



Purchase and Sale Agreement

This Purchase and Sale Agreement ("Agreement") is executed by and between Buyer and Seller, who agree as follows:

1. **Key Terms**

A. Seller: _____

B. Buyer: _____

Home Phone: _____
Work Phone: _____
Cell Phone: _____
Email: _____

C. **Purchase Price**

i) Total Purchase Price Calculation:
Winning Bid Price: _____
PLUS Buyer's Premium (5%): _____
EQUALS **Total Purchase Price:** _____

ii) Payment Components: (Check One)
 First property acquired at auction (Earnest money to be 5% of Total Purchase Price or \$5000.00, whichever is greater.)
 Not first property acquired at auction (Earnest money to be 15% of Total Purchase Price or \$5000.00, whichever is greater.)

Earnest Money deposit from Buyer: _____

D. **Property**

Property Address: _____

Legal Description: See Exhibit A. (If legal description of the property is not complete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of the title company issuing the owner's title policy referenced below.)

E. **Closing Date:** _____, 2008 (subject to section 5A)

F. **Closing Attorney:** Hudnall, Cohn & Abrams, PC
2100 Riveredge Pkwy., Suite 1230
Atlanta, GA 30328
Phone: (770) 541-4777
Fax: (770) 690-0851

G. **File Number:** 08AU _____

2. **Purchase and Sale.** On and subject to the terms of this agreement, Seller agrees to sell and Buyer agrees to purchase from Seller the real property identified above in Section 1 and a legal description of which is attached hereto as Exhibit A and incorporated by this reference ("Property") for the price identified above in Section 1 as the Total Purchase Price ("Purchase Price"). Seller makes no representation or warranty as to the existence, condition, ownership, or right of possession of any personal property located on the premises.

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3. **Payment of Purchase Price.** Buyer shall pay Seller the Purchase Price as follows:
- A. Buyer will hand or cause to be handed to the Closing Attorney identified in Section 1 ("Closing Attorney") the earnest money deposit described in Section 1 ("Earnest Money Deposit") on the date Buyer signs this Agreement. The Earnest Money Deposit is to be comprised of (1) a cashier's check (or cash) in the amount of \$5,000.00 and (2) a cashier's check, personal check, corporate check, or cash equal to the difference between the total Earnest Money Deposit minus \$5,000.00 (if the Earnest Money Deposit is greater than \$5,000.00).
 - B. At the closing, as determined under Section 5A, Buyer shall deposit with the Closing Attorney in immediately available funds an amount equal to the Purchase Price plus Buyer's closing costs and pro rations plus Buyer's expenses provided herein.
4. **Financing.** Buyer represents and warrants as follows (check one):
- A. **All Cash Transaction.** Buyer has provided Seller with verifiable evidence that Buyer has sufficient funds that are immediately available to pay all amounts required of Buyer under this Agreement to complete Buyer's acquisition of Property on or before Closing. Notwithstanding reference any reference to a loan elsewhere in this Agreement, this sale and Closing are NOT contingent upon Buyer obtaining a loan (defined below) or any other financing (i.e., the sale shall be on an all cash basis), nor will closing be extended for that purpose or any other purpose (except as otherwise expressly permitted in this Agreement), Buyer acknowledging that time is of the essence in this Agreement. If Buyer fails to close for any reason related to Buyer's inability to fully pay Purchase Price and/or all other sums required under this Agreement or for any other reason other than Seller's default under this Agreement, Buyer will be in default under this Agreement and the provisions of Section 11 of this Agreement shall apply.
 - B. **Seller Designated Financing.** Concurrently with executing this Agreement, Buyer will apply for a loan to be secured by a first priority deed to secure debt encumbering the Property with Seller's designated lender ("Designated Lender") which, when combined with Earnest Money Deposit and additional funds of Buyer, immediately verifiable and available, will be sufficient to pay all amounts Buyer is required to pay under this Agreement to complete purchase of Property at Closing. If through no fault of Buyer, Buyer is unable to qualify for a loan from Designated Lender, then Buyer or Seller may cancel this Agreement and escrow shall be terminated. Upon cancellation under this paragraph, Closing Attorney shall return to Buyer and Earnest Money Deposit given by Buyer to Closing Attorney less title exam and title clearance fees and costs. Upon Closing Attorney's receipt of signed cancellation from Seller, Buyer and Seller shall be relieved of any further liability and/or obligation each to the other under this Agreement.
 - C. **Third Party Financing.** Buyer has provided Seller with verifiable evidence that Buyer has pre-qualified for a loan to be secured by a first priority deed to secure debt encumbering Property from _____ ("Lender") which, when combined with Earnest Money Deposit and additional funds of Buyer, immediately verifiable and available, will be sufficient to pay all amounts Buyer is required to pay under this Agreement to complete purchase of Property at Closing. Notwithstanding any reference to a loan elsewhere in this Agreement, this sale and Closing are NOT contingent upon Buyer obtaining a loan (defined below) or any other financing (i.e., the sale shall be on an all cash basis), nor will closing be extended for that purpose or any other purpose (except as otherwise expressly permitted in this Agreement), Buyer acknowledging that time is of the essence in this Agreement. If Buyer fails to close for any reason related to Buyer's inability to fully pay Purchase Price and/or all other sums required under this Agreement or for any other reason other than Seller's default under this Agreement, Buyer will be in default under this Agreement and the provisions of Section 11 of this Agreement shall apply.

