

CONTRACT TO PURCHASE REAL ESTATE AT PUBLIC AUCTION

THIS CONTRACT TO PURCHASE REAL ESTATE AT PUBLIC AUCTION ("Contract"), made and entered into as of this 24th day of August, 2007, by and between **Jerome J. LaLonde, John E. Folds, James A. O'Hare**, with an address at 34281 State Route 12E, Cape Vincent, New York 13618 collectively hereinafter referred to as "Seller" and

_____ ("Buyer"), as a bidder on the Property (as hereinafter defined) at the Auction this date, is made subject to the following terms, covenants and conditions:

1. **PROPERTY.** Seller agrees to sell and Buyer agrees to purchase the real estate situated in the Town of Cape Vincent, County of Jefferson and State of New York, designated in the auction brochure as Fox Island (Tax Map No. 59.00-1-9) and a mainland lot on Humphrey Rd. (Tax Map No. 59.07-1-1.32), the same being part of the real estate described on the attached Exhibit A, containing approximately 263+/- acres, together with all buildings, permanent improvements, fixtures attached thereto (unless otherwise EXCLUDED), all privileges and appurtenances pertaining thereto, including non-exclusive easement rights for purposes of ingress and egress, and utilities services to and from said property and the public road, all of the above hereinafter collectively called "Property." Buyer hereby acknowledges and understands that the Property is being sold on an "as is, where is" basis.

2. **PURCHASE PRICE.**

BID PRICE: Buyer hereby submits a bid of \$_____ (the "Bid Price") for the Property.

BUYER'S PREMIUM AND PURCHASE PRICE: A 5% Buyer's Premium is added to the "Bid Price" to determine the total contract "Purchase Price". The total contract "Purchase Price" is \$_____.

EARNEST MONEY: Buyer hereby tenders \$_____ payable to Carter, Ramseier & Holcombe, Attorneys at Law; 229 John Street, Clayton, NY 13624 (the "Escrow Agent"). Earnest Money to be held in escrow upon acceptance for delivery to Seller at the time of closing or as otherwise provided herein (the "Earnest Money"). The balance of the Purchase Price shall be paid by Buyer to Seller at closing by cashier's check or other form of payment acceptable to Seller.

3. **LIABILITY OF ESCROW AGENT.** The parties acknowledge that the Escrow Agent hereunder acts at the request and convenience of the parties. When acting in such capacity the Escrow Agent shall not be deemed to be the agent of either of the parties hereto and the Escrow Agent shall not be liable to either of the parties for any acts or omissions of Escrow Agent on its part unless taken or suffered in bad faith, in willful disregard of this Contract, or involving gross negligence. Seller and Buyer shall, jointly and severally, indemnify, defend and hold harmless Escrow Agent from and against all costs, claims, and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Escrow Agent's duties hereunder, except with respect to acts or omissions taken or suffered by Escrow Agent in bad faith, in willful disregard of this Contract, or involving gross negligence on the part of the Escrow Agent. In no event shall the Escrow Agent be liable for unearned interest with respect to the earnest money deposit.

4. **TITLE.** Seller has provided prior to the bidding at the auction a preliminary certificate of title for Buyer to review, which preliminary certificate of title covers the entire Property to be auctioned this date. Buyer will be purchasing the Property free and clear of liens and encumbrances except as reflected in said preliminary certificate of title posted at the auction. Buyer may elect to purchase an Owner's Title Insurance Commitment ("Title Commitment") to be paid by Buyer in the customary form showing title to the Property in the name of Seller, subject to the following permitted exceptions: (i) rights or claims of parties in possession not shown by the public records; (ii) easements or claims of easements not shown by the public records; (iii) encroachments, overlaps, boundary line disputes or other matters which would be disclosed by an accurate survey or inspection of the Property; (iv) any lien or right of lien for services, labor or material heretofore or hereinafter furnished, imposed by law and not shown by the public record; (v) taxes or special assessments which are not shown as existing liens; (vi) any water, mineral or other rights already granted or reserved by other parties, including but not limited to any mineral leases; (vii) the rights of any current tenants in possession of the Property; (viii) any encroachments, easements, party walls or other facts which are not

Seller's Initials

Buyer's Initials

shown by the public records but which would be disclosed by an accurate survey or by an inspection of the land; and, (ix) such easements, covenants, restrictions, conditions and other matters, if any, identified in the Title Commitment.

If Buyer has any valid objections to the status of title, Buyer shall provide Seller with written notice of Buyer's objections. Seller may, at Seller's discretion, take action to resolve Buyer's objections to the status of title. If Seller fails or refuses to resolve Buyer's objections to title, then Buyer may either purchase the Property subject to Buyer's objections, or Buyer may terminate this Contract, in which event Buyer's Earnest Money deposit shall be returned to Buyer.

