

## AUCTION SALES CONTRACT

DATE: August 25, 2012

This contract entered into this **25th** day of **August, 2012** by and between **ROBERT T. AND DOREY F. SCOTT, SELLER; FURROW AUCTION COMPANY**, with an address of 1022 Elm Street, Knoxville, TN 37921 (phone: 865-546-3206), **AGENT**; and \_\_\_\_\_, with an address of \_\_\_\_\_, **BUYER**.

### WITNESSETH:

Pursuant to a bid placed at real property auction conducted by Agent on behalf of Seller and the terms and conditions agreed upon by Buyer in conjunction with Buyer placing a bid for purchase, Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the conditions hereinafter set out, the following described premises: **Single Family Home and Lot located at 819 Elk Knob Drive (Elk River Development), Banner Elk, NC, referenced as Lot 3 (Revised) on Plat recorded in Map Book 41, Page 20, of the Avery County Registry, comprising Avery County, NC Tax Parcel # 184801271852 and further described in deeds recorded in Book 323 at Page 1421 and also (as to a supplemented portion of the property) in Book 429 on Page 1873 of the Avery County, NC Register of Deeds Office**, which premises are hereinafter referred to as the **PROPERTY**.

In consideration of \$ \_\_\_\_\_, paid by Buyer as earnest money (**the "EARNEST MONEY"**) and part of the purchase price, receipt of which is hereby acknowledged, this contract is made binding on both parties, their heirs, executors, successors and/or assigns. Seller shall deliver to Buyer at closing a **GENERAL WARRANTY** deed conveying fee simple title to the Property to Buyer free and clear of all encumbrances, except as stated herein, being: **CURRENT YEAR PROPERTY TAXES WHICH WILL BE PRO-RATED AS OF CLOSING; RIGHTS OF TENANTS IN POSSESSION (IF APPLICABLE); PRO-RATION OF RENTS (IF APPLICABLE); ANY RECORDED OR VISIBLE ROAD-WAY RIGHTS OF WAY, RAILROAD OR UTILITY EASEMENTS; SUB-DIVISION RESTRICTIONS; HOA REQUIREMENTS; ZONING; ALL EXCEPTIONS BOTH STANDARD AND SPECIAL AS SHOWN ON TITLE COMMITMENT OBTAINED FOR SELLER BY TURNER LAW OFFICE, PA, BOONE, NC. BUYER SHALL PAY ANY RECORDING FEES IN CONJUNCTION WITH THE DEED.**

Buyer shall, within **40** days after date of this contract, pay for the property the total purchase price of \$ \_\_\_\_\_ (**WHICH PRICE INCLUDES 10% BUYER'S PREMIUM**), under the following terms: **10% DOWN WITH THE SIGNING OF THIS CONTRACT; BALANCE DUE IN CASH ON CLOSING WITHIN 40 DAYS. THIS IS A CASH TRANSACTION - CLOSING NOT SUBJECT TO ANY CONTINGENCIES. TITLE INSURANCE AND/OR SURVEY FOR THE PROPERTY MAY BE PROCURED BY BUYER AT BUYER'S SOLE OPTION AND EXPENSE.**

**THIS PROPERTY IS SOLD IN ITS "AS IS, WHERE IS, WITH ALL FAULTS" CONDITION WITH NO WARRANTIES EITHER IMPLIED OR EXPRESS EXCEPT WARRANTIES OF TITLE. Buyer acknowledges that all properties are being sold at public auction, subject to all existing covenants, conditions, restrictions, reservations, exploration rights, easements, rights of way, assessments, zoning, and all other land use restrictions.**

**Material Disclosure by Seller: The Property is subject to a "right of first refusal" contained in the Declaration of Restrictions for Elk River Development that allows the Elk River Property Owners' Association, Inc., Elk River Holdings, LLC, or both, as the first-refusal option holder(s), thirty (30) days from the option holder(s)' receipt of written notice of a bona fide offer to purchase acceptable to the Seller in which to choose to exercise the first refusal right by matching the terms of the bona fide offer. Should such an exercise of first refusal rights occur following the Auction sale to Buyer, the Seller shall pay to Buyer the sum of Five Thousand Dollars (\$5,000.00) as full and final compensation for the loss of the Buyer's purchase opportunity, in addition to the return of Buyer's full EARNEST MONEY.**

### DEED SHALL BE MADE: AS DIRECTED BY BUYER

Title Insurance (**at Buyer's expense**) Yes  No  WILL ADVISE  Buyer may, at its own expense, obtain title insurance provided that Seller shall not incur any cost as a result of such insurance.

