

AUCTION REAL ESTATE SALES CONTRACT

THIS CONTRACT, made this the 18th day of May 2017, by and between: Kim Elaine Davis, John Roy Davis, Sue Davis Pendell, Robert Link Davis, William Dwight Davis, Deirdre Ann Davis, Deborah Claire Mote, and Mary Claire Davis (Seller), each dealing in his or her respective separate property, whose address is c/o Steven Greever, 11200 FM 759 Spearman, TX 79081. and _____
(Buyer) address _____

1. AGREEMENT TO PURCHASE. In consideration of the sum as identified in Paragraph 2 below, the mutual covenants herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller agrees to sell to Buyer, by (Special Warranty Deed), and Buyer agrees to purchase from Seller, pursuant to the terms and conditions hereinafter set forth, the real property identified as Tract # _____ and described as follows:

Legal Description:

The individual sellers named above collectively own all of the Property described herein. However, ownership is divided among the individual sellers in the manner and proportions discussed in the Ownership Addendum hereto. Each individual seller makes only the warranties, agreements, covenants and promises contained herein insofar as those affect such seller’s respective interests in the Property as depicted in the Ownership Addendum.

2. High Bid Price \$ _____

5% Buyer’s Premium \$ _____

Total Purchase Price \$ _____

Non-Refundable Down Payment/Deposit \$ _____

In U.S. Funds, based on 10% of the Total Purchase Price, to be held in an non-interest bearing escrow account by Closing Agent.

Balance of Purchase Price \$ _____

In U.S. Funds, due at Closing, not including Buyer’s Closing Costs or financing costs, prepaids or prorations, in 999immediately available cash or by confirmed wire transfer.

Reimbursement for Milo Expenses \$ _____

If a dollar amount is provided here, Buyer will reimburse the agricultural tenant or tender to the Closing Agent for distribution to the tenant, on or before closing and in immediately available cash or by confirmed wire transfer, for the stated amount, which represents reimbursement for planting expense of all milo currently growing on the Property. If no amount (or “\$0” or “N/A”) is entered, there is no reimbursement owing for any such expense.

3. **CLOSING.** Closing shall take place with Covenant Title (“Closing Agent”), whose address is 210 S. Main, Perryton, TX on or before June 23, 2017 (the “Closing Date”). At Closing, Seller shall deliver to Buyer a Special Warranty Deed (the “Deed”), which shall convey fee simple title to the Property to Buyer without any warranties. Seller and Buyer shall also execute and deliver any notices, statements, certificates, affidavits, releases or other documents required by this Contract, the Title Commitment (as hereinafter defined) or applicable law. Buyer acknowledges that, at the time of Closing any wheat planted on any of the Property, possession as to those acres planted to wheat will be given only after harvest of such wheat crop. In addition, the tenant of the wheat acres will have such reasonable ingress and egress upon, over, across and through the Property conveyed herein as may be necessary or convenient in harvesting the wheat. Any milo planting expense will be reimbursed to the agricultural tenant as discussed on Page 1 hereof and no delay in possession will occur by reason of a milo crop being planted to the Property. Otherwise, possession of the Property shall be delivered at Closing, subject to those matters contained in the Deed, Title Commitment and this Contract. Time is of the essence in this Contract.
4. **TAXES AND OTHER PRORATIONS.** The current year’s Property Taxes shall be prorated between Seller and Buyer at Closing based upon the amount of taxes for the prior year. All unpaid taxes for prior years, if any, shall be the responsibility of Seller. Buyer shall assume the payment of taxes for the year of Closing and all subsequent years. This Paragraph 4 shall expressly survive the Closing.
5. **CLOSING COSTS.**
 - (a) **Seller’s Costs.** At Closing, Seller shall pay the fees for preparation of the Deed and issuance of the Title Policy (as hereinafter defined), and all costs relating to tax certificates and overnight courier fees and messenger charges on behalf of the Seller. Closing/Escrow Fee is to be paid ½ by seller.
 - (b) **Buyer’s Costs.** At Closing, Buyer shall pay the recording costs of the Deed, overnight courier fees and messenger charges on behalf of the Buyer, escrow fees (if any), Closing Agent’s closing fees, any survey costs required by lender, ½ of the Closing/Escrow fee, and all additional sale or closing fees as well as Buyer’s financing costs.
6. **TERMS.** This is a cash sale with Ten Percent (10%) down payment, with the balance due at Closing on or before June 23, 2017. This sale is not contingent upon financing or due diligence. BUYER ACKNOWLEDGES AND AGREES THAT BUYER’S OBLIGATIONS UNDER THIS CONTRACT ARE NOT CONTINGENT UPON BUYER OBTAINING A LOAN FROM ANY LENDER. ACCORDINGLY, BUYER SHALL BE OBLIGATED TO PERFORM ITS OBLIGATIONS UNDER THIS CONTRACT WHETHER OR NOT BUYER CAN OBTAIN A LOAN TO FINANCE THE PURCHASE OF THE PROPERTY.
7. **DOWN PAYMENT/ DEPOSIT AND CLOSING AGENT.** Buyer and Seller hereby acknowledge and agree that Closing Agent shall hold and deliver the Down Payment/Deposit, in accordance with the terms and conditions of this Contract, and that Closing Agent shall be relieved of all liability and held harmless by both Seller and Buyer in the event Closing Agent makes a disbursement of the Down Payment/Deposit in accordance with the terms and provisions of this Contract. Closing Agent shall be relieved from any responsibility or liability and held harmless by both Seller and Buyer in connection with the discharge of any Closing Agent’s duties hereunder provided that Closing Agent exercises ordinary and reasonable care in the discharge of said duties. Both parties understand that the Buyer’s Down Payment/Deposit is non-refundable unless the Seller fails to close this transaction.