5. **CLOSING.** The closing shall take place on or before October 24, 2007 at the law offices of Carter, Ramseier & Holcombe; 229 John Street, Clayton, NY 13624. At closing, Buyer shall pay to Seller the Purchase Price, less the Earnest Money plus or minus other items as required by this Contract by cashier's check or other form of payment acceptable to the Seller.

Upon receipt of the entire Purchase Price by Seller, Seller shall deliver to Buyer a Warranty Deed, Gain Tax Affidavit, Assessment Affidavit and any required mortgage or lien release in order to convey to purchaser a title to the premises, free and clear of all liens and encumbrances except as set forth elsewhere in this Contract.

6. **POSSESSION.** The possession of the property shall be delivered to Buyer at closing.
7. **WARRANTIES.** Buyer acknowledges that a full inspection of the Property and all related information was made including this Contract, and that Buyer is satisfied in all respects with the condition of the Property and all matters pertaining thereto. Buyer accepts the Property "as is" and in its present condition with Buyer assuming risk thereof. Buyer understands that Seller makes no warranty or representation of any kind, either express or implied or arising by operation of law, as to the condition, quality, serviceability or merchantability of fitness for a particular purpose of the Property or any portion thereof, and in no event shall Seller be liable for consequential damages. Buyer acknowledges that Seller has not agreed to perform any work on or about the Property as a condition of Buyer's purchase of the same. Buyer understands that by entering into this Contract and agreeing to accept the Property and pertinent structures in an "as is" condition, that Buyer is buying the Property subject to any and all recorded easements, leases, covenants and restrictions of record.
8. **REAL ESTATE TAXES AND ASSESSMENTS.**
- A. County and School Property Taxes shall be prorated as of the date of closing.
- B. Any special assessments applicable to the Property for improvements previously made to benefit the Property shall be paid by Seller. Buyer shall assume and agree to pay all special assessments for improvements which are completed after the date of this Contract.
9. **SALES EXPENSES.** Seller and Buyer agree that all sales expenses are to be paid prior to or at the closing.
- A. **SELLER'S EXPENSES:** Seller agrees to pay all costs of releasing existing liens or mortgages and recording the releases; deed stamps and cost of filing the Gains Tax Affidavit (TP-584); the cost of preliminary title search; the professional fee to the Seller's broker in this transaction; and any other expenses stipulated to be paid by Seller under other provisions of this Contract.
- B. **BUYER'S EXPENSES:** Buyer agrees to pay all expenses incident to: any loan (e.g., loan commitment fees, preparation of other loan documents, recording fees, additional transfer tax (if applicable), mortgage tax, title examinations, mortgage title insurance policy premium, etc.); any premium for an owner's title insurance policy; recording of the Deed; filing cost for the Assessment Affidavit RP-5217; copies of documents pertaining to restriction, easements, or conditions affecting the Property; and expenses stipulated to be paid by Buyer under other provisions of this Contract.
10. **DEFAULT.** If Buyer fails to perform any obligation imposed by this Contract, Seller may serve written notice of default upon Buyer. If such default is not corrected within ten (10) days thereafter, then, at the option of Seller, Seller may terminate said Contract and shall be entitled to retain the Earnest Money paid hereunder as liquidated damages. The foregoing remedy in the event of a default is not intended to be the exclusive remedy of Seller, and Seller shall have the right to seek all other remedies available at law or equity, including but not limited to specific performance.

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Buyer's Initials

Default by Buyer shall entitle Seller to court costs and reasonable attorneys' fees incurred in enforcing the provisions of this Contract. In the event of Seller's failure to perform its obligations imposed by this Contract then, Buyer shall serve upon Seller written notice to correct such default. Should Seller fail to correct such default within ten (10) days of receipt of such notice, Buyer's sole remedy hereunder shall be to declare this Contract terminated and receive a refund of its Earnest Money.

The Escrow Agent, upon receiving an affidavit from Seller or Buyer stating that this Contract has been terminated, upon default or otherwise, and requesting that Escrow Agent pay over the Earnest Money, shall notify the other party in writing of said affidavit and shall, in the event that the other party does not object in writing within ten (10) business days, deliver the Earnest Money as directed in the affidavit. In the event that the other party objects within the ten (10) day period to the payment of the Earnest Money, the Escrow Agent shall retain the deposit until the parties have reached written agreement on the disposition of the Earnest Money or a court of law has ordered the disposition of the same. Escrow agent shall be entitled to file an interpleader action in the event of dispute regarding the disposition of the earnest money.