Regardless of whether Buyer elects to pay all cash or obtain financing from Designated Lender or a third party lender, Buyer will also execute and authorization allowing Seller and/or its agent to check and report to Seller regarding Buyer's current credit status. If Buyer is obtaining a loan, Buyer acknowledges that Buyer is doing so at Buyer's sole cost and expense. Buyer understands and agrees that the obtaining of any financing is and shall remain Buyer's (not Seller's) obligation. Buyer acknowledges that Closing may be subject to and contingent upon the requirements of the applicable lender. Buyer's execution of the applicable lender's loan documents shall evidence Buyer's full approval of the terms and conditions contained herein. Closing Attorney is authorized and instructed to follow directions of the applicable lender providing the loan in connection with said loan and to deliver a copy of this Agreement and any amendments thereto to the applicable lender. Buyer hereby authorizes lender to release copies of any written loan approval and commitment to Closing Attorney and/or Seller.

5. **Closing.**
- A. **Closing Date.** Closing Attorney shall close the transaction contemplated by this Agreement ("the Closing") on the earlier to occur of (1) the Closing Date specified in Section 1 or (2) before thirty (30) days after the date this Agreement is executed. Closing Attorney is instructed to close on such date subject to each of the following:

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- i) Seller may, at Seller's sole and absolute option, extend Closing by up to two (2) successive periods of up to thirty (30) days each by giving written notice to Buyer and Closing Attorney at any time;
- ii) Closing shall not take place if Seller is unable to deliver fee title to Buyer as required in this Agreement at or prior to Closing, in which case such inability shall be deemed no fault of Seller, and Seller may cancel this Agreement and the provisions of Section 5D and Section 9 shall apply;
- iii) If Property is occupied as of Closing Date specified in Section 1, Closing shall automatically be extended twenty one (21) days after Seller's delivery of the "Notification to the Buyer of Vacancy" referenced in Section 7E(1); and
- iv) Agreement has not been cancelled or terminated as permitted elsewhere hereunder.

If Buyer requests an extension at least five (5) days prior to the scheduled Closing, Seller in its sole and absolute discretion (after consultation with its Broker) may grant a ten (10) day extension of Closing for a non-refundable extension fee of five thousand dollars (\$5,000.00). This fee will not be credited towards Purchase Price and must be deposited with Closing Attorney one (1) business day after Seller's granting of such extension. Closing Attorney is hereby instructed to deliver such non-refundable extension fee to Seller upon receipt, and Seller shall be entitled to such fee without condition.

