

**EARNEST MONEY CONTRACT**  
**[COMMERCIAL BUILDING]**

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This is a Contract whereby Crouch Foundation Liquidating Company LLC ("**Seller**"), agrees to sell to \_\_\_\_\_ ("**Buyer**"), who agrees to purchase, upon the terms and provisions hereof, the following described real property:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

together with all and singular the rights and appurtenances pertaining to the real property, including all improvements, fixtures attached to such real property, and any right, title, and interest of Seller in and to adjacent streets, easements, alleys, or rights-of-way (**all the real property, rights, and appurtenances being referred to as the "Property"**).

Article 1

1.1 Sales/Purchase Price. The total sales/purchase price is \$ \_\_\_\_\_ payable to Seller in cash or immediately available funds at closing.

1.2 Earnest Money. Upon the execution of this Contract by Seller, as a condition precedent to the enforcement of this Contract, Buyer shall deposit \$ \_\_\_\_\_ (**the "Earnest Money"**) in immediately available funds with American Land Title, LLC (**the "Title Company"**), LaDonna Bonner-Gist, Sr. Commercial Escrow Office, Direct Telephone No. (806) 414-8931, email: [lbanner-gist@americanlandtexas.com](mailto:lbanner-gist@americanlandtexas.com), The Title Company's address is 620 S. Taylor, Suite 104, Amarillo, TX, 79101, Telephone No. (806) 349-9784, and Facsimile No. (877) 473-0849. The Title Company is not required to deposit the Earnest Money in an interest bearing account. At closing, the Earnest Money will be applied to the sales/purchase price.

1.3 Closing Date. Closing will be on or before August 9, 2019, at the offices of the Title Company.

1.4 No Financing. This Contract is **NOT** contingent upon Buyer obtaining financing to purchase the Property.

Article 2

2.1 Title Commitment. Buyer acknowledges receipt of a title commitment (**the "Commitment"**) covering the Property binding the Title Company to issue a Texas owner policy of title insurance. Buyer will accept title to the Property subject to all exceptions to title shown on Schedule B to the Commitment ("**Permitted Exceptions**"). On or before closing, all exceptions to

title in Schedule C to the Commitment applicable to Seller will be satisfied by Seller so that they are not exceptions to title in the Title Policy.

2.2 Title Insurance. Seller will furnish Buyer with an owner policy of title insurance (**the "Title Policy"**) issued by the Title Company. The Title Policy will be delivered as soon as possible after the sale is closed. The Title Policy will be in the form prescribed by the Texas State Board of Insurance, dated as of the closing date, and issued to Buyer in the amount of the total sales price, guaranteeing Buyer's title to be good and indefeasible subject to the Permitted Exceptions. The cost of the Title Policy will be paid by buyer.

2.3 Conveyance. At closing, Seller will convey the Property to Buyer by a special warranty deed subject to the Permitted Exceptions.

2.4 Seller's Closing Costs. Seller shall pay the following closing costs: (i) preparation of special warranty deed, (ii) title curative costs, (iii) tax certificates, (iv) one-half of the escrow fees, (v) Seller's attorney's fees, and (vi) other expenses provided herein.

2.5 Buyer's Closing Costs. Buyer shall pay the following closing costs: (i) one-half of the escrow fees, (ii) recording special warranty deed, (iii) Buyer's attorney's fees, and (iv) other expenses provided herein.

2.6 Ad Valorem Taxes. Ad valorem taxes on the Property for 2018 and prior years will be paid by Seller. Taxes for 2019 will be prorated to the closing date.

2.7 Escrow. The Earnest Money is deposited with the Title Company with the understanding that the Title Company (i) is not a party to this Contract and does not assume or have any liability for performance or non-performance of any party to this Contract, (ii) has the right to require from all parties a written release of liability of the Title Company which authorizes the disbursement of the Earnest Money, and (iii) is not liable for interest or other charge on the funds held. If any party unreasonably fails to deliver promptly the document described in (ii) above, then that party will be liable for attorney's fees. Any refund or payment of the Earnest Money under this Contract will be reduced by the amount of any actual expenses incurred on behalf of the party receiving the Earnest Money, and the Title Company will pay the same to the creditors entitled thereto.

2.8 Auctioneer's Commission. Assiter & Associates, LLC, a Texas limited liability company, served as the auctioneer and real estate broker ("**Auctioneer**") and has conducted the auction to sell the Property. Seller shall pay Auctioneer, in Randall County, Texas, a commission as set forth in a separate agreement. The Title Company is authorized to disburse Auctioneer's fee from Seller's funds.

2.9 Notice to Buyer. According to the terms of the Real Estate License Act of Texas, you, as Buyer, are advised by Auctioneer that Buyer should have the abstract covering the Property examined by an attorney of Buyer's selection, or be furnished with or obtain an owner policy of title insurance.

