

**AGREEMENT FOR PURCHASE AND SALE
OF REAL ESTATE**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE (the "Agreement") is made and entered into with an agreed upon effective date of Jan 15th, 2023, by and between **DOUGLAS H. LUSH** and **SHARMIN H. LUSH**, his wife, ("**SELLERS**"), of 517 Ambrose Lane, Cecilia, Kentucky 42724, and **HARDIN COUNTY BOARD OF EDUCATION**, at Elizabethtown, Kentucky, 42701 ("**PURCHASER**").

WHEREAS, **SELLERS** desire to sell, and **PURCHASER** desires to purchase, the real property as hereinafter more particularly described, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including payment of the Purchase Price in consideration for conveyance of the Property as described below, the Parties hereby agree as follows:

(A) SALE AND PURCHASE OF PREMISES

SELLERS hereby agree to sell and convey to **PURCHASER**, and **PURCHASER** hereby agree to purchase and take from **SELLERS**, that certain parcel of real estate located in Hardin County, Kentucky, being a total of approximately 31.4 acres, which is a portion of the property conveyed to Sellers in Deed Book 941, Page 14, of record in the Office of the Hardin County Court Clerk ("the Property"), specifically being the parcel identified in attached Exhibit A.

(B) SURVEY AND PURCHASE PRICE

PURCHASER shall have prepared a survey of the Property at the cost of the **PURCHASER**. Prior to closing, a plat approved by all regulatory authorities and the Seller and the **PURCHASER**, which shall be mutually agreeable to both parties, shall be prepared. Said plat will establish the boundary line of the Property.

The Purchase Price ("Purchase Price") for the Property shall be Fifteen Thousand Dollars (\$15,000.00) per acre. Of this amount, Five Thousand Dollars (\$5,000.00) shall be paid upon the signing of this Agreement and this amount shall be deposited with the **SELLER**. The balance shall be paid at closing and shall be determined following a survey which has identified the number of acres being conveyed.

(C) CLOSING CONTINGENCY AND OPTION TO EXTEND AGREEMENT

PURCHASER shall have no obligation to purchase the Property unless the following contingencies are satisfied in the sole and absolute discretion of the **PURCHASER**. The contingencies are as follows:

1. That PURCHASER receives the necessary approval from the Kentucky Department of Education, the Kentucky Department of Transportation and any and all other required regulatory approvals; and

2. That PURCHASER completes a Property Inspection as described in section H herein; and

3. That PURCHASER obtains an access road across property currently owned by Buchanan Property Group LLC, Warf Property Group LLC, and Jeffrey Allen and Jo Buchanan, which is contiguous to the Property ("Access Road Property"). The acquisition of the Access Road Property requires the current owners of the Access Road Property to obtain a Zoning Variance from the Hardin County Planning & Zoning Commission. If said variance is not granted, or if for any reason PURCHASER does not acquire the Access Road Property, PURCHASER shall have no obligation to purchase the Property and will receive a full refund of the good faith deposit. If a Zoning Variance acceptable to the PURCHASER in its sole discretion, has not been received by July 1, 2023 this Agreement shall terminate.

4. PURCHASER shall have the right to extend the Purchase Agreement for an additional period of time terminating December 31, 2023 upon the payment to the SELLERS a nonrefundable option fee of \$5,000.00. If for any reason the transaction herein contemplated does not close by the conclusion of the option period, the SELLERS shall be entitled to retain the \$5,000.00 option fee as their sole and exclusive remedy. If the purchase of the Property herein described does occur prior to December 31, 2023, the option fee shall be applied to the Purchase Price.

(D) CLOSING

The closing of the sale and purchase of the Property shall occur not later than 15 days following the removal of all contingencies. Said date of Closing shall be established by written notice from PURCHASER to SELLER. Said closing shall occur at the offices of Skeeters, Bennett, Wilson & Humphrey in Radcliff, Kentucky unless it is mutually agreed by SELLERS and PURCHASER for the closing to occur elsewhere.