B. Closing Instructions to Closing Attorney. At Closing, Closing Attorney is hereby irrevocably instructed to complete the following:

- i) Record the deed conveying title to Property to Buyer (for the purposes of this Agreement and the transactions contemplated by this Agreement, the term "Deed" shall mean a limited warranty deed or other form of deed acceptable to Seller in Seller's sole and absolute discretion);
- ii) Pay all fees, costs, and transfer taxes for sale of Property which are required to be paid by Seller under this Agreement, the portion of any fees charged by Closing Attorney which are payable by Seller (if any) and other expenses relating to the sale of Property which are required to be paid by Seller under this Agreement;
- iii) Pay all fees, costs, and transfer taxes for sale of Property which are required to be paid by Seller under this Agreement, the portion of any fees charged by Closing Attorney which are payable by Buyer (if any) and other expenses relating to the sale of Property which are required to be paid by Buyer under this Agreement;
- iv) Pay all property management and broker related fees to be paid by the Seller, including fees to the broker identified on the signature page of this Agreement ("Broker") as well as under any other agreement executed by the Seller; and
- v) Pay to Seller the balance of the Purchase Price and any other funds remaining after closing.

C. Previous Closing/Transaction. If there was a contract previously opened by and between Seller and any third party covering the sale of Property ("Previous Transaction"), the closing under this Agreement is subject to and contingent upon Seller's ability to successfully cancel said Previous Transaction prior to or concurrently with Closing. This condition precedent shall be deemed satisfied when Closing Attorney is in possession of a copy of signed cancellation instructions from the buyer and seller of Previous Transaction. Failure to cancel Previous Transaction shall not be deemed default of Seller hereunder.

D. No Default. If any of the conditions precedent to Closing are not satisfied or waived by the date for Closing, and both parties have performed all of their respective obligations hereunder, then either party may cancel Closing by written notice to the other party and Closing Attorney. In such event, Closing Attorney shall return to Buyer (at Buyer's sole discretion and exclusive remedy) Earnest Money Deposit less an amount equal to Buyer's expenses set forth in Section 10. Upon return of Earnest Money Deposit 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 Closing.

6. Buyer's Inspection.

A. Representations/Warranties. Buyer represents and warrants to Seller that (1) subject to Section 7E, prior to this Agreement, Buyer has had adequate time to access Property, all title matters concerning Property, and all agreements relating to Property; (2) Buyer has conducted and completed such inspections or has freely and waived the right to conduct any such inspections; (3) Buyer is purchasing Property based solely upon Buyer's own inspection of Property; (4) Buyer is satisfied in all respects as to Property and the condition thereof including, without limitation, its location, its insurability, its physical condition, its environmental condition, the structural integrity of any and all improvements on Property; and (5) Buyer is aware of all laws, ordinances, and requirements affecting the use, condition, and ownership of Property including, without limitation, to all applicable zoning and land use regulations. Seller makes no representation or warranty, and Buyer has investigated to Buyer's satisfaction

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regarding the location of Property in an earthquake fault zone, seismic hazard zone, state responsibility area (fire hazard area), very high fire hazard security zone, or area of potential flooding, or whether Property is subject to any flood hazard requirements.

B. Buyer Indemnity and Seller Protection for Entry of Property. In connection with any due diligence, inspection, visit, and/or investigation of Property ("Buyer's Inspection") by Buyer or any person/entity on Buyer's behalf, Buyer shall (1) keep Property free and clear of liens; (2) repair all damage arising from Buyer's Inspection; and (3) indemnify, defend, and hold Seller harmless from all liabilities, claims, demands, damages and/or costs directly or indirectly arising therefrom. Buyer shall carry, or require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation, and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer inspection prior to Closing.

7. **Disclosures.** This Section applies to post-foreclosure transactions only. Buyer and Seller acknowledge that Property is is not part of a post-foreclosure or deed in lieu of foreclosure transaction (check one).