11. **ENTIRE AGREEMENT.** This contract contains the entire agreement of the parties and no representations, warranties or agreements have been made by either of the parties except as set forth in this Contract.
12. **HEIRS, SUCCESSORS AND ASSIGNS.** This Contract shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, successors and permitted assigns, provided, however, that Buyer may not assign its rights or obligations hereunder without the prior written consent of the Seller.
13. **TIME IS OF THE ESSENCE.** The time for performance of the obligations of the parties is of the essence of this Contract.
14. **JURISDICTION.** This Contract shall be constructed in accordance with the laws of the State of New York. The venue of any action or suit relating to this Contract shall be in a court located in Jefferson County, New York. Any provision of this Contract which is unenforceable or invalid or the inclusion of which would affect the validity, legality, or enforcement of this Contract shall be of no effect, but all the remaining provisions of this Contract shall remain in full force and effect.
15. **ENVIRONMENTAL.** The Buyer acknowledges that the Seller has not made, will not make and hereby disclaims any and all representations and warranties concerning the environmental condition of the property. Buyer acknowledges that, if applicable, it has reviewed any environmental disclosure documents prior to bidding and that the information provided and in the form provided is acceptable to the Seller.
16. **SELLING AGENT.** This agreement is solely between Buyer and Seller. The auctioneer(s)/broker(s)/ sales agent(s) shall not be liable for any existing or arising defects or deficiencies in the Property, improvements or other appurtenant structure thereon, nor for any information provided to the Buyer from sources deemed reliable. The Buyer acknowledges that it has conducted its own independent investigations, inspections, inquiries and due diligence concerning the Property. Schrader Real Estate & Auction Company, Inc. and its representative, Rex D. Schrader, is exclusively the agent for the Seller.
17. **SALES FEE.** Seller and Buyer warrant and represent each to the other that Schrader Real Estate & Auction Company, Inc. is the only broker involved with the sale of the Property and that the commission shall be paid by the Seller. In the event that any other broker or other parties are entitled to commission, fee or other compensation relating to the sale of the Property as a result of Buyer's dealings with such broker or other party, Buyer shall pay the same and hereby agrees to indemnify and hold Seller and Auction Company harmless from the payment of any such commission, fee or compensation which obligation of Buyer shall survive closing. However, if Buyer's broker properly registered Buyer, per the Buyer broker guidelines issued, the Seller shall pay the Buyer broker stipulated fee at the closing of the transaction per the Buyer broker guidelines issued by Auction Company. The valid Buyer Broker registration must be attached as Exhibit D to be enforceable.
18. **FAIR HOUSING STATEMENT.** It is illegal, pursuant to the State Fair Housing Law and the Federal Fair Housing Law, 42 U.S.C.A. 3601, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, ancestry, handicap or national origin; or to

Seller's Initials

Buyer's Initials

discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services.

It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes.

19. **ADDENDA AND EXHIBITS.** The following addenda and exhibits are attached to this Agreement and are made a part hereof.

- Exhibit A –Legal Description
- Exhibit B – Lead Paint Disclosure.
- Exhibit C – Auction Announcement.
- Exhibit D – Buyer Broker Registration form.
- Exhibit E – Property Condition Disclosure Statement.
- Exhibit F – N.Y. State Disclosure Form for Buyer and Seller (Agency).

20. **EXECUTION; AUTHORITY.** The individual(s) signing this Contract on behalf of Buyer represent and warrant that either: (a) he or she is (or they are) the same person(s) named as Buyer on Page 1 of this Contract; OR (b) he or she has (or they have) full authority to execute this Contract on behalf of the Buyer named on Page 1 of this Contract.

21. **CONVEYANCE INSTRUCTIONS.** The Property shall be conveyed to (and Buyer hereby directs Seller to execute and deliver the deed to) the party(ies) identified below Buyer’s signature under “Exact name(s) to appear on deed” (the “Deed Grantee”). If the Deed Grantee is different than the party executing this Contract as Buyer, then: (a) if requested by Seller, Buyer will, prior to closing, execute and deliver an appropriate instrument prepared or approved by Seller assigning Buyer’s rights and obligations to acquire the Property to the Deed Grantee; and (b) the Buyer shall nevertheless be bound by all of the terms of the Contract unless Seller hereafter agrees in writing to release Buyer from this Contract.

22. **NOTICES.** Any notices required or permitted to be sent pursuant to this Contract shall be sent via certified mail return receipt requested to the address of the Seller or Buyer contained herein and, if to the Seller, a copy shall be sent by certified mail return receipt requested to Carter, Ramseier & Holcombe, Attorneys at Law., Attn: William F. Ramseier, 229 John Street, Clayton, NY 13624.

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Buyer’s Initials

IN WITNESS WHEREOF, the parties have executed this Contract in two counterparts, each of which shall be deemed an original instrument.

SELLER:

BUYER:

(Signature)

(Signature)

Date: August ____, 2007

Date: August ____, 2007

SELLER:

BUYER:

(Signature)

(Signature)

Date: August ____, 2007

Date: August ____, 2007

SELLER:

BUYER:

(Signature)

(Signature)

Date: August ____, 2007

Date: August ____, 2007

Address: _____

Phone #: _____

Fax #: _____

Buyer's Attorney: _____

Address: _____

Phone: _____

Fax #: _____

Exact name(s) and address(es) to appear on deed: _____

Form of ownership:
(check one)

Tenants in common _____
Joint Tenants _____
Sole ownership _____
Tenants by the Entirety (only if married) _____

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