

Real Estate Sales Contract

This Contract to buy and sell real property between Mills County, Texas, ("Seller") and _____ ("Buyer") is effective on the date of the last of the signatures by Seller and Buyer ("Effective Date").

A. Purchase and Sale of Property

A.1. Auction. Seller has offered the Property for sale at public auction at which Buyer became the successful bidder ("the Auction"). Buyer acknowledges that he has conducted due diligence of the Property prior to the Auction.

A.2. Purchase and Sale Agreement. Subject to the terms and provisions of this Real Estate Sales Contract ("the Contract"), Seller agrees to sell and convey to Buyer and Buyer agrees to buy and pay Seller for the Property The East 70 feet of Lots 1, 2 and 3, Block 14, Original Townsite of Goldthwaite, Mills County, Texas, being the same property described in a Deed to Mills County, Texas, recorded in Volume 227, Page 82, Mills County Real Property Records of Mills County, Texas, located at 901 4th St., Goldthwaite, Texas, Texas, ("Land"), together with improvements to the Land ("Improvements"), all collectively referred to as the "Property."

A.3. Purchase Price. The purchase price is \$ _____ (the "Purchase Price") to be paid by Buyer to Seller for the sale and conveyance of the Property and will be payable by cashier's check or other collected funds as may be accepted by Seller at Closing. This Contract is not contingent on Seller obtaining financing, but Seller agrees to cooperate with reasonable loan requirements at no liability to Seller, at no expense to Seller, and with no extension of Closing Date.

A.4. Performance. All deadlines in this Contract expire at 5:00 p.m. local time where the Property is located. If a deadline falls on a Saturday, Sunday, or holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, holiday. A holiday is a day, other than a Saturday or Sunday, on which state or local governmental agencies and financial institutions are not generally open for business where the Property is located. Time is of the essence.

B. Earnest Money

B.1. Payment of Earnest Money. Upon execution of this Contract, Buyer has tendered to Seller non-refundable Earnest Money in the amount of \$10,000.00 represented by cashier's check payable to Seller, referred to as the "Earnest Money" and applied according to the terms of this Contract.

B.2. Application of Earnest Money. If the sale of the Property is consummated as contemplated in this Contract, then the Earnest Money will be applied to the Purchase Price at Closing. If this Contract is terminated prior to consummation of the sale of the Property in accordance with this Contract, or Buyer fails to close, then the Earnest Money will be retained by Seller as liquidated damages.

C. Title and Survey

C.1. Title Policy. Seller will not provide Buyer with an Owner Policy of Title Insurance. Buyer may, at Buyer's option and expense, obtain an Owner Policy of Title Insurance issued by a local Title Company of Buyer's choice, which has its principal offices located in Goldthwaite, Texas ("Title Company").

C.2. Survey. No survey will be provided.

C.3. Title Objections. Seller is not required to cure title objections. Seller agrees to convey title by Special Warranty Deed free of any liens incurred by Seller and free of any title encroachments that arise by, through or under Seller after the Effective Date.

D. Buyer's Access to the Property

D.1. Access Period. Buyer acknowledges that Seller has allowed Buyer access to the Property for inspection prior to the Auction. Buyer may continue to access the Property up to Closing Date.

D.2. Entry onto the Property. Buyer and its duly authorized agents and representatives may enter the Property before Closing, at Buyer's cost and risk, subject to the following:

D.2.a. The Property may not be physically altered because of Buyer's access.

D.2.b. Buyer must abide by other reasonable entry rules imposed by Seller.

D.3. Environmental Assessment. SELLER HAS DISCLOSED TO BUYER THAT THE PROPERTY HAS PREVIOUSLY BEEN USED AS A FUEL SERVICE STATION AT WHICH PETROLEUM PRODUCTS HAVE BEEN STORED. Buyer has the right to conduct environmental assessments of the Property.

D.4. Buyer's Indemnity and Release of Seller

D.5.a. Indemnity. Buyer will indemnify, defend, and hold Seller harmless from any loss, attorney's fees, expenses, or claims arising out of Buyer's access to the Property. The obligations of Buyer under this provision will survive termination of this Contract and Closing, any other provision of this Contract to the contrary notwithstanding.

D.5.b. Release. **Buyer releases Seller and those persons acting on Seller's behalf from all claims and causes of action (including claims for attorney's fees and court and other costs) resulting from Buyer's access to the Property including claims arising out of Seller's negligence, but not Seller's gross negligence or intentional misconduct.**

E. No Representations, As Is, Where Is Provision, and Environmental Matters

E.1. "As Is, Where Is." THIS CONTRACT IS AN ARM'S-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT THOSE IN THIS CONTRACT AND THE CLOSING DOCUMENTS.