A. Post-Foreclosure Transaction. Buyer acknowledges that the purchase of Property results from a transfer made by a beneficiary under a deed to secure debt who acquired Property at a sale conducted pursuant to a power of sale under a deed to secure debt, or deed in lieu thereof, as provided under Georgia law. Further, Seller is not familiar with the condition of Property, other than as may be disclosed in any inspection reports obtained by or on behalf of Seller, Seller's representatives, or agents, or that Seller may have received otherwise. Any such reports furnished by Seller or its agents in connection herewith shall be for informational purposes only, are not made part of this Agreement, and Seller makes no representations or warranties about their accuracy or completeness.

B. Buyer understands and acknowledges that any information provided by or on behalf of Seller with respect to Property including, without limitation, all information in the Disclosures and the Brochure as defined in Section 7C was obtained from a variety of sources and that the Seller and Seller's Broker 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 Property discovered by Buyer subsequent to Buyer's execution of this Agreement. Buyer further waives the right under 42 U.S.C. § 4852d and any other applicable law to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

C. Brochure. Buyer represents and warrants that Buyer has received, read, and accepts the terms and conditions pertaining to the sale of Property which are set forth in the Auction Brochure ("Brochure"), which terms and conditions are incorporated herein by reference. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of Brochure, the terms and conditions of this Agreement shall control and prevail in all respects.

D. No Repairs. Buyer acknowledges and agrees that Seller shall make no repairs or improvements of any kind to Property and that nothing disclosed by Seller shall require Seller to correct or improve any condition disclosed or make repairs of any kind to Property.

E. Occupied Property. Seller makes no representations or warranties as to whether Property is occupied as of the date of Closing.

i) If Property is occupied, Seller will endeavor (but shall not be obligated) to evict or remove the occupants prior to Closing. Upon eviction/removal of such tenants/occupants, Seller will provide Buyer with a "Notification to the Buyer of Vacancy." Buyer will then have seven (7) calendar days to do a physical inspection of the premises and approve or decline this transaction. If Buyer chooses to cancel the purchase solely as a result of such inspection, Buyer shall provide written notice of cancellation to Seller and the auction company (address correspondence to: Seller c/o Absolutely Sold Auction Service, Inc., P.O. Box 20425, Atlanta, GA 30325) within three (3) business days following the seven (7) day inspection period. After delivering such notice of cancellation, the terms of Section 5D shall apply. Failure to inspect the property and/or provide notice of cancellation within the required timeframe shall be deemed an approval of the sale for these purposes and a waiver of any right to cancel based on such inspection.

ii) As noted above, Property may be subject to leasehold interests of various tenants. Seller has included in Disclosures true copies of all leases and amendments, if any, in Seller's possession. Seller makes no warranties or representations as to whether or not other leases of Property are or will be in force; whether or not anyone else has 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 exist; and whether or not Seller or any tenant is in default under any lease. Because Property was acquired by Seller through foreclosure or deed in lieu of foreclosure, Seller has no security deposits or last month's rent to

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surrender to Buyer. Buyer shall be responsible for notifying tenants of transfer of ownership of Property, and shall be liable to any and all tenants for repayment of any outstanding security deposit, less lawful deductions. This provision shall survive Closing shall not be deemed to have merged into any of the documents executed or delivered at Closing. Buyer shall defend, indemnify, and hold harmless Seller, its affiliates, parent companies, officers, directors, shareholders, 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 arising out of the tenancy, occupancy, or lease of Property after Closing.

iii) Buyer shall be responsible for installing new locks on Property immediately after Closing, and Buyer shall hold Seller and Seller's representatives and agents harmless from and indemnify Seller and Seller's representatives and agents against any and all damages, claims, liens, liabilities, costs, injuries, attorney's fees, and expenses of every kind and nature that may be made against Seller as a result of Buyer's failure to install new locks on Property.

