buyer's failure to close as and when required, all earnest money shall be forfeited first to Auctioneer for Auctioneer's earned commission. Any amount in excess of the Auctioneer's earned commission shall be paid by Auctioneer/Broker to the Seller. In the event the earnest money is not sufficient to pay Auctioneer its commission, then the Auctioneer shall have the right to pursue such other rights and remedies against Buyer as it may have, both legal and equitable. Buyer shall be liable to the Auctioneer for all other expenses, including all attorney's fees incurred by the Auctioneer in connection with this transaction or the enforcement of this agreement.

## H. SELLER'S DISCLAIMER

(a) The property will be sold by Seller to Purchaser on an "as is, where is, and with all faults" basis. Purchaser accepts all faults of the property whether known or unknown, seller and UC-ABCOLE have not made, do not make and specifically negate and disclaim any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether expressed or implied, oral or written, past, present or future, or as to concerning or with respect to: (i) the value, nature, quality or condition of the property including, without limitation, the water, soil and geology; (ii) the income to be derived from the property, (iii) the suitability of the property for any and all activities and uses which Purchaser may conduct therefrom; (iv) the compliance of or by the property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (v) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the property; (vi) the manner or quality of the construction or materials, if any, incorporated into the property; (vii) the manner, quality, state of repair, or lack of repair of the property (viii) the existence of any view from the property or that any existing view will not be obstructed in the future or (ix) any other matter with respect to the property, and specifically, without limitation, that Seller has not made, does not make, and specifically disclaims any representation regarding compliance with the "Americans with disabilities act" or with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including solid waste (as defined by the U.S. environmental protection agency regulations at 40 c.f.r.. Part 261), or the disposal or existence, in or on the property, of any hazardous substance (as defined by the comprehensive environmental response compensation and liability act of 1980, as amended, and regulations promulgated thereunder).

(b) Purchaser further acknowledges and agrees that having been given the opportunity to inspect the property, purchaser is relying solely on purchaser's own investigation of the

Initials \_\_\_\_\_Purchaser \_\_\_\_\_Seller

property and not on any information provided or to be provided by Seller or UC-ABCOLE. Purchaser further acknowledges and agrees that any information provided or to be provided by or on behalf of Seller with respect to the property including, without limitation all information contained in any property information package previously made available to purchaser by Seller and UC-ABCOLE was obtained from a variety of sources and that Seller and UC-ABCOLE have not made any independent investigations or verification of such information and make no representation as to the accuracy or completeness of such information.

(c) Seller and UC-ABCOLE their employees, agents, contractors, officers and directors, shall not be liable or bound in any manner by any oral or written statements, representations or information pertaining to the property or the operation thereof, that is furnished by any agent, employee or other person. Seller makes no representations or warranties with respect to the physical condition of any other aspect of the property, including without limitation the structural integrity of any improvements on the property, the conformity of the improvements to any plans or specifications for the property that may be provided to purchaser, the conformity of the property to applicable zoning or building code requirements, the existence of soil instability, past soil repairs, sufficiency or under shoring, sufficiency of drainage, or any other matter affecting the stability or integrity of the land or any buildings or improvements situated thereon.

(d) Purchaser and anyone claiming by, through or under Purchaser hereby fully and irrevocably release Seller and UC-ABCOLE and their respective employees, officers, directors, representatives and agents from any and all claims that purchaser may now have or hereafter acquire against Seller, and UC-ABCOLE their employees, officers, directors, representatives and agents for any cost, loss, liability, damage, expense, demand, action or cause of action arising from or related to any construction defects, errors, omissions or other conditions, including environmental matters, affecting the property, or any portion thereof. This release includes claims of which Purchaser does not presently suspect to exist which, if known by Purchaser, would materially affect Purchaser's release of Seller and UC-ABCOLE. It is understood and agreed that the property is sold by Seller and purchased by Purchaser subject to the foregoing. Any property built prior to 1978 may contain lead based paint; Purchaser must execute a lead based paint addendum.

## **I. RESIDENTIAL PROPERTY DISCLOSURES**

**A. The Virginia Residential Property Disclosure Act** (Code of Virginia, 1950, §§ 55-517 through §§ 55-525) requires the Seller of certain residential property to furnish the Purchaser either (1) a property disclaimer statement in a form provided by the Real Estate Board that states the Seller makes no representations or warranties as to the condition of the real property or any improvements thereon, and that the Purchaser will be receiving the real property "AS IS," that is, with all defects that may exist (if any) except as otherwise provided in this Contract, or (2) a property disclosure statement disclosing defects and the condition of the property based on the Seller's actual knowledge.

Initials \_\_\_\_\_Purchaser \_\_\_\_\_Seller

If Seller furnishes a disclosure statement, then the Seller is required at settlement to disclose any material change in the physical condition of the property or to certify to the Purchaser that the condition of the Property is substantially the same. If the disclaimer or disclosure statement required by the Virginia Residential Property Disclosure Act is delivered to the Purchaser after Contract ratification, the Purchaser may terminate this Contract by giving notice to the Seller either by hand-delivery or by United States mail, postage prepaid, at or prior to the earliest of (a) three (3) days after delivery of the disclosure or disclaimer in person, or (b) five (5) days after the post-mark if the disclosure or disclaimer is posted in the United States mail, postage prepaid, and properly addressed to the Purchaser, or (c) settlement upon the purchase of the Property, or (d) occupancy of the Property by Purchaser, or (e) execution by the Purchaser of a written waiver of the Purchaser's right of termination under this chapter contained in a writing separate from the real estate purchase Contract, or (f) the Purchaser making written application to a lender for mortgage loan where such application contains a disclosure that the right of termination shall end upon the application for the mortgage loan.

In order to terminate the Contract pursuant to this provision, the Purchaser must, within the times required by this provision, give written notice to the Seller either by hand-delivery or by United States mail, postage prepaid, and properly addressed to Seller. If the Purchaser terminates the Contract in compliance with this provision, termination shall be without penalty to the Purchaser, and the Purchaser's deposit shall be promptly returned. Any rights of the Purchaser to terminate the contract provided by this provision shall end if not exercised prior to the earlier of either the making of written application to a lender for a mortgage loan where the application contains a disclosure that the right of termination shall end on the application for the mortgage loan, or settlement or occupancy by the Purchaser, in the event of a sale, or occupancy in the event of a lease with option to purchase.

- a.  Seller has delivered Purchaser a Residential Property Disclaimer Statement.  
b.  Seller has delivered Purchaser a Residential Property Disclosure Statement.

**B. Lead-Based Paint Inspection:** This paragraph applies only if the Property was built prior to 1978 and is not exempt from the provisions of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d) and regulations promulgated pursuant thereto.

Check as applicable:

\_\_\_\_ 1. Attached to this Contract and made a part hereof by this reference is a fully executed "Disclosures of Information and Acknowledgement Lead-Based Paint and/or Lead-Based Paint Hazards."

OR

\_\_\_\_ 2. Purchaser waives the right to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Initials \_\_\_\_\_ Purchaser \_\_\_\_\_ Seller