8. DISCLAIMER OF WARRANTIES (“AS-IS” CONVEYANCE)

- (a) Buyer warrants and acknowledges to and agrees with Seller, and Mason & Morse Ranch Company, LLC (“Auctioneer”) that Buyer 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 expressed or implied, of any kind, nature, or type whatsoever, from or on behalf of the Seller and the Deed will contain appropriate disclaimers to this effect.
- (b) Buyer acknowledges to and agrees with Seller and Auctioneer that with respect to the Property, Seller and Auctioneer have not, do not, and will not make any warranties or representations, expressed 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, environmental condition, 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) Buyer acknowledges that it is Buyer’s responsibility to make such legal, factual and other inquiries and investigations, as Buyer deems necessary with respect to the Property. Buyer acknowledges that Buyer has executed this Contract based solely on its own independent due diligence investigations and findings, and not in reliance on any information provided by SELLER OR AUCTIONEER or their affiliates, agents, officers, employees or representative. Buyer acknowledges that Buyer has not relied, and is not relying upon information, document, sales brochures or other literature, maps or sketches, projection, pro forma, statement, representation, guarantee or warranty (whether expressed or implied, oral or written, material or immaterial) that may have been given or made by or on behalf of the Seller or Auctioneer.
- (d) Buyer shall look only to Seller, and not to Auctioneer, as to all matters regarding this Contract and the Property. The Auctioneer shall not be responsible or liable in any way if the Seller fails or refuses to or cannot close this transaction.
- (e) Without in any way limiting the generality of the preceding subparagraphs (a) through (d), Buyer specifically acknowledges and agrees that Buyer hereby waives, releases and discharges any claim it has, might have had, or may have against Seller and Auctioneer with respect to the condition of the Property, either patent or latent.

9. **PROPERTY INSPECTION.** It is the Buyer’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 Buyer deems 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.

Buyer 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 Buyer’s request and Buyer shall pay for any damage which occurs to the Property or to any person as a result of such activities. Buyer 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 Buyer’s request. Buyer agrees to indemnify, protect and hold Seller and Auctioneer harmless against any liability, damage, cost or expense incurred, directly or indirectly, by Seller, as result of Buyer’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. Buyer agrees to repair any damage caused by such inspections and to restore the Property to its condition prior to the inspection. This Paragraph 9 shall expressly survive the Closing and any termination of this Contract.