8. **As Is Sale.** Buyer is acquiring Property "as is," in its present state and condition with all defects, both patent and latent, and with all faults of Property whether known or unknown, presently existing or that may hereafter arise. Seller makes no representations or warranties of any kind whatsoever, either expressed or implied, oral or written, with respect to Property including without limitation: (A) the value, nature, quality or condition of Property including, without limitation, the water, soil, and geology; (B) the income to be derived from Property; (C) the suitability of Property for any and all purposes, activities, and uses which Buyer may conduct thereon; (D) the compliance of or by Property or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority or body; (E) the habitability, merchantability, marketability, profitability, or fitness for a particular purpose of Property; (F) the manner or quality of the construction or materials, if any, incorporated into Property; (G) the manner, quality, state of repair, or lack of repair of Property; (H) the existence of any view from Property or that any existing view will not be obstructed in the future; (I) any other matter with respect to Property; (J) the structural integrity of any improvements on Property; (K) the conformity of the improvements to any plans or specifications for Property that may be provided to Buyer; (L) the conformity of Property to applicable zoning or building code requirements; (M) the existence of soil instability, past soil repairs, susceptibility to landslides, sufficiency of under-shoring, sufficiency of drainage, or any other matter affecting the stability or integrity of the land or any buildings or improvements situated thereon; or (N) whether Property is located in a special studies zone under the public resources code, or a seismic hazard zone, or a state fire responsibility area, or a special flood hazard zone. Buyer acknowledges that Property may not be in compliance with applicable zoning, building, health, or other law or codes, and neither Seller nor any person acting as Seller's representative or agent has occupied Property and that Property may not be in habitable condition.

Buyer further acknowledges and agrees that, without limitation, 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, as defined by U.S. Environmental Protection Agency regulations or the disposal or existence in or on other properties of any hazardous substance as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder.

Upon closing, Buyer acknowledges and agrees that Seller and its agents and assigns have no further responsibility, obligation, or liability to Buyer. Buyer agrees that Seller and its agents and assigns shall have no liability for any claim or losses Buyer or Buyer's successors and assigns may incur as a result of defects that may now or may hereafter exist with respect to Property, and Buyer shall hold harmless, indemnify, and defend Seller from any such claim.

Buyer and anyone claiming by, through, or under the same hereby fully and irrevocably releases Seller and its employees, officers, directors, representatives, attorneys, brokers, and agents from any and all claims that he/she/it/they may now have or hereafter acquire against Seller and its employees, officers, directors, representatives, attorneys, brokers, and agents for any cost, liability, loss, damage, expense, demand, action, or cause of action arising from or relating to any construction defects, errors, omissions, or other condition, including environmental matters, affecting Property or any portion thereof. This release includes claims of which Buyer is presently unaware or does not presently suspect to exist in his/hers/its favor which, if known by Buyer, would materially affect Buyer's release of Seller.

9. **Conveyance of Title.** Fee simple title shall be delivered to Buyer by Limited Warranty Deed on a form acceptable to Seller in Seller's sole and absolute discretion. Seller shall be under no obligation to remove any exception or to bring any action or proceeding or bear any expense in order to enable Seller to convey title to Property in accordance with this Agreement or otherwise make the title to Property marketable or insurable. *If for any reason Seller is unable to deliver fee title to Buyer or unwilling to cure any defects of title at Closing and such Closing date is not extended or otherwise amended in the sole and absolute discretion of Seller as set forth elsewhere in this Agreement, then either party may cancel Closing by written notice to the other party and Closing Attorney. In such event, Closing Attorney*

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shall return to Buyer (as Buyer's sole and exclusive remedy) Earnest Money Deposit less an amount equal to Buyer's expenses set forth in Section 10, and Seller and Buyer shall each bear one-half of the cancellation fees of Closing Attorney. Upon return of 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 Closing.