2.10 Seller's Remedies. Upon failure of Buyer to comply herewith, Seller may either:

- (a) cancel this Contract and thereupon the Earnest Money shall be applied first to pay the cost of advertising and direct expenses incurred in connection with the auction and the balance, if any, one-

half to Auctioneer and one-half to Seller, and there will be no further obligation to be borne, performed, or enforced by any party hereto; or,

- (b) seek other relief as may be provided by law.

2.11 Buyer's Remedies. If Seller fails to comply herewith for any reason, except Buyer's default, Buyer may either:

- (a) cancel this Contract and thereupon the Earnest Money shall be returned to Buyer and there will be no further obligation to be borne, performed, or enforced by any party hereto; or,
- (b) enforce specific performance hereof; or,
- (c) seek other relief as may be provided by law.

2.12 Attorney's Fees. Any party to this Contract or the Title Company who prevails in any legal proceeding brought under or with relation to this Contract or transaction will be additionally entitled to recover court costs and reasonable attorney's fees.

### Article 3

3.1 Examination of Property. **BUYER HAS EXAMINED THE PROPERTY TO BUYER'S COMPLETE SATISFACTION AND KNOWS ITS CONDITION. IN PURCHASING THE PROPERTY, BUYER RELIES ONLY ON BUYER'S EXAMINATION AND JUDGMENT, NOT ON THE REPRESENTATION OF SELLER OR ANY OTHER PERSON AS TO VALUE, FUTURE VALUE, CONDITION, SIZE, AGE, USE, ENVIRONMENTAL CONDITION, OR ANY OTHER MATTER. BUYER ACKNOWLEDGES THAT IN SELLING THE PROPERTY, SELLER MAKES NO WARRANTIES OTHER THAN TITLE. THE PROVISIONS OF THIS PARAGRAPH WILL SURVIVE THE CLOSING.**

3.2 Property Condition. **BUYER IS PURCHASING THE PROPERTY ON AN "AS IS" BASIS, WITH ALL FAULTS AND PROBLEMS OF ANY KIND AND NATURE, KNOWN OR UNKNOWN, PATENT OR LATENT, OF A PHYSICAL, ENVIRONMENTAL, OR LEGAL CONCERN, OR OTHERWISE. THE PURCHASE PRICE REFLECTS THE EXISTING CONDITION OF THE PROPERTY AND ANY DAMAGE OR DETRIMENT BUYER MAY SUFFER BY REASON OF THE CONDITION OF THE PROPERTY IS FULLY COMPENSATED FOR BY THE PURCHASE PRICE. THE PROVISIONS OF THIS PARAGRAPH WILL SURVIVE THE CLOSING.**

3.3 Owner's Disclosure of Property Condition. **Broker and Auctioneer shall require any successful bidder to sign the following disavowal of reliance: Buyers are buying the property as is and in its present condition and accept the same as being in full compliance with any representations as to the condition of the property heretofore made by the Owner, or Owner's agents, to the Buyers. Buyers acknowledge that they are not relying upon any representations as to the property which are not in writing, but are relying solely upon Buyers' own judgment in accepting said property. Buyers acknowledge that Buyers have been given the opportunity to examine the property and have either examined the property and found it to be satisfactory for its intended purposes or have willingly and knowingly chosen not examine the property and**

to accept the property as satisfactory for its intended purposes. Buyers are not relying upon any verbal representations of Owner, or Owner's agents, which vary from those set forth in the agreement to purchase the property, but are relying only upon those representations and disclosures set forth in the agreement to purchase the property and upon their own decision to enter into the agreement to purchase the property.

Owner shall protect, defend, indemnify, and hold harmless Broker and Auctioneer, and their respective agents, employees, and representatives, and any other brokers or their associates, of and from (i) any damages, costs, attorney's fees, and expenses arising from Owner's failure to disclose any material or relevant information or the giving of any incorrect information to Broker and Auctioneer, and their respective agents, employees, and representatives, any other brokers or their associates, or prospective buyers, (ii) any claim, cause of action, damages, costs, attorney's fees, and expenses relating to or concerning the condition of the property, including but not limited to any claim or cause of action asserting breach of contract, fraud, misrepresentation, fraud in a real estate transaction, breach of warranty or a violation of the Texas Deceptive Trade Practices Act

#### Article 4

##### 4.1 1031 Deferred Exchange.

- (a) Buyer is aware that Seller may perform a 1031 Tax Deferred Exchange. Buyer agrees to cooperate in the exchange. Seller will hold Buyer harmless from all claims, liabilities, costs, or delays in time resulting from the exchange.
- (b) Seller is aware that Buyer may perform a 1031 Tax Deferred Exchange. Seller agrees to cooperate in the exchange. Buyer will hold Seller harmless from all claims, liabilities, costs, or delays in time resulting from the exchange.