10. **TITLE.** Buyer hereby acknowledges receipt of a title commitment (the "Title Commitment") issued by the Closing Agent as agent for Covenant Title (the "Title Insurer"). Buyer hereby agrees to accept title to the Property subject to (i) all standard exclusions and printed exceptions set forth in the Title Commitment, including all matters that would be disclosed by a current and accurate survey of the Property; (ii) liens for taxes not yet due and payable; (iii) easements for public utilities affecting the Property; (iv) all other easements or claims to easements, covenants, restrictions and rights-of-way affecting the Property; (v) rights and claims of parties in possession; and (vi) all title exceptions referenced in Schedule B of the Title Commitment (the foregoing title matters are herein referred to as the "Permitted Title Exceptions"). Any applicable zoning ordinances, other land use laws and regulations, together with taxes for the current year and those matters, if any, which are waived by Buyer pursuant to this Paragraph 10, shall also be deemed Permitted Title Exceptions. At or prior to Closing, Seller shall satisfy all requirements on Schedule C which are the responsibility of Seller and Buyer shall satisfy all requirements on Schedule C which are the responsibility of Buyer. At Closing, Seller, at its cost, shall cause the Title Insurer to issue and deliver to Buyer an owner's policy of title insurance (the "Title Policy"), insuring Buyer's fee simple estate in the Property in the amount of the Total Purchase Price, subject to the Permitted Title Exceptions.

Buyer also acknowledges and agrees that:

- a. Maps and depictions included in the marketing material for the auction are for illustration purposes only and neither Seller, nor Auctioneer warrants or guarantees any of these materials or other information to be accurate or complete.
 - b. Any fencing situated on the Property is not necessarily an indication of the Property boundary.
 - c. Buyer shall be responsible for its own due diligence regarding the availability and/or accessibility of any utilities or the suitability for building on the Property. In addition, the Buyer shall be responsible for obtaining any and all permits for installation of utilities, wells, septic systems, and/or any costs related to such installation. Permits, tanks, meters, lines, and any other applicable fees shall be at the Buyer's expense.
 - d. Only the fixtures owned by seller, machinery and equipment currently attached to or located upon the Property will be conveyed to Buyer.
 - e. The Property is selling subject to restrictive covenants and easements as shown in the Title Commitment and the Survey.
11. **FIXTURES AND PERSONAL PROPERTY.** Only the personal fixtures, machinery and equipment currently attached to or located upon the Property will be conveyed to Buyer and no other personal property will be conveyed with the Property.
12. **TITLE DEFECTS.** If the Title Commitment reveals a defect in title which is not one of the Permitted Title Exceptions, or if prior to the Closing a new defect in title is disclosed by an updated endorsement to the Title Commitment, which defect is not one of the Permitted Title Exceptions, prior to Closing Date, Buyer may either waive such defect or give written notice to Seller and Closing Agent no later than five (5) days from the date of discovery of such defect in title, whereupon Seller may, at its option, attempt to cure such defect prior to Closing or decline to cure such defect. If Seller is unable or unwilling to cure, on or before the Closing Date, any defect as to which Buyer has notified Seller as herein provided and if Buyer does not waive such defect on or prior to the Closing Date by written notice to Seller, this Contract shall be terminated without liability to either party and the Down Payment/Deposit shall be returned to the Buyer. Seller shall have the right, at its sole

election, to extend the Closing Date by not more than Sixty (60) Days to attempt to cure any such defect in title.

13. **COMMISSIONS.**

- (a) **Brokerage.** Buyer warrants and represents that Buyer [] is [] is not represented by a Buyer's Broker in this transaction. If Buyer is represented by a Buyer's Broker, the Buyer's Broker's name is: _____. The Buyer's Broker must have performed all requirements of the Buyer Broker Guidelines as provided by the Auctioneer. Failure to properly register or comply with the provisions of the Guidelines will disqualify the Buyer's Broker from receiving any commission.
- (b) **Agency Disclosure.** Mason & Morse Ranch Company, LLC is agent for Seller in this transaction and is to be paid a commission by Seller pursuant to a separate written agreement between Seller and Mason & Morse Ranch Company, LLC.

