"The Preferred Auction Company"

Fowler Auction & Real Estate SERVICE, INC.

8719 Highway 53 · Toney, Alabama 35773

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# AUCTION SALES CONTRACT

STATE OF ALABAMA

COUNTY OF LIMESTONE

THIS AGREEMENT OF SALE made and entered into on the day hereinafter expressed by and between

City of Athens 60 Dr. 1, Purchaser

and **Christopher Holding LLC**, Seller.

WITNESSETH:

Seller agrees to sell and Purchaser agrees to purchase from Seller the following described property on the following terms and conditions:

**Parcel # 10 05 16 4 002 010.002 and Parcel # 10 05 16 4 002 010.003**

**Commercial Building and 2 +/- acres Sanderfer Road**

| | | | |
|---|---|---|---|
| Bid Price | $215,000.00 | Earnest Money | $ 49,500.00 |
| Buyers Premium | $ 32,500.00 | Other | $ |
| **Total Purchase Price** | $247,500.00 | Other | $ |
| Closing Cost to be paid by BUYER(S) | | Cash due on closing | $ 198,000.00 *Cash due on closing is in addition to closing costs and financial fees.* |

ADDITIONAL PROVISIONS:

1. All measurements considered more or less.
2. Title Opinion & Title insurance policy is buyer's cost and responsibility.
3. The Seller has reasonable time to perfect title.
4. 10 % Buyers Premium will be added to the winning bid to determine the final purchase price.
5. The Parties agree that any announcements made at the auction are binding and enforceable.
6. The Parties agree that under Code of Alabama Section 7-2-328 (1975), the sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner.
7. Subject to all easements, right-of-ways, setback lines, restrictive covenants and encumbrances of record.
8. **Subject to Court Approval Case # DR-2013-900441**

Terms and Conditions:

1. The following is required by RECAD (Real Estate Consumer Agency and Disclosure Act) Agency Disclosure: Fowler Auction & Real Estate Service Inc. ("Agent") is a single agent of the seller and assisting the buyer as a transaction broker. Purchaser's Initials: Seller's Initials: CS

2. Seller will furnish Purchaser a good and merchantable Title and Warranty Deed free from all encumbrances except ad valorem taxes, existing restrictions, easements, and rights of way of record and applicable zoning ordinances.

3. SELLER and Purchaser hereby agrees to indemnify and hold AGENT harmless from and against any and all liability or loss that may be claimed against the AGENT as a result of this auction contract or the auction conducted under this contract. Said indemnity is to include any and all expenses and costs, including but not limited to attorney's fees, sustained as a result of any claims, suits, demands, costs, or judgments arising from this auction contract or the auction subject to it, from any person, firm, corporation, partnership, LLC, or other entity for any reason whatsoever.

4. ALL TAXES, INSURANCE AND RENTS SHALL BE PRORATED as of the date of the closing of this sale.

5. This transaction shall be closed on or before **December 22, 2014 or 5 days after court approval**. The Closing Attorney's office shall be **Alexander Corder Shelly**. Possession to be given with the deed. Time is of the essence. Seller shall have a reasonable amount of time to cure any title defects.

6. Should the Purchaser fail to carry out this contract in accordance with all of its provisions, the Seller shall have the option to do one of the following: 1. The Seller may declare the Purchaser in default and proceed against the Purchaser for the Purchaser's breach of contract including a reasonable attorney's fee, in which event the Agent shall be entitled to his commission. The earnest money herein mentioned shall be applied to legally ascertain damages. 2. The seller may reaffirm the contract and proceed for specific performance, in which event the Agent shall be entitled to his commission. 3. The Seller may accept the earnest money as shown herein as liquidated damages and the earnest money so forfeited shall be divided between evenly the Seller and the Agent, after payment of the Agent's auction expenses and advertising.

7. Should the Seller fail to carry out this contract in accordance with all of its provisions, the Buyer shall have the option to one of the following: 1. Buyer shall be entitled to a refund of his earnest money plus reimbursement from the Seller of any sums expended by him for title opinions, and upon payment by Seller of such sums, this contract shall be at an end. 2. Buyer may without demanding a return of his earnest money, proceed with a suit for specific performance of this contract.

8. The defaulting party shall pay a reasonable costs and expenses that may arise from enforcing this agreement, including reasonable attorney's fees.