**DISCLOSURE AS TO CHOICE OF CLOSING ATTORNEY AND ALLOCATION OF EXPENSES:** Buyer may choose to close with an attorney of Buyer's choice. Buyer is entitled to be represented and to obtain exclusive representation at Buyer's expense if Buyer so desires. If, however, Buyer waives the right to be represented by counsel of Buyer's choice, and chooses to close with Seller's closing attorneys, TURNER LAW OFFICE, PA, of 136 N. Water Street, Boone, NC 28607, Seller shall pay on Buyer's behalf for the additional title examination required for procurement of title insurance (but not for buyer's title insurance premium) in addition to the items specified for payment by Seller in Paragraph 5 below. In such case, TURNER LAW OFFICE, PA, while acting as a fiduciary to both parties in serving as closing agent, shall nonetheless represent only the Seller and shall perform the services of closing agent and of the attorney certifying the status of title as an accommodation to Buyer but without forming an attorney-client relationship with Buyer. In the event of any dispute between Buyer and Seller, TURNER LAW OFFICE, PA would continue to represent Seller.

### IT IS FURTHER MUTUALLY AGREED THAT:

1. **Agent.** Agent is not the owner of the Property, but solely an agent for Seller, who is the fee owner of the Property.

2. **Seller's Default.** If marketable title subject to the above-listed exceptions cannot be given to Buyer at closing, the **EARNEST MONEY** will be refunded to Buyer as Buyer's sole remedy. This contract is subject to any event that would adversely affect the quality of title as described in Schedule "B" of above-referenced Title Commitment subsequent to the execution of this sales contract.
3. **Casualty.** In the event of the destruction or damage of the Property by fire or other casualty prior to the closing of this sale, Buyer shall have the option to either receive any insurance proceeds on the Property destroyed and close and consummate the transaction, or to rescind this contract and receive a refund of the **EARNEST MONEY**.
4. **Buyer's Default.** If Buyer fails to carry out and perform the terms of this agreement within **40** days after date of this contract, except in the case of Seller's default. Buyer's deposit shall be forfeited, and Seller may recover additional damages or obtain specific performance as permitted by law.
5. **Closing and Settlement.** Closing to be conducted either by (check appropriate box)  **TURNER LAW OFFICE, PA, 136 N. Water Street, Boone, NC 28607 OR**  by \_\_\_\_\_ of \_\_\_\_\_, NC on or **before 40 days after the date of this Contract.** At the closing each party shall execute and deliver all documents necessary to effect and complete the closing, any statements, including any affidavits reasonably required by the Title Company for issuance of its title policy without the standard preprinted exceptions. The General Warranty Deed to be executed by Seller shall be on a form substantially compliant with the North Carolina Bar Association copyrighted form and shall convey to Buyer marketable fee simple title, free and clear of all liens, restrictions and encumbrances except as specified in the Title Commitment provided by Seller and insurable as such by the Title Company at standard rates on the current American Land Title Association Owner's Policy Standard Form, 1992. All blanks in all of the closing documents shall be filled in at the closing, and all documents shall otherwise be conformed to meet the requirements of the parties as expressed in this Contract. Buyer shall pay: (1) all title examination updates (if Buyer chooses a closing attorney other than Turner Law Office, PA) and title insurance (at Buyer's option and expense); (2) one-half closing fee; (3) recording of warranty deed. Seller shall pay: (1) title examination prepared for auction; (2) one-half closing fee; (3) excise tax on the transfer of title to Buyer; (4) preparation of Deed, Title insurance Lien Wavier Affidavit, 1099S Report of Gross Proceeds from Sale to the Internal Revenue Service, and any related documents of conveyance.
6. **Condition of Property.** Buyer hereby acknowledges Buyer's obligation to perform due diligence in regard to this transaction as well as the condition of the Property, and agrees that an inspection of the Property has been made by Buyer, that the purchase is based upon such inspection and such additional independent investigation as Buyer has chosen to make, and not by or through any representations made by Seller or Agent. Buyer hereby expressly waives any and all claims for damages or rescission of this contract due to any representations made by Seller or Agent, except such representations as may be contained in this contract.
7. **Acknowledgement.** Buyer acknowledges that in connection with its purchase of this Property from Seller, Agent disclosed to the undersigned Buyer all information, if any, made known by Seller to Agent concerning the exposure of the Property to hazardous wastes and/or substances, and/or the storage of hazardous wastes and/or substances and/or existence of lead-based paint or Chinese or other defective drywall on the Property. The undersigned Buyer is hereby determining to go forward with the purchase based on this information.
8. **Agency Disclosure Statement.** Buyer acknowledges that Agent disclosed Seller's name.
9. **Assignment.** Buyer may assign this contract in writing provided Buyer shall give Agent notice of such assignment prior to the closing. The terms and provisions of this contract shall be binding upon and inure to the benefit of Seller and Buyer and their respective heirs, executors, successors and/or assigns.
- . **Entire Agreement.** Both Seller and Buyer agree that this contract constitutes the sole and only agreement between them with respect to the above-described Property and shall not be modified, except in writing, and shall be binding upon their heirs, successors and/or assigns. Time is of the essence.

**FURROW AUCTION COMPANY, AGENT**

**Accepted:**

\_\_\_\_\_  
**Robert T. Scott, Seller**

**BY:** \_\_\_\_\_

\_\_\_\_\_  
**, Buyer**

**D**

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**Corey F. Scott, Seller**

\_\_\_\_\_  
**, Buyer**

**Date:** **August 25, 2012**

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