14. **BREACH OF CONTRACT BY SELLER.** If Seller defaults in the performance of any of its obligations pursuant to this Contract, and Closing fails to occur by reason thereof, Buyer, as its sole remedy, may terminate this Contract and receive the Down Payment/Deposit, or waive the default and proceed to Closing. In no event shall Seller or Auctioneer be liable for any damages including special, incidental or consequential damages, or economic loss and/or attorney fees.

15. **BREACH OF CONTRACT BY BUYER.** In the event the purchase and sale contemplated in this Contract is not consummated as a result of Buyer's default, Buyer's Down Payment/Deposit shall be forfeited to Seller, and Seller shall have all rights as allowed by law to file for damages, specific performance or cancellation of this transaction, with Buyer to be responsible for all costs of suit, including attorney's fees and court costs.

In addition, in the event that Seller is unable to collect on any check delivered by Buyer to Seller or Closing Agent, then, at Seller's option, without notice, this Contract may be terminated immediately and any Down Payment/ Deposit held by Seller or Closing Agent shall be paid to Seller, and Seller may pursue any rights and remedies available at law or in equity.

16. **CASUALTY.** Except as herein provided, all risk of loss with respect to damage to the Property shall be borne by Seller until the Closing; thereafter all risk of loss shall be borne by Buyer. In the event that the Property is, in the opinion of Seller, significantly damaged or is destroyed by fire or other casualty or hazard prior to Closing, Seller shall have the option to restore the Property to its pre-casualty condition or to cancel this Contract and Buyer's Down Payment/ Deposit shall be returned as a complete and final settlement to Buyer of all Seller's obligations hereunder. Should Seller desire to restore the Property to its pre-casualty condition, Seller shall so notify Buyer and thereafter have 120 days to complete such restoration, with the Closing Date to be postponed accordingly.

17. **NOTICES.** All notices under this Contract shall be deemed delivered when personally delivered or mailed postage prepaid, certified or registered mail, return receipt requested, or when delivered by a courier service to the addresses of the parties set forth in the preamble of this Contract. Either party may change its address for notice purposes by giving written notice thereof to the other party in accordance with the terms hereof. A copy of all notices given hereunder shall be delivered to Auctioneer and Closing Agent.

18. **WAIVER.** No failure or delay on the part of Seller in exercising any right of Seller nor any action on the part of Seller or any course of dealing or partial performance shall be deemed a waiver of any right of Seller set forth herein or a modification of any terms set forth herein.

19. **ENTIRE AGREEMENT; AMENDMENT.** This written Contract and any Exhibits, Schedules and Addenda attached hereto and made a part of this Contract signed by Buyer constitute the entire and complete agreement between the parties hereto and supersede any prior oral or written agreements between the parties with respect to the Property. This Contract may not be amended, altered, modified or discharged except by an instrument in writing signed by the Buyer and Seller.
20. **SEVERABILITY.** The invalidity of any provision of this Contract shall not affect the validity or enforceability of any other provision set forth herein.
21. **ASSIGNMENT.** Buyer may not assign this Contract or Buyer's rights hereunder without the prior written consent of Seller, which consent may be given or withheld in Seller's sole discretion.
22. **BINDING EFFECT.** This Contract shall be binding upon and inure to the benefit of the parties hereto, and their respective successors, personal representatives, legal representatives, heirs and permitted assigns.
23. **COUNTERPARTS.** The Contract may be executed in one or more counterparts, each of which shall have the force and effect of an original, and all of which shall constitute but one document.
24. **ACKNOWLEDGEMENT.** The Buyer certifies that if Buyer is a natural person, he or she is of legal age and has full legal capacity and authority to understand, execute and deliver this Contract on behalf of himself or herself. If Buyer is a domestic or foreign entity (as defined by the Missouri Business Organizations Code), Buyer represents to Seller that the party executing this Contract on behalf of such entity has the authority to execute this Contract on behalf of such entity, and that such entity shall be bound by the terms and conditions contained herein. Buyer also acknowledges that Steven Greever is acting as an Attorney-In-Fact on behalf of the sellers of this property.
25. **ARBITRATION OF DISPUTES.** Any dispute or claim in law or equity between Seller and Buyer directly or indirectly arising out of or relating to this Contract or any resulting transaction (including any dispute regarding whether this arbitration clause is enforceable or applicable) shall be decided by a neutral, binding arbitration and not by court action, except as provided by Texas law for judicial enforcement or review of arbitration decisions. The arbitration shall be heard by one arbitrator and conducted in Amarillo, TX by and in accordance with the Commercial Arbitration Rules of American Arbitration Association or its successor. Arbitration fees, including the fees and expenses of the arbitrator, shall be divided equally among the parties involved, unless awarded to the prevailing party by the arbitrator.
26. **ATTACHMENTS.** The Exhibits, Schedules and Addenda, if any, attached hereto are fully incorporated herein by reference for all purposes.