9. WAIVER OF JURY TRIAL: The Parties hereby waive any and all rights and demands for a jury trial.

10. ARBITRATION: Any controversy or claim arising out of, or relating to, the execution, interpretation, performance, or breach of any provision of this Agreement and any future claims between the parties, regardless of their contractual relationship, shall be settled by arbitration. The arbitration must be arbitrated by the parties in accordance with the Rules of the American Arbitration Association, with the exception of the rules with respect to payment of fees and appointment of an arbitrator. Moreover, any controversy or claim between the parties to this agreement, regardless of whether such controversy or claim arises out of, or relates to, this agreement, shall likewise be settled by arbitration in accordance with the Rules of the American Arbitration Association. If any party to a dispute desires to arbitrate the dispute, either before or after a lawsuit is filed, such party shall demand arbitration by giving the other party or parties written notice. If the parties cannot agree on an arbitrator within fourteen (14) days after the date of the notice, each party shall name an arbitrator within ten (10) days. The two (2) arbitrators shall select one (1) arbitrator within ten (10) days, and the selected one (1) arbitrator shall determine the dispute(s). Payment of all arbitration fees and expenses shall be divided equally between the parties. In the event that any court determines that the preceding sentences are not to be enforced in whole, or in part, for any reason, then the parties intend that the preceding sentences shall only apply to any controversy or claim arising out of, or relating to, the course of dealings between the parties on account of the relationship created by this agreement. Course of dealings includes agreements other than, and subsequent to, this agreement entered into between the parties. Arbitration shall be held in Madison County, Alabama.

11. This sale is not contingent upon financing. PURCHASER ACKNOWLEDGES AND AGREES THAT PURCHASER'S OBLIGATIONS UNDER THIS SALES CONTRACT ARE NOT CONTINGENT UPON PURCHASER OBTAINING A LOAN FROM ANY LENDER. ACCORDINGLY, PURCHASER SHALL BE OBLIGATED TO PERFORM ITS OBLIGATIONS UNDER THIS SALES CONTRACT WHETHER OR NOT PURCHASER CAN OBTAIN A LOAN TO FINANCE THE PURCHASE OF THE PROPERTY.

12. EARNEST MONEY DEPOSIT. Purchaser and Seller hereby acknowledge and agree that Agent shall hold the Earnest Money Deposit, in accordance with the terms and conditions of this Contract, and that the Agent shall be relieved of all liability and held harmless by both Seller and Purchaser in the event Agent makes a disbursement of the Earnest Money Deposit in accordance with the terms and provisions of this Contract. The Agent shall be relieved from any responsibility or liability and held harmless by both Seller and Purchaser in connection with the discharge of any of the Agent's duties hereunder provided that Agent exercises ordinary and reasonable care in the discharge of said duties.

13. DISCLAIMER OF WARRANTIES; "AS-IS" CONVEYANCE.

(a) PURCHASER WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH SELLER AND AGENT THAT PURCHASER IS PURCHASING THE PROPERTY IN AN "AS-IS, WHERE IS" CONDITION "WITH ALL FAULTS" AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED, OF ANY KIND, NATURE, OR TYPE WHATSOEVER, FROM OR ON BEHALF OF THE SELLER.

(b) PURCHASER ACKNOWLEDGES TO AND AGREES WITH SELLER AND AGENT THAT WITH RESPECT TO THE PROPERTY, SELLER AND AGENT HAVE NOT, DO NOT, AND WILL NOT MAKE ANY WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY AS TO THE VALUE, PHYSICAL CONDITION, SQUARE FOOTAGE, SIZE OF THE PROPERTY, ACREAGE, ENVIRONMENTAL CONDITION (INCLUDING BUT NOT LIMITED TO WET LANDS, LEAD BASE PAINT, RADON GAS, ASBESTOS), ZONING, GOOD REPAIR, OPERABILITY, HABITABILITY, TENANTABILITY, SUITABILITY, MERCHANTABILITY, PROFITABILITY, MARKETABILITY, PAST OR PRESENT COMPLIANCE WITH ANY RULES, REGULATIONS, COVENANTS OR RESTRICTIONS, DEVELOPMENT POTENTIAL OR FITNESS FOR A PARTICULAR USE OR PURPOSE OF THE PROPERTY.

(c) Purchaser acknowledges that it is Purchaser's responsibility to make such legal, factual and other inquiries and investigations, as Purchaser deems necessary, desirable or appropriate with respect to the Property. Purchaser(s) acknowledge(s) that they have executed this contract based solely on their own independent due diligence investigations and findings, and not in reliance on any information provided by SELLER AND AGENT or their affiliates, agents, officers, employees or representatives. Purchaser acknowledges that Purchaser has not relied, and is not relying, upon any information, document, sales brochures or other literature, maps or sketches, projection, pro forma, statement, representation, guarantee or warranty (whether express or implied, oral or written, material or immaterial) that may have been given by or made by or on behalf of the Seller or the AGENT.

(d) Purchaser shall look only to Seller, and not to AGENT, as to all matters regarding this Agreement and the Property. The AGENT shall not be responsible or liable in any way if the Seller fails or refuses to or cannot close title hereunder, or if the Property is affected in any way, is in need of attention or repairs, or is in any other way unsatisfactory to Purchaser as Purchaser may determine before or after closing.