4.2 Possession. Possession of the Property will be delivered to Buyer at closing and funding.

4.3 Notices. Any notice, tender, or delivery to be given hereunder must be in writing and will be effected either by personal delivery or by registered or certified mail, postage prepaid, return receipt requested. Notice will be deemed received upon personal delivery or two days after mailing. Mailed notices must be addressed as set forth herein, but each party may change his address by written notice according to this paragraph.

4.4 Time. Time is of the essence of this Contract.

4.5 Mutual Understanding. Seller and Buyer have carefully read and understand the effect of this Contract. Each of the parties has had the assistance of separate counsel in carefully reviewing, discussing, and considering all the terms of this Contract. Counsel for each of the parties has read and considered this Contract and advised their clients regarding the execution of the same. This Contract will be construed as if prepared by counsel of both Seller and Buyer.

4.6 Only Agreement. This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the within subject matter.

4.7 Non-Foreign Person Affidavit. At closing, Seller shall deliver to Buyer a duly executed affidavit stating (i) Seller's United States Taxpayer Identification Number for federal income tax purposes and (ii) that Seller is not a "foreign person" within the meaning of Section 1445, et seq., of the Internal Revenue Code.

4.8 Parties Bound. This Contract is binding upon and inures to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

4.9 Signature by Facsimile. This Contract will be deemed fully executed by all parties if it bears the signatures of all parties. A FAX of the signature of a party will be binding on the signing party and delivery of this Contract by FAX will constitute delivery of this Contract for all purposes and will thus be binding on the party sending the FAX.

4.10 Counterparts. This Contract may be executed in counterparts and, if so executed, shall be valid, binding, and have the same effect as if all the parties hereto actually joined in and executed one and the same document.

4.11 Paragraph Headings. Paragraph headings are included only for convenience and are not to be used to construe any provision of this Contract.

4.12 Gender. Whenever the context requires, the singular includes the plural, the plural the singular, and the use of any gender includes all genders.

4.13 Consult Your Attorney. **AUCTIONEER CANNOT GIVE LEGAL ADVICE. THIS IS A LEGALLY BINDING CONTRACT AND SHOULD BE READ VERY CAREFULLY. IF YOU DO NOT UNDERSTAND THE EFFECT OF THIS CONTRACT, CONSULT WITH YOUR ATTORNEY BEFORE SIGNING.**

Dated the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

<p style="text-align: center;"><b>DISCLOSURE</b></p> <p><b>BUYER IS ADVISED THAT THE BUILDING(S) LOCATED ON THE PROPERTY IF CONSTRUCTED BEFORE JANUARY 1, 1981; THEREFORE, IT IS PRESUMED THAT THERE IS ASBESTOS CONTAINING BUILDING MATERIALS IN THE FLOOR COVERINGS, THERMAL INSULATION MATERIALS, SPRAY-ON OR TROWELED-ON WALL AND CEILING SURFACES, AND OTHER MATERIALS IN THE BUILDING(S). THERE MAY BE OTHER HAZARDOUS MATERIALS IN THE BUILDING(S). BUYER ACCEPTS THE PROPERTY WITHOUT THE REMOVAL OF ANY ASBESTOS CONTAINING BUILDING MATERIALS AND OTHER HAZARDOUS MATERIALS.</b></p>
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Address:

3701 Plains Boulevard  
Suite 72D  
Amarillo, TX 79102  
Telephone No. (806) 310-2600  
Cell No. (214) 796-8199  
Facsimile No.  
Email: [djudd@artsinthesunset.org](mailto:djudd@artsinthesunset.org)

SELLER:

Crouch Foundation Liquidating Company LLC

By: \_\_\_\_\_  
**Don Judd**, Manager

Address:

\_\_\_\_\_  
\_\_\_\_\_  
Telephone No. \_\_\_\_\_  
Cell No. \_\_\_\_\_  
Facsimile No. \_\_\_\_\_  
Email: \_\_\_\_\_

BUYER:

\_\_\_\_\_  
\_\_\_\_\_

Address:

16650 Interstate 27  
Canyon, TX 79015-6157  
Telephone No. (806) 655-3900  
Facsimile No. (806) 655-393-3939

APPROVED BY AUCTIONEER:

**ASSITER & ASSOCIATES, LLC**,  
a Texas limited liability company

By: \_\_\_\_\_  
**Tommy Ray Assiter, II**, Member

Address:

5701 Time Square Blvd., Suite 190  
Amarillo, TX 79119  
Telephone No. 806.354.3500  
Facsimile No. (806) 356-4077  
Email: [j.kite@sbcglobal.net](mailto:j.kite@sbcglobal.net)

APPROVED BY BROKER:

**Coldwell Banker**

By: \_\_\_\_\_  
**Justin Kite**, CCIM

RECEIPT BY TITLE COMPANY

The Title Company acknowledges receipt of this Contract and \$\_\_\_\_\_ as Earnest Money from Buyer in the form of \_\_\_\_\_.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_