

# **BULLSEYE AUCTION & APPRAISAL, LLC**

500 Pike Park Drive, Suite F  
Lawrenceville, GA 30046  
(Tel:) 770-544-7479

## **AUCTION REAL ESTATE SALES AGREEMENT**

DATE: Wednesday, July 11th, 2018

Based upon the efforts of BULLSEYE AUCTION & APPRAISAL, LLC (the "Auctioneer"), \_\_\_\_\_ ("Purchaser") agrees to buy, and ERICA R. JOHNSON, CHAPTER 7 TRUSTEE, FOR THE BANKRUPTCY ESTATE OF YONZETTA A. MOSS, CASE#18-00722-CW3-7 ("Seller") agrees to sell, all that tract or parcel of land lying and being in Dekalb County, Georgia, being more particularly described as real property commonly known as 737 Eastwood Rise, Stone Mountain, Georgia, being Land Lot No. 80, 18<sup>th</sup> District, 2<sup>nd</sup>, Dekalb County, Georgia, (Parcel ID 18-080-01-096), together with any systems or fixtures as may be attached thereto, all improvements thereon and appurtenances thereto (the "Property"), which is more particularly described in Exhibit A, attached hereto and incorporated herein by this reference. The Purchase Price of the Property is \$ \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars, to be paid by verifiable funds to Seller, in full, at closing.

Purchaser's obligation to close shall not be contingent upon Purchaser's ability to obtain financing. This offer remains binding and irrevocable by Purchaser through July 16th, 2018, at 5:00 PM (the "Offer Deadline"). If this Auction Real Estate Sale Agreement (this "Agreement") is not executed by Seller prior to the Offer Deadline the earnest money deposit shall be refunded to Purchaser and this Agreement shall be null and void. This Agreement shall become binding on Purchaser, upon execution. For purposes of this paragraph, Seller may execute this Agreement by electronic signature delivered to the Auctioneer via facsimile to (678) 892-4980 or via e-mail to Scott Schwartz [scott@bullseyeauctions.com](mailto:scott@bullseyeauctions.com).

Purchaser shall pay to Trustee, immediately following the completion of auction, to be received by the Trustee within 48 hours of the completion of the auction, the sum of \$ \_\_\_\_\_ (10% of the Purchase Price), as earnest money, which earnest money shall be promptly deposited into Trustee's escrow account, to be applied as part payment of the Purchase Price at time of closing. Earnest money paid by means other than cash or certified funds will not

be refunded, if applicable, until such time as the deposited funds have fully cleared the payor bank. The earnest money deposit will be non-interest bearing and shall be placed in escrow in the Trustee's Bankruptcy Estate's bank account. The parties hereto understand and acknowledge that disbursement of earnest money held by the Trustee shall only occur as follows: (a) at closing; (b) upon written agreement signed by all parties having an interest in earnest money; (c) upon court order; (d) upon failure of any contingency; or (e) upon failure of either party to fulfill the obligations contained in this Agreement. If any dispute arises between Purchaser and Seller as to the final disposition of all or any part of the earnest money, the Trustee dispute may be resolved by the U.S. Bankruptcy Court for the Middle District of Tennessee (the "Court") and the parties hereby consent to the jurisdiction of the Court. The parties shall make no claim whatsoever against Auctioneer or its agents acting on its behalf for the disputed earnest money and shall not seek damages from the Auctioneer by reason thereof or by reason of any other matter arising out of this Agreement or the transaction contemplated hereunder.

Seller states that Seller has authority to convey to the Property, and at the time the sale is closed agrees that title shall be transferred to Purchaser by Trustee's Deed, subject only to (1) all title matters of record as of the date of closing, (2) matters affecting title that would be disclosed by an accurate survey of the Property, and (3) all taxes not yet due and payable. Purchaser shall have fifteen (15) days from the date of execution of this Agreement to examine title and to furnish Seller a written statement of objections affecting the marketability of the title. Should Purchaser fail to furnish Seller with a written statement of objections within the time allotted, then Purchaser shall be deemed to have accepted title as is. Seller shall have fifteen (15) days after receipt of such objections, if any, to satisfy all valid objections and, if Seller fails to satisfy any valid objections within the (15) days, then at the option of Purchaser, evidenced by written notice to Seller, this Agreement shall be null and void, and Purchaser's earnest money shall be returned or Purchaser shall accept the title with the exceptions and Purchaser shall have no further claims against the Seller whatsoever.

PURCHASER, BY ITS EXECUTION HEREOF, ACKNOWLEDGES THAT (i) SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (E) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (F) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (G) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS MATERIALS; (ii) PURCHASER HAS FULLY INSPECTED THE PROPERTY, AND THE CONVEYANCE AND DELIVERY OF THE PROPERTY CONTEMPLATED BY THIS AGREEMENT IS "AS IS" AND "WHERE IS" WITH ALL FAULTS; AND (iii) NO WARRANTY HAS ARISEN THROUGH TRADE, CUSTOM OR COURSE OF DEALING WITH PURCHASER. PURCHASER REPRESENTS THAT PURCHASER HAS MADE (OR DOES HEREBY WAIVE): (i) INSPECTIONS OF THE PROPERTY TO DETERMINE ITS VALUE AND CONDITION DEEMED NECESSARY OR APPROPRIATE BY PURCHASER, INCLUDING, WITHOUT LIMITATION, INSPECTIONS FOR THE PRESENCE OF ASBESTOS, PESTICIDE RESIDUES AND/OR OTHER TOXIC OR POTENTIALLY TOXIC SUBSTANCES; AND/OR (ii) INVESTIGATIONS TO DETERMINE WHETHER ANY PORTION OF THE PROPERTY LIES WITHIN ANY FLOOD HAZARD AREA AS DETERMINED BY THE U.S. ARMY CORPS OF ENGINEERS OR OTHER APPLICABLE AUTHORITY. PURCHASER'S INSPECTION OF THE PROPERTY (OR WAIVER THEREOF) SHALL RELIEVE SELLER OF ANY LIABILITY TO PURCHASER AS A

