POWELL
Auction & Realty, LLC
6729 Pleasant Ridge Road | Knoxville, TN 37921
Phone: 865-938-3403 | Fax: 865-947-5668

# SPECIFIC PERFORMANCE REAL ESTATE SALES CONTRACT

THIS CONTRACT made and entered into this 8th day of April, 2023 by and between
The Estate of Donald and Faye Gilliam by Donald Wayne Gilliam, Adeline Kay Raver, and Louana Klopfenstein
of Deer Lodge State of TN hereinafter called "Seller(s)", and
_____ of _____, State of ____ hereinafter called "Buyer(s)":

WITNESSETH: That the Buyer(s) hereby agrees to purchase and the Seller(s) hereby agrees to sell, subject to the terms, conditions and for the consideration hereinafter set forth, the following real property: Located in Morgan County, Tennessee, and being further described real property as follows: Gatewood Ford Road, Deer Lodge, TN 37726 – Portion of Current Parcel/Tax ID: 015 007.00 – Tract(s) _____ from survey no. 22-142 completed by Jonathan R. Boyatt dated 02 February 2023

1) **EARNEST MONEY:** Buyer(s) immediately upon conclusion of the bidding will deposit with POWELL AUCTION & REALTY, LLC, of Knoxville, Tennessee, hereinafter called "Agent", the sum of **$**_____, as earnest money to guarantee the performance by Buyer(s) hereunder and which will be applied as partial payment of purchase price. Both parties agree that Agent shall deposit and hold Earnest Money in an escrow account and will be disbursed pursuant to the terms of this contract. IF buyer has purchased online, Earnest Money payment is to be made within 48 hours of sale conclusion.

2) **PURCHASE PRICE & TERMS:** Buyer(s) agree to pay and Seller(s) agree to accept the sum of **$**_____. Upon the following terms: the bid price of **$**_____ plus the buyer's premium in the amount of **$**_____, together will be the total purchase price to be paid by the Buyer(s), PAID IN US DOLLARS. Property sold "AS- IS, WHERE-IS WITH ALL FAULTS", without any warranties expressed, implied, as to condition or title. Sale is NOT contingent upon financing. Balance to be paid in full at closing. Buyer is purchasing with any remaining personal property conveying with the property to the Buyer. **Attached Auction Terms & Conditions and any additional documents pertaining to the sale are part of the Sales Contract. The sale is subject to approval by the Chancery Court of Morgan County, Tennessee.**

3) **POSSESSION:** Possession of real property to be given AT CLOSING.

4) **TITLE TRANSFER:** For the above consideration, Seller (s) agrees to give a good and merchantable title by Deed, free and clear of all encumbrances except: **NONE.**
Title to be conveyed subject to all prior restrictions, easements, conditions, encumbrances, condemnation, right of ways, joint permanent easements, covenants or restrictions of record, zoning ordinances or laws of any government authority, status of mineral rights, status of oil and gas rights, or any type leases or assignments, taxes of any type, properties in FEMA flood zone, and other matters recorded or unrecorded, known or unknown. Mobile Homes Are Sold WITHOUT TITLE. Buyer shall pay, but not limited to: HOA requirements, Buyers Occurred expense, ALL Transfer Fees and or Membership Fees, if applicable.

5) **DEED**: Deed shall be made to: _____

6) **CLOSING DATE:** ALL parties agree the closing date of this sale shall occur **WITHIN 30 DAYS OF APPROVAL BY THE CHANCERY COURT OF MORGAN COUNTY, TENNESSEE.** The Seller reserves the option to extend the closing 30 days if needed to resolve title issues without further notice.

7) **TAXES:** Property taxes shall be prorated as of CLOSING.

8) **BUYER(S)' AS-IS ACKNOWLEDGEMENT: The property is sold "AS-IS, WHERE-IS and WITH ALL FAULTS", without any warranties expressed, implied or guarantees of any kind or accuracy to information.** Buyer accepts all faults and defects of the property; whether known or unknown, disclosed or undisclosed, presently existing or that may hereafter arise. Purchase is not contingent upon viewing the property after purchasing. By bidding, the Buyer is agreeing that they have had the opportunity to inspect the property prior to bidding and have inspected the property and all appurtenances thereto and are agreeing that they will sign the sales contract and other required documents within 12 hours of being provided said documents for signing. It is further agreed that this contract & terms contains the entire agreement between the parties and except as contained herein and that this property is purchased on an "AS-IS, WHERE-IS and with ALL FAULTS" basis. All announcements made at the auction take precedence over all other advertising and/or any type and/or kind of material.