BUYER IS NOT RELYING ON ANY REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES OTHER THAN THOSE EXPRESSLY CONTAINED IN THIS CONTRACT AND THE CLOSING DOCUMENTS. BUYER IS NOT RELYING ON ANY INFORMATION REGARDING THE PROPERTY PROVIDED BY ANY PERSON, OTHER THAN BUYER'S OWN INSPECTION AND THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS CONTRACT AND THE CLOSING DOCUMENTS.

E.2. Environmental Matters. AFTER CLOSING, BUYER RELEASES SELLER FROM LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY (1) UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE; (2) THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; OR (3) ARISING AS THE RESULT OF THEORIES OF PRODUCTS LIABILITY AND STRICT LIABILITY, OR UNDER NEW LAWS OR CHANGES TO EXISTING LAWS ENACTED AFTER THE EFFECTIVE DATE THAT WOULD OTHERWISE IMPOSE ON SELLERS IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY. **THIS RELEASE APPLIES EVEN WHEN THE ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY RESULT FROM SELLER'S OWN NEGLIGENCE OR THE NEGLIGENCE OF SELLER'S REPRESENTATIVE.**

F. Condition of the Property until Closing; Cooperation; No Recording of Contract

F.1. Maintenance and Operation. Until Closing, Seller will (a) maintain the Property as it existed on the Effective Date, except for reasonable wear and tear and casualty damage; and (b) not encumber, transfer or dispose of any of the Property.

F.2. Casualty Damage. Buyer may terminate this Contract if any casualty damage to the Property occurs before Closing would materially affect Buyer's intended use of the Property, by giving notice to Seller before Closing, in which event Earnest Money will be retained by Seller. If Buyer does not terminate this Contract, Seller will (a) convey the Property to Buyer in its damaged condition, (b) assign to Buyer all of Seller's rights under any property insurance policies covering the Property, and (c) credit to Buyer the amount of the deductibles and coinsurance provisions under any insurance policies covering the Property, but not in excess of the cost to repair the casualty damage and less any amounts previously paid or incurred by Seller to repair the Property.

G. Termination

G.1. Disposition of Earnest Money after Termination. Earnest Money is non-refundable. Any termination of this Contract by Buyer or Buyer's failure to close for any reason will result in Seller retaining the Earnest Money.

H. Closing

H.1. Closing. This transaction will close ("Closing") at the office of the County Attorney of Mills County, Texas, 1412 Fisher St., Goldthwaite, Texas 76844, or at Title Company, at Buyer's option, on September 29, 2022 (the "Closing Date").

H.2.a. At Closing, Seller will deliver the following items:

Special Warranty Deed

H.2.b. At Closing, Buyer will deliver the following items:

Balance of Purchase Price

Deceptive Trade Practices Act waiver

The documents listed in these paragraphs H.2.a. and H.2.b. are collectively known as the "Closing Documents."

H.2.c. Payment of Purchase Price. Buyer will deliver the Purchase Price and other amounts that Buyer is obligated to pay under this Contract to Seller or the Title Company by cashier's check or other collected funds satisfactory to Seller and the Title Company. The Earnest Money will be applied to the Purchase Price.

H.2.d. Possession. Seller will deliver possession of the Property to Buyer at closing.

H.3. Transaction Costs

H.3.a. Seller's Costs. Seller will pay for preparation of the Special Warranty Deed but no other closing costs.

H.3.b. Buyer's Costs. Buyer will pay any escrow fee charged by the Title Company; the costs to obtain, deliver, and record all documents; the costs to obtain financing of the Purchase Price required by Buyer's lender; any other costs expressly required to be paid by Buyer in this Contract; and Buyer's attorney's fees and expenses.

H.3.c. Ad Valorem Taxes. Seller will be responsible for all ad valorem taxes on the Property for all years before the calendar year of Closing. Ad valorem taxes for the Property for the calendar year of Closing will not be prorated between Buyer and Seller. Buyer will be

responsible for any ad valorem taxes assessed against the Property for year of Closing and subsequent years.

I. Default and Remedies

I.1. Seller's Default. If Seller fails to perform its obligations under this Contract ("Seller's Default"), Buyer may elect either of the following as its sole and exclusive remedy before Closing:

I.1.a. Termination. Buyer may terminate this Contract by giving notice to Seller on or before the Closing Date, in which event Earnest Money will be retained by Seller; or

I.1.b. Specific Performance. Buyer may enforce specific performance of Seller's obligations under this Contract, but any such action must be initiated, if at all, within 30 days after the breach or alleged breach of this Contract. If no action to enforce is initiated within 30 days, Buyer will be deemed to have elected to terminate this Contract. If title to the Property is awarded to Buyer, the conveyance will be subject to the matters stated in the Title Commitment, or if there was no Title Commitment, to all matters of record.