RESULT OF ANY ENVIRONMENTAL HAZARD ON OR TO THE PROPERTY AND PURCHASER SHALL ACCEPT ALL LIABILITY THEREFORE AS BETWEEN PURCHASER AND SELLER, AND SHALL INDEMNIFY AND HOLD HARMLESS SELLER FROM AND AGAINST ANY CLAIMS, LIABILITIES, DEMANDS OR ACTIONS INCIDENT TO, RESULTING FROM OR IN ANY WAY ARISING OUT OF SUCH DISCOVERY. SUCH INDEMNITY SHALL SURVIVE ANY TERMINATION OF THE AGREEMENT AND SHALL SURVIVE CLOSING AND NOT BE MERGED THEREIN.

Seller and Purchaser agree that such documents as may be legally necessary to carry out the terms of this Agreement shall be executed and delivered by such parties at the time the sale is consummated. Seller states that when the sale is consummated the improvements on the Property, if any, will be in the same condition as on the date hereof, normal wear and tear excepted. However, should the premises be destroyed or substantially damaged before the sale is consummated, then both Purchaser and Seller retain the right to cancel or renegotiate this Agreement. Seller shall make no warranties, treatments, or repairs to the Property.

Real estate taxes and assessments on the Property shall be pro-rated as of the date of closing. The Closing shall be at the offices of Lane & Karlo, 1827 Powers Ferry Road, Bldg 5, Atlanta, GA 30339 or at such other closing attorney's office as agreed to by the Purchaser and the Seller. Seller shall pay the Auctioneer's commission, transfer tax, and any reasonable costs necessary to correct the title. Purchaser shall pay all other closing costs, including 100% of the designated attorney closing fees, title search and title policy fees, recording fees, and all of Purchaser's attorney's fees (should Purchaser choose representation). Unless otherwise specified in Exhibit B, the Sale shall be closed on or before thirty (30) days of the Offer Deadline, unless extended by the Parties to allow for Seller's satisfaction of any valid title objections, if applicable. The Auctioneer is acting as agent for the Seller and not as agent for Purchaser. Time is of the essence of this Agreement.

Should Seller fail to perform or otherwise be in default hereunder and for any reason other than a title defect or objection, the earnest money shall be refunded to Purchaser, as Purchaser's sole remedy. Should Purchaser fail to perform or otherwise be in default hereunder, the earnest money shall be retained by Seller as liquidated damages. Purchaser specifically agrees that, at the Auctioneer's sole option and discretion, any unresolved claim arising out of or

relating to this Agreement, or any alleged breach thereof, shall be resolved by the U.S. Bankruptcy Court for the Middle District of Tennessee (the "Court") which shall retain jurisdiction over the enforcement and interpretation of this Agreement. Purchaser, Seller and the Auctioneer hereby consent to the jurisdiction of the Court and hereby waive any claims as to jurisdiction, venue or inconvenient forum.

### ADDITIONAL PROVISIONS

A. This Agreement, represents the entire Agreement between the parties with respect to the subject matter hereof. The terms of this Agreement may not be varied or modified in any manner, unless in a subsequent writing, signed by authorized representatives of both parties.

B. No assignment of this Agreement, or of any right accruing under this Agreement, shall be made, in whole or in part by either party, without the prior written consent of the non-assigning party.

C. Nothing contained in this Agreement shall create or be construed to create a principal/agent relationship between the Auctioneer and Purchaser.

D. All notices under this Agreement, except as otherwise set forth in this Agreement, shall be in writing and hand delivered or shall be deemed to have been duly given when mailed by United States certified mail, return receipt requested, postage prepaid, or when delivered by a nationally recognized courier service and addressed to the parties as set forth on the signature page of this Agreement.

E. Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law. In the event that one or more provisions of this Agreement is held to be invalid, illegal or unenforceable under applicable law, the validity, legality and enforceability of the remaining provisions of this Agreement, shall not in any way be affected or impaired thereby.

F. This Agreement shall be binding on and inure to the benefit of the parties and their successors.

G. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original agreement, but all of which taken together shall be considered one instrument and shall become a binding contract when all the counterparts have been signed by each of the parties and delivered to the other.

H. Titles and headings to articles, sections, or paragraphs of this Agreement are inserted for convenience of reference only and are not intended to affect the interpretation or construction of this Agreement. Neither party shall be construed to be the drafter of this Agreement for purposes of judicial interpretation.

I. The remedies provided in this Agreement shall be cumulative, and the assertion by any party of any right or remedy shall not preclude the assertion by

such party of any other rights or remedies.

J. The parties acknowledge and agree that they are entering into this Agreement freely and voluntarily, without coercion or undue influence. Each party warrants that the party had an opportunity to have legal counsel review this Agreement, prior to execution, and that each party has had independent legal counsel review this Agreement, or has chosen to proceed without the advice of legal counsel.

K. Possession of the premises shall be granted by Seller to Purchaser no later than date of closing.

(x) The Trustee's Special Stipulations are set forth on Exhibit B, attached hereto and made a part thereof.

Buyer: \_\_\_\_\_

Seller: **Erica R. Johnson, Chapter 7 Trustee  
for Yonzetta A. Moss**

Buyer: \_\_\_\_\_

Email Address for Buyer:

Email Address for Seller:

**Erica@erjlaw.com**

Address for Buyer:

Address for Seller:

8161 Highway 100

SUITE 184

Nashville, TN 37221