At and as of the closing, subject to the contemporaneous performance by purchaser of its obligations set forth below, SELLERS shall:

1. Convey the property to PURCHASER by deed of general warranty, free and clear of all liens and encumbrance;
2. Deliver possession of the Property at and as of the time of recording the deed; and
3. Release any easements granted to SELLER across property owned by Buchanan Property Group LLC and specifically release the easement of record in Deed Book 1537 Page 801 in the Office of the Hardin County Clerk.
4. Sign closing documents as reasonably required by PURCHASER and its title

insurance company.
PURCHASER shall:

1. Prepare a general warranty deed, suitable to meet the needs of PURCHASER, at PURCHASER's expense.
2. Prepare a Limited Temporary Access Easement, suitable to meet the needs of SELLER at PURCHASER'S expense. The specific provisions of the Limited Temporary Access Easement to be granted to SELLER are set forth herein in paragraph K.
3. Provide copies of all closing documents to SELLER prior to closing, for SELLER review and distribution

At and as of the closing, subject to the contemporaneous performance by SELLERS of its/their obligations set forth above, PURCHASER shall deliver to SELLERS the Purchase Price, in the manner set forth in Section (B) above.

(E) GOOD FAITH DEPOSIT

1. As evidence of good faith, PURCHASER is depositing with the SELLERS the sum of **Five Thousand Dollars (\$5,000.00)** to be held by the SELLERS to be applied to the Purchase Price at the time of closing. If the Seller is unable to satisfy its representations and warranties as set forth in Section (I) of this Agreement, then the Purchaser shall be entitled to a refund of the \$5000.00 and Purchaser also reserves the right to seek specific performance.

2. If the Purchaser elects to terminate this Agreement as set forth in Paragraph H prior to the 20th day of February, 2023, Purchaser shall be entitled to a refund of the \$5000.00 and Purchaser shall have no further rights under this agreement.

3. If the Closing Contingencies set forth in paragraph C are not satisfied in its sole discretion of the PURCHASER, the PURCHASER shall be entitled to a refund of the \$5,000.00 good faith deposit and PURCHASER shall have no further rights or obligations under this agreement.

4. If the purchase of the Property is not completed as a result of the Purchaser's decision in its sole discretion, not to go forward with the acquisition, then the Seller shall retain the \$5000.00 good faith deposit as its sole and exclusive remedy.

(F) APPORTIONMENTS, RESPONSIBILITY FOR OTHER EXPENSES

1. Real estate taxes and Assessments

All real estate taxes, assessments and impositions relating to the Property and attributable to the year 2023 shall be prorated on a calendar year basis on the date of closing.

2. Transfer tax and recording fees

SELLERS shall pay the transfer tax imposed on the transfer of the Property. PURCHASER shall pay all recording fees imposed for recording the deed.

3. Agriculture Lease Payment.

SELLERS represents there are no agricultural leases in place as of January 1, 2023.

4. Legal and other fees and expenses

- a. Each party shall bear its own legal fees and other expenses associated with this transaction.
- b. PURCHASER shall reimburse SELLER for the cost of procuring the easement of record in Deed Book 1537 Page 801 in the Office of the Hardin County Clerk in the amount of \$1,700.00.

5. Neither PURCHASER nor SELLER has retained the services of a Real Estate Agent regarding this conveyance. However, it is agreed and understood that under no circumstances shall the PURCHASER be obligated to pay any Real Estate commissions as a result of the conveyance described herein.

(G) ENVIRONMENTAL

SELLERS shall make available to PURCHASER all soil reports and engineering reports and any other reports or studies (including without limitation environmental and physical inspection reports) which it may possess regarding the Property at Sellers' property in Hardin County, Kentucky.

For purposes of this Agreement, "Environmental Matters" shall mean and include any condition, claim, cost, order, demand, requirement or liability either (i) regulated or arising under any environmental law, or (ii) caused by or relating to any Hazardous Materials or environmental contamination at, on, under, in or emanating from the Property, including without limitation underground storage tanks. "Hazardous Materials" shall mean and include any substance, product, matter, material, waste, solid, liquid, gas or pollutant, the generation, storage, disposal, handling, recycling, release, treatment, discharge or emissions of which is regulated, prohibited or limited under any environmental law, and shall also include without limitation: (i) gasoline, diesel, fuel, fuel oil, waste oil and any other petroleum hydrocarbons including any additives or other byproducts associated therewith, (ii) asbestos and asbestos containing materials in any form, and (iii) polychlorinated biphenyls. Environmental laws shall mean and include without limitation (i) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended (42 U.S.C. § 6901 *et seq.*), (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended

by the Superfund Amendments and Reauthorization Act of 1986, as now or hereafter amended (42 U.S.C. § 9601 et seq.), (iii) the Clean Water Act, as now or hereafter amended (33 U.S.C. § 1251 et seq.), (iv) the Toxic Substances Control Act, as now or hereafter amended (15 U.S.C. § 2601 et seq.), (v) the Clean Air Act, as now or hereafter amended (42 U.S.C. § 7401 et seq.), (vi) the Safe Drinking Water Act, (42 U.S.C. § 300f et seq.), (vii) all regulations promulgated under any of the foregoing, (viii) any local or state law, statute, regulation or ordinance analogous to any of the foregoing, and (ix) any other federal, state or local law (including any common law), statute, regulation or ordinance regulating, prohibiting or otherwise restricting the pollution, protection of the environment or the use, storage, discharge or disposal of Hazardous Materials.

(H) PROPERTY INSPECTION/AS IS WHERE IS

a. PURCHASER shall have an inspection period which shall commence on the Effective Date and continue until February 20, 2023 (the "Inspection Period") to review the Survey, Commitment and the other materials; to complete a physical inspection of the Property to determine if the Property, in PURCHASER's opinion, is suitable for PURCHASER's intended use and purpose, to wit; to conduct soil tests and engineering studies; to test for the presence of hazardous substances and wastes and investigate Environmental Matters or the Existence of Hazardous Materials; to ascertain the availability and sufficiency of utilities to the Property; to study drainage; to review zoning; to determine whether there is or will be adequate access to the Property; to determine whether there is or will be adequate parking for the Property and its intended use; to review deed restrictions and any other limitations or covenants, conditions and restrictions on land use; to examine the Property; to review and investigate taxes, assessments and any other matter affecting the Property; and to obtain approval from all regulatory agencies, specifically including the Kentucky Department of Education. SELLERS shall cooperate with PURCHASER in the making of the foregoing investigations, at no expense to SELLERS.

b. It being agreed and understood that SELLER does not assume any legal responsibility to address or remediate any Environmental Matters or Hazardous Materials that it may discover as a result of the inspection described herein.

c. Purchaser shall have the full and absolute right to terminate this Agreement upon completion of the Inspection Period for any reason or no reason at its sole discretion and shall be entitled to a refund of the good faith deposit.

d. If Purchaser elects to go forward with the purchase, Purchaser shall accept the Property, "AS IS, WHERE IS, WITH ALL FAULTS"

(I) REPRESENTATIVES AND WARRANTIES BY SELLERS

SELLERS hereby make the following representations and warranties to PURCHASER:

a. This agreement constitutes the legally valid and binding obligation of SELLERS, enforceable in accordance with its terms.

b. Neither the entering into of this agreement nor the consummation of the transactions contemplated hereby will constitute a violation or breach by SELLERS of any contract, instrument or other agreement to which it/they is/are a party or to which it/they is/are subject, or any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in any violation of applicable law, order, rule or regulation of any governmental authority.

c. SELLERS have received no notice of and to the best knowledge of Sellers there are no pending or threatened condemnation or similar proceedings of any nature whatsoever affecting the property or any portion thereof or that any such proceeding is contemplated.

d. SELLERS have not received any notice from any governmental unit or agency indicating that the Property or any portion thereof or any operation conducted therein, is in violation of any statute, code, ordinance or regulation, and, to the best knowledge of SELLERS no such violation exists.

e. There is no action, suit, litigation or proceeding of any nature pending, or, to the best knowledge of SELLERS, threatened, against or affecting the property, or any portion thereof, or which could result in the obtaining of a lien or other interest in the property by any third party, in any court or before or by any federal, state, county or municipal department, commission, board, bureau, agency or other governmental instrumentality.