10. Costs and Prorations.

- A. Prorations.** Closing Attorney shall prorate all real property taxes, assessments and like charges, rents, homeowner's association regular, special, and emergency dues and assessments imposed prior to Closing. Seller shall provide Closing Attorney with any rent rolls in Seller's possession that would assist Closing Attorney in prorating rents. If the regular homeowner's association dues were paid prior to Closing for a period of time subsequent to Closing, then Buyer shall pay to Seller that portion of the assessment attributable to the period of time after the date of Closing. Any homeowner's association transfer fees or document fees payable in connection with the sale of Property from Seller to Buyer shall be paid by the party upon whom such fee is imposed by the association. Insurance premiums will not be prorated. Seller cannot endorse or assign existing insurance policies to Buyer, and Seller may cancel any existing insurance on Property as of Closing.
- B. Seller's Expenses.** Seller shall pay Seller's share of prorations under Section 10A and any documentary transfer tax that may be imposed by the County and/or State in which Property is located. Closing Attorney is hereby authorized to pay from Seller's proceeds Seller's expenses set forth in this Section.
- C. Buyer's Expenses.** Buyer shall pay all costs of credit reports, loan fees, loan points, and other costs of obtaining the loan, lender's title insurance charges, tax service fees, recording fees for the grant deed and any deed to secure debt, Buyer's share of any prorations in Section 10A including property taxes, assessments, and like charges and levies for the applicable tax year and first month's condominium/homeowner's association membership fees and assessments, if any, and other closing costs of Buyer including owner's title insurance premium. Any and all termite clearances and reports and any inspections required by the lender, and/or any repairs recommended or required by any termite and/or inspection report including but not limited to any roof certifications shall be at the sole cost and expense of Buyer. The foregoing costs and expenses shall be paid by Closing Attorney on Buyer's behalf from funds paid by Buyer.
- D. Keys and Remotes.** At Closing, Seller shall provide Buyer with a key to the front door of Property to the extent that it is in Seller's possession. Any and all keys, including garage door keys, pool keys, security keys, and mailbox keys, may not be provided by Seller and if not provided, must be obtained by Buyer at Buyer's own expense.
- E. Pre-Closing Expenses.** Buyer and Seller are aware that Closing Attorney may incur certain expenses during the course of processing this Closing which must be paid at Closing. Such costs may include, but are not limited to, title exam, title clearance fees, demand request fees, homeowner's association document fees, courier fees, and overnight mail service. Closing Attorney is authorized and instructed to release funds for payment of such costs at Closing. The parties acknowledge that said funds are not refundable and Closing Attorney is specifically released from all responsibility and/or liability for payment of any funds prior to Closing. At Closing, Closing Attorney is authorized to charge the appropriate party for costs incurred or credit either one, if necessary.

11. Default and Remedies. *By initialing below, Buyer and Seller elect for this entire Section to apply.*

- 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: (1) Seller shall be released from obligation to sell Property to Buyer, and (2) Buyer and Seller expressly agree that it would be extremely difficult to determine Seller's actual damages as a result of such default by Buyer; therefore, the parties agree that Seller shall retain as liquidated damages from breach of contract the Deposit actually paid. 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 any and every event Buyer shall not 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 Deposit shall be returned to Buyer. Such return of Buyer's deposit shall be Buyer's sole and exclusive remedy in such event.
- C. Waiver of Specific Performance Remedy.** As a material part of the consideration to be received by Seller under this Agreement, Buyer waives all rights to file and maintain an action against Seller for specific performance and to record a lis pendens against Property if a dispute arises concerning this Agreement. Buyer agrees that Property is not unique and that in the event of Seller's default or material breach of Agreement, Buyer can be adequately and fairly compensated solely by receiving a return of Buyer's Deposit. Upon return of Buyer's Deposit, this Agreement

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shall be terminated, and Buyer and Seller hereby irrevocably instruct Closing Attorney to return all funds and documents to the party that deposited them without further direction.