9) **AGENCY DISCLOSURE:** Powell Auction & Realty LLC, its auctioneer(s) and employee(s) are acting as Agent(s) and represent the Seller(s) and is compensated by the Seller(s) in this transaction.

10) **RISK OF LOSS:** Risk of loss shall remain with the Seller(s) until closing. In the event any improvements to the property be destroyed or damaged by fire or other destructive force which cannot be repaired prior to closing, this contract may be voided at the option of the Buyer(s) and the earnest money shall be returned to Buyer(s).

11) **FAILURE TO CLOSE:**
(A) If Seller(s) fails to convey the property as provided in this contract: Buyer(s) may exercise legal remedies including suit for specific performances or damages. Agent may sue Seller(s) to recover loss of commission. Agent may pay Earnest Money into a court of competent jurisdiction, or retain Earnest Money until directed to distribute the same by a court of competent jurisdiction.

(B) If Buyer(s) fail to purchase the property as provided in this contract: Seller(s) may exercise legal remedies including suit for specific performance or damages. Seller(s) may elect to retain Earnest Money deposit as liquidated damages for breach of contract, in this case, it is agreed that Agent may retain from such Earnest Money deposit an amount not greater than his total commission of the sale had been consummated and the residue, if any, will be paid to Seller(s).

(C) Buyer(s) and Seller(s) further agree that in the event of default by either that results in litigation, that the non-defaulting party may recover reasonable attorney fees and any other court costs, in addition to other damages provided for herein.

12) **CONDITION OF PROPERTY:** The property will be sold by the Seller to the Buyer on an "AS-IS, WHERE-IS and WITH ALL FAULTS" basis. Buyer accepts all faults and defects of the property whether known or unknown, presently existing or that may hereafter arise. Buyer acknowledges and agrees that the Seller and the Agents have not made, does not make and specifically negates and disclaims 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 concerning to or with respect to: **(i)** the value, nature, quality or condition of the property, including without limitation: lease or rent information; noise disturbances; waste and/or septic disposal systems; marked or unmarked cemeteries/burial grounds; soil results for septic disposal systems; city or well water, either availability, connectivity or purity of; timber; soil; earth; rock; caverns; sinkholes; wood destroying organisms or infestations; geology; utilities either availability or connectivity; acreage of parcel; square footage or condition of structure; any improvements; all photographs; age; any measurements; and working or non-working components; **(ii)** the income to be derived from the property; **(iii)** the suitability of the property for any and all activities and uses which buyer may conduct from there; **(iv)** the compliance of by the property or its operation with any laws, rules, ordinances, or regulations of any 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 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, 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 of any type or kind of hazardous substance in or on the property, such as mold/fungus, radon, lead, asbestos, landfills, aldehydes/chemicals, pesticides, by-products of methamphetamines, or storage of any type of hazardous waste or substances AND as defined by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and regulations thereunder.

13) **ALL ONLINE BIDDING:** will have the same Terms & Conditions as live auctions, unless otherwise specified.

14) **FAIR HOUSING:** All parties understand that the federal Fair Housing Act of 1989 prohibits the discrimination of housing based on race, color, national origin, religion, sex, familial status, and disability and the Agents will not discriminate against anyone for any reason.

15) **TIME IS OF THE ESSENCE:** Time is of the essence in this contract.

16) **RESPONSIBILITY TO COOPERATE:** Buyer and seller agree to immediately take actions if needed to correct any clerical errors or pay any amounts due; by reason of mistake, clerical errors, omissions, or the result of erroneous information.

17) **WIRE FRAUD WARNING:** Never trust bank wiring instructions sent via email. Always independently confirm instructions in person or via a telephone call to a trusted and verified telephone number. Never wire money without double-checking that the wiring instructions are correct.

All parties hereto bind themselves, their heirs, executors, or administrators to the faithful Performance of this agreement and affix their signatures the day and date first above written.