I.2. Buyer's Default. If Buyer fails to perform any of its obligations under this Contract ("Buyer's Default"), Seller may terminate this Contract by giving notice to Buyer on or before Closing, in which event the Earnest Money will be retained by Seller.

I.3. Attorney's Fees. If either party retains an attorney to enforce this Contract, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

J. Miscellaneous Provisions

J.1. Notices. Any notice required by or permitted under this Contract must be in writing. Any notice required by this Contract will be deemed to be delivered (whether received or not) the earlier of receipt or three business days after being deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Contract. Notice may also be given by regular mail, personal delivery, courier delivery, or e-mail and will be effective when actually received, provided that (a) any notice received on a Saturday, Sunday, or holiday will be deemed to have been received on the next day that is not a Saturday, Sunday, or holiday and (b) any notice received after 5:00 P.M. local time at the place of delivery on a day that is not a Saturday, Sunday, or holiday will be deemed to have been received on the next day that is not a Saturday, Sunday, or holiday. Any address for notice may be changed by not less than ten days' prior written notice delivered as provided herein. Copies of each notice must be given by one of these methods to the attorney of the party to whom notice is given.

To Buyer: _____

Address

To Seller: Mills County, Texas
P.O. Box 483
1011 4th St.
Goldthwaite, Texas 76844

With copy to:
Gerald G. Hale
Mills County Attorney
P.O. Box 647
1412 Fisher St.
Goldthwaite, Texas 76844

J.2. Entire Agreement. This Contract, its exhibits, and any Closing Documents delivered at Closing are the entire agreement of the parties concerning the sale of the Property by Seller to Buyer. There are no representations, warranties, agreements, or promises pertaining to the Property or the sale of the Property by Seller to Buyer, and Buyer is not relying on any statements or representations of Seller or any agent of Seller, that are not in this Contract, and any Closing Documents.

J.3. Amendment. This Contract may be amended only by an instrument in writing signed by the parties.

J.4. Prohibition of Assignment. Buyer may not assign this Contract or Buyer's rights under it without Seller's prior written consent, which Seller has no obligation to grant and which, if granted, may be conditioned in any manner Seller deems appropriate, and any attempted assignment without Seller's consent is void. The consent by Seller to any assignment by Buyer will not release Buyer of its obligations under this Contract, and Buyer and the assignee will be jointly and severally liable for the performance of those obligations after any such assignment.

J.5. Survival. The provisions of this Contract that expressly survive termination or Closing and other obligations of this Contract that cannot be performed before termination of this Contract or before Closing survive termination of this Contract or Closing, and the legal doctrine of merger does not apply to these matters. If there is any conflict between the Closing Documents and this Contract, the Closing Documents will control. The representations made by the parties as of Closing survive Closing.

J.6. Choice of Law; Venue. THIS CONTRACT IS TO BE CONSTRUED UNDER THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO CHOICE-OF-LAW RULES OF ANY JURISDICTION. VENUE IS IN THE COUNTY WHERE THE PROPERTY IS LOCATED.

J.7. *Waiver of Default.* Default is not waived if the nondefaulting party fails to declare a default immediately or delays taking any action with respect to the default.

J.8. *Binding Effect.* This Contract binds, benefits and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

J.9. *Waiver of Consumer Rights.* **BUYER WAIVES ITS RIGHTS UNDER THE TEXAS DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SECTION 17.41 ET SEQ. OF THE TEXAS BUSINESS AND COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF ITS OWN SELECTION, BUYER VOLUNTARILY CONSENTS TO THIS WAIVER.**

J.10 *Waiver of Jury Trial.* **BUYER AND SELLER, EACH AFTER CONSULTATION WITH AN ATTORNEY OF ITS OWN SELECTION (WHICH COUNSEL WAS NOT DIRECTLY OR INDIRECTLY IDENTIFIED, SUGGESTED, OR SELECTED BY THE OTHER PARTY), BOTH VOLUNTARILY WAIVE A TRIAL BY JURY OF ANY ISSUE ARISING IN AN ACTION OR PROCEEDING BETWEEN THE PARTIES OR THEIR SUCCESSORS, UNDER OR CONNECTED WITH THIS CONTRACT OR ITS PROVISIONS. BUYER AND SELLER ACKNOWLEDGE TO EACH OTHER THAT BUYER AND SELLER ARE NOT IN SIGNIFICANTLY DISPARATE BARGAINING POSITIONS.**

K. Exhibits

- Exhibit A.—Asbestos Disclosure Notice
- Exhibit B. —Storage Tank Disclosure Provider

Mills County, Texas

By: _____
Ed Smith, County Judge

Date: _____

Buyer

Date: _____

Receipt for Earnest Money

Seller acknowledges receipt of Earnest Money payment of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) required under this Real Estate Sales Contract on this _____ day of _____, 2022.

Mills County, Texas

By: _____
Ed Smith, County Judge