(e) Without in any way limiting the generality of the preceding subparagraphs (a) through (d), Purchaser specifically acknowledges and agrees that Purchaser hereby waives, releases and discharges any claim it has, might have had, or may have against the Seller or AGENT with respect to the condition of the Property, either patent or latent; Purchaser's ability or inability to obtain or maintain building permits, either temporary or final certificates of occupancy or other permits or licenses for the use or operation of the Property, and/or certificates of compliance for the Property, the actual or potential income or profits to be derived from the Property, the real estate taxes or assessments now or hereafter payable thereon, the compliance with any environmental protection, pollution or land use laws, rules, regulations or requirements, and any other state of facts which exist with respect to the Property.

14. DISCLAIMER: Seller and Purchaser acknowledge that they have not relied upon any advice or representations of the AGENT involved in this sale relative to (I) the legal or tax consequences of this contract and the sale, purchase or ownership of the property, (II) the structural condition of the property including the condition of the roof and basement, termite and/or wood infestations, (III) the electrical, heating, air conditioning, plumbing, and water heating systems, and appliances, (IV) the age and square footage of the improvements, and the size, acreage, or area of the property, (V) the availability of utilities or sewer service, (VI) the character of the neighborhood, (VII) the investment or resale value of the property, (VIII) any other matter affecting their willingness to sell or purchase the property on the terms and price herein set forth (VIII) the rights of way to the property, the street access to the property, and/or the ingress or egress to the property. Seller and Purchaser acknowledge that if such matters are of concern to them in the decision to sell or purchase the property, they have sought and obtained independent advice relative thereto.

15. PROPERTY INSPECTION. It is the Purchaser's sole responsibility to perform all inspections (physical, legal, economic, environmental, archeological or otherwise) on the Property and to be satisfied as to its condition prior to making an offer on the Property; review all property information and due diligence materials; independently verify any information they deem important including information available in public records; and inquire of public officials as to the applicability of and compliance with land use and environmental laws, building ordinances, zoning, health & safety codes, and any other local, state or federal laws and regulations.

Purchaser is responsible for the costs of all inspections, surveys, engineering reports, environmental studies, including, but not limited to, lead-based paint tests, or for any other work performed at Purchaser's request and Purchaser shall pay for any damage which occurs to the Property as a result of such activities. Purchaser shall not permit any claims or liens of any kind against the Property for inspections, surveys, engineering reports, or for any other work performed on the Property at Purchaser's request. Purchaser agrees to indemnify, protect and hold Seller and AGENT harmless against any liability, damage, cost or expense incurred, directly or indirectly, by Seller, as result of Purchaser's inspection, examination, or survey of the Property, either prior to, on or after the date hereof. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to enforce this section, including Seller's reasonable attorney's fees. Purchaser agrees to repair any damage caused by such inspections and to restore the Property to its condition prior to the inspection. This provision shall survive the closing and any termination of this Contract.

16. AGENT has made no representations or warranties as to the physical condition of the real estate and/or any improvements therein. AGENT is not familiar with the environmental condition of the real estate and has made no statements or warranties that said real estate is or is not free of any hazardous and/or toxic substances. Purchaser of said real estate releases and hold and saves AGENT harmless from and against all claims, losses, demands, costs, expenses, (including attorney's fees and other legal costs), liabilities, damages, and judgments arising out of or related to AGENT'S relations to said real estate acknowledge their understanding, acceptance of and agreement with the conditions, releases, indemnities, representations and warranties set forth.

17. All terms, conditions, and warranties not performed at the time of delivery of the deed shall survive such delivery.

18. NO CONSTRUCTION AGAINST DRAFTING PARTY: The Parties acknowledge that each of them and their counsel have had an opportunity to review this Agreement and that this Agreement will not be construed against either party, merely because the other party may have prepared it.

19. ENTIRE AGREEMENT: This Agreement contains the entire agreement between the parties hereto and any promises, statements, covenants, conditions and representations made by either party hereto, other than expressly set forth herein, which are not incorporated herein, are void and of no force and effect. No additions, deletions or modifications to, or from this Agreement shall be binding upon any party hereto, unless such addition, deletion or modification shall be set down in writing, properly executed by all the parties hereto, and attached as a part hereof.

WITNESS OUR HAND AND SEAL this **20th** day of **November**, 2014.

I/We, hereby agree to purchase the above described property according to the terms and conditions stated above.

PURCHASER Chas. C. & G. City of Atl. PURCHASER

PURCHASER PURCHASER

I/WE hereby agree to sell the above described property according to the terms and conditions stated above.

SELLER SELLER

SELLER SELLER

SELLER SELLER

BROKER WITNESS