BUYER SIGNATURE (authority): _____

Buyer Name (print name): _____

Address _____

Phone _____ Email _____

SELLER SIGNATURE (authority): _____

Seller Name (print name): _____

Address _____

Phone _____ Email _____

SAMPLE

Ownership Addendum

The Property is owned by the Sellers in the following manner, to-wit:

<i>Owner:</i>	<i>Legal Description:</i>	<i>Ownership Fraction:</i>	<i>Net Acres:</i>
Kim Elaine Davis	The South One-Third (S 1/3) of Section 91, Block 13, T&NO Ry. Co. Survey, Ochiltree County, Texas, and the North One-Third (N 1/3) of Section 49, Block 4-T, T&NO Ry. Co. Survey, Ochiltree County, Texas	Undivided 1/3	141.44
John Roy Davis	The South One-Third (S 1/3) of Section 91, Block 13, T&NO Ry. Co. Survey, Ochiltree County, Texas, and the North One-Third (N 1/3) of Section 49, Block 4-T, T&NO Ry. Co. Survey, Ochiltree County, Texas	Undivided 1/3	141.44
Sue Davis Pendell	The South One-Third (S 1/3) of Section 91, Block 13, T&NO Ry. Co. Survey, Ochiltree County, Texas, and the North One-Third (N 1/3) of Section 49, Block 4-T, T&NO Ry. Co. Survey, Ochiltree County, Texas	Undivided 1/3	141.44
Robert Link Davis	The Middle One-Third (M 1/3) of Section 91, Block 13, T&NO Ry. Co. Survey, Ochiltree County, Texas, and the middle One-Third (M 1/3) of Section 49, Block 4-T, T&NO Ry. Co. Survey, Ochiltree County, Texas	Undivided 1/2	212.16
William Dwight Davis	The Middle One-Third (M 1/3) of Section 91, Block 13, T&NO Ry. Co. Survey, Ochiltree County, Texas, and the middle One-Third (M 1/3) of Section 49, Block 4-T, T&NO Ry. Co. Survey, Ochiltree County, Texas	Undivided 1/2	212.16
Deirdre Ann Davis	The North One-Third (N 1/3) of Section 91, Block 13, T&NO Ry. Co. Survey, Ochiltree County, Texas, and the South One-Third (S 1/3) of Section 49, Block 4-T, T&NO Ry. Co. Survey, Ochiltree County, Texas	Undivided 1/3	141.43
Deborah Claire Mote	The North One-Third (N 1/3) of Section 91, Block 13, T&NO Ry. Co. Survey, Ochiltree County, Texas, and the South One-Third (S 1/3) of Section 49, Block 4-T, T&NO Ry. Co. Survey, Ochiltree County, Texas	Undivided 1/3	141.43
Mary Claire Davis	The North One-Third (N 1/3) of Section 91, Block 13, T&NO Ry. Co. Survey, Ochiltree County, Texas, and the South One-Third (S 1/3) of Section 49, Block 4-T, T&NO Ry. Co. Survey, Ochiltree County, Texas	Undivided 1/3	141.43