Buyer's Initials _____/_____

Seller's Initials _____/_____

12. **Arbitration of Disputes.** Buyer and Seller agree that any dispute or claim in law or equity arising between them out of this Agreement shall be decided by neutral binding arbitration held in Fulton County, Georgia, with and under the commercial dispute resolution rules of JAMS or the AAA. In addition, any dispute arising out of this Agreement including its interpretation, enforceability, and the arbitrability of disputes between the parties will be decided by the arbitrator. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

By initialing in the space below, Buyer and Seller are agreeing to have any dispute arising out of the matters included in the "Arbitration of Disputes" provision decided by neutral binding arbitration and are giving up any rights Buyer and Seller might possess to have the dispute litigated in a court or by jury trial. By initialing in the space below, Buyer and Seller are giving up their judicial rights to discovery and appeal unless those rights are specifically included in the "Arbitration of Disputes" provision. If either party refuses to submit to arbitration after agreeing to this provision, that party may be compelled to arbitrate. Buyer's and Seller's agreement to this arbitration provision is voluntary.

We have read and understand the foregoing and agree to submit disputes arising out of the matters included in the "Arbitration of Disputes" provision to neutral arbitration.

Buyer's Initials _____/_____

Seller's Initials _____/_____

13. **Risk of Loss.** If any material portion of Property is damaged or destroyed prior to Closing, 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, Closing shall be deemed automatically extended to the third (3rd) business day following Seller's completion of such repairs.

14. **Miscellaneous Matters.**

- A. **Assignment of Buyer's Interest.** Buyer may not assign his, her, their, and/or its right, title, or interest in this transaction without the express prior written consent of Seller which may be withheld in the sole and absolute discretion of Seller.
- B. **Multiple Listing Service.** If Broker is a participant of an Association/Board multiple listing service ("MLS"), Broker 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, representation (express or implied), warranties, or agreements made by Seller or Broker shall be deemed valid or binding upon Seller unless expressly included in this Agreement.
- E. **Attorney's Fees.** In any action, proceeding, or arbitration arising out of this Agreement, the prevailing party shall be entitled to reasonable attorney's 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 that extent, be deemed severable from this Agreement and the invalidity or unenforceability thereof shall not affect the validity or 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 hereto 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 thereto.

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G. Time is of the Essence. Time is of the essence for the performance of each and every covenant of Buyer under this Agreement and the satisfaction of each and every condition imposed upon Buyer under this Agreement.

H. Governing Law. 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 Georgia.

I. Counterparts. 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.

J. Further Assurances. The parties hereto 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.

K. 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 benefit of Seller and all of Seller's agents and sub-agents (including without limitation Absolutely Sold Auction Service, Inc., auctioneer(s), and any Seller's broker(s)) and each of their respective officers, directors, shareholders, employees, attorneys, representatives, affiliates, and/or subsidiaries.

L. 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 Closing and/or termination of this Agreement.

M. Full Performance. Seller's delivery of Deed to Property to Closing Attorney shall be deemed to be full performance and discharge of all Seller's obligations under this Agreement.

N. Additional Documents. All parties signing this Agreement hereby acknowledge receipt of a copy of this Agreement.

O. General Disclosures.

i) **Brochure.** Buyer represents and warrants that Buyer has received, read, and accepts the terms and conditions pertaining to the sale of Property which are set forth in the Auction Brochure ("Brochure"), which terms and conditions are incorporated herein by reference. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of Brochure, the terms and conditions of this Agreement shall control and prevail in all respects.

ii) **No Repairs.** Buyer acknowledges and agrees that Seller shall make no repairs or improvements of any kind to Property and that nothing disclosed by Seller shall require Seller to correct or improve any condition disclosed or make repairs of any kind to Property.

Dated this _____ day of _____, 2008 at _____ a.m./p.m.

Seller

Buyer(s)

Seller

Print Name

By: _____

Print Name

Title: _____

Buyer's Broker (if any)

Broker hereby represents that it has registered at the Auction as a Registered Broker (as such terms are defined in the Brochure).

By: _____

Title: _____

Closing Attorney Acknowledgement

Closing Attorney acknowledges receipt of a copy of this Agreement and deposit in the amount of \$_____ and agrees to act as Escrow Agent subject to Paragraph 15 of this Agreement, the terms of Escrow Agent's general provisions set forth in Exhibit C, and any supplemental escrow instructions agreed upon by the parties.

Hudnall, Cohn & Abrams, PC

By: _____

Title: _____