**AGENT: POWELL AUCTION & REALTY, LLC** **BUYER:** _____

_____ _____

**SELLER:** _____ **PHONE:** _____

**SELLER:** _____ **EMAIL:** _____

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# TERMS & CONDITIONS OF REAL ESTATE AUCTION SALE

**SELLER:** **THE ESTATE OF DONALD AND FAYE GILLIAM**
**BY DONALD WAYNE GILLIAM, ADELINE KAY RAVER, AND LOUANA KLOPFENSTEIN**
**ADDRESS:** **GATEWOOD FORD ROAD | DEER LODGE, TN 37726**
**PORTION OF CURRENT MORGAN COUNTY PARCEL/TAX ID: 015 007.00**
**106.42+/- ACRES - TRACTS A, B & C FROM SURVEY NO. 22-142 COMPLETED BY JONATHAN R. BOYATT DATED 02 FEBRUARY 2023**

**PROPERTY INSPECTION:** We recommend that you preview the property. The property is being sold "AS-IS, WHERE-IS and WITH ALL FAULTS", without any warranties expressed, implied, or guarantees of any kind or accuracy to information. All information concerning the auction sale was derived from sources believed to be correct, but not guaranteed. Buyer shall rely on his/her own information, judgment and inspection of the property and records. Agent or Seller makes no warranty as to square footage, acreage or age. All announcements made at the auction take precedence over all other advertising and/or any type and/or kind of material. Title to be conveyed subject to all prior restrictions, easements, conditions, encumbrances, condemnation, right-of-ways, joint permanent easements, covenants or restrictions of record, zoning ordinances or laws of any governmental authority, status of mineral rights, status of oil and gas rights, any type of leases or assignments, taxes of any type, properties located in FEMA Flood Zones, and other matters recorded or unrecorded, known or unknown. Mobile Homes are sold WITHOUT TITLE. By bidding, the Buyer is agreeing that they have had the opportunity to inspect the property prior to bidding and have inspected the property and all appurtenances thereto and are agreeing that they will sign the sales contract and other required documents within 12 hours of being provided said documents for signing.

**TERMS:** The successful high bidder on this property will be required to sign the Specific Performance Real Estate Contract immediately upon conclusion of the bidding and will make an Earnest Money deposit of Ten Percent (10%) of the total sales price. A Ten Percent (10%) Buyer's Premium will be added to the high bid to establish the total sales price. The balance is to be paid in full at the closing. The contract will NOT be contingent upon financing. If property is residential and applicable, Tennessee Residential Property Exemption and Lead-Based Paint Disclosure Waiver will be a part of the sales contract. Buyer is purchasing with any remaining personal property conveying with the property to the Buyer.

**TENANTS:** The buyer understands and acknowledges that **IF** properties are occupied by tenants/previous owner, they are buying the property with the tenants/previous owner **in possession** and purchases the property subject to the rights of tenants/previous owner in possession, and all applicable rules and regulations relating thereto. Seller and Auctioneer make no representations or warranties regarding the same or on rent or rental income.

**TAXES:** Current taxes will be prorated as of the date of closing.

**CONDUCT OF THE AUCTION:** Conduct of the auction and increments of bidding are at the discretion of the Auctioneer. The Auctioneer's decision is final in the event of a dispute over any matter. The Auctioneer reserves the right to accept bids in any increments he deems to be in the best interest of his client, and reserves the right to waive any previously announced requirements. Bid rigging and bid suppression schemes are violations of the Sherman Antitrust Act and are deemed illegal and punishable as a federal felony.

**CLOSING:** Deed closing will take place within specified amount of time, from the day of the auction. Buyer will be advised as to the day and location of closing. Customary title closing cost will be split between the Buyer and Seller. Seller will pay for deed preparation. Title opinion, title insurance, transfer taxes and recording fees are a Buyer's expense.

**EXCLUSIVE CLOSING AGENT:** **M & M Title – Jane Holt**
**865-457-5675 – jane.holt@mmtitleco.com**
**125 N Main Street, Clinton, TN 37716**

**POSSESSION:** Possession of the property will be delivered upon closing.

**AGENCY DISCLOSURE:** Powell Auction & Realty LLC, a Tennessee Real Estate and Auction Company, and its auctioneer(s) and employee(s) are representing the Seller(s) as the Seller(s)' Agent(s).

*THESE TERMS AND CONDITIONS ARE A PART OF THE CONTRACT OF SALE AND SHALL STAND AS SUCH UNTIL THE DELIVERY AND ACCEPTANCE OF THE DEED.* ***SIGNED THIS 8TH DAY OF APRIL, 2023:***

**AUCTIONEER** _____ **BUYER** _____

**SELLER** _____ **BUYER** _____

**SELLER** _____

**SELLER** _____