f. To the best knowledge of SELLERS, the current use of the property fully complies with all applicable codes and other applicable laws, regulations and ordinances, including without limitation applicable zoning and land use laws, regulations and ordinances. The Property is zoned _____ by the Hardin County Planning & Zoning Commission.

g. There are no unpaid claims of contractors, material men or laborers which could give rise to a lien against the property.

h. SELLERS own the property free and clear of any and all liens, encumbrances, stipulations and restrictions, and shall deliver to purchasers, at the closing, a deed of general warranty with respect to the Property, free and clear of any and all liens, encumbrances, restrictions and stipulations.

i. There are no binding and enforceable leases in place, whether written or verbal, that entitle and third party to have access or control of the Property.

(J) REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGMENT BY PURCHASER

PURCHASER make(s) the following representations and warranties to seller:

a. PURCHASER is a Public School District of the Commonwealth of Kentucky, having full power to enter into this agreement and to consummate the transactions provided for herein.

- b. The execution, delivery and performance of this agreement have been duly authorized by all necessary action on the part of PURCHASER.
- c. This agreement constitutes the legally valid and binding obligation of the PURCHASER, enforceable in accordance with its terms.

(K) CONVEYANCE OF LIMITED TEMPORARY ACCESS EASEMENT TO SELLER

As additional consideration, PURCHASER agrees to grant to SELLER a Limited Temporary Access Easement across property acquired by PURCHASER in Deed Book 1438 Page 574 of record in the Office of the Hardin County Clerk. The approximate location is identified on attached Exhibit B. The Limited Temporary Access Easement will terminate upon the death of Douglas H. Lush and Sharmin H. Lush or upon the conveyance of Property owned by Lush as described in Deed of Record in Deed Book 941 Page 14 in the Office of the Hardin County Clerk, whichever shall occur first.

The sole purpose of the Limited Temporary Access Easement is to allow Seller to access the woods on Property which Seller is retaining. The Limited Temporary Access Easement will contain the following terms:

- a. The Limited Temporary Access Easement can only be utilized by Seller when Hardin County Schools are not in session;
- b. The Limited Temporary Access Easement is solely for the purpose of allowing Seller to harvest trees on a limited basis with logging activity occurring no more than one time every six years. Specifically, it is agreed and understood that the Limited Temporary Access Easement shall not be used for clear cut logging of property retained by Lush or for any other reason such as commercial development or large agricultural equipment;
- c. The Limited Temporary Access Easement shall contain a clause reflecting that PURCHASER shall indemnify and hold harmless the SELLER from any damage resulting to School Property or School employees, guests or invitees as a result of the negligence of any employee, agent or contractor utilizing said Limited Temporary Access Easement including reasonable attorney fees incurred;
- d. SELLER shall reimburse the District for any property damage or personal injury sustained by the District, its employees, agents, or invitees as a result of the negligent or intentional act of the SELLER, their employee, agent or contractor including reasonable attorney's fees incurred.

(L) RISK OF LOSS; INSURABLE INTEREST

Until the time of recording of the deed, risk of loss with respect to the Property shall continue to be borne by SELLERS, and SELLER shall continue to maintain liability insurance covering said Property.

(M) CONDEMNATION; OTHER PROCEEDINGS

In the event of any condemnation or similar proceedings being instituted during the term of this agreement, PURCHASER shall have the option (1) to elect to close under this agreement, to pay the Purchase Price for the Property, and to receive the condemnation proceeds, or (2) to elect to terminate this agreement, recover the deposit, and have no further obligation to SELLERS hereunder.

(N) PURCHASER'S ACCESS TO THE PROPERTY PRIOR TO CLOSING

PURCHASER may, prior to the closing, through its employees, representatives, attorneys, accountants or agents, make such further inspection of the property which the PURCHASER deem necessary or desirable.

(O) MISCELLANEOUS PROVISIONS

a. This agreement, together with any exhibits and schedules hereto, which are deemed to be incorporated by references as if fully set forth at length herein, constitutes the entire written understanding of the Parties and supersedes all oral and written understandings of the Parties, all of which are deemed to be merged herein. This agreement may not be modified or amended except in writing, signed by each of the Parties hereto, or their permitted successors or assigns.

b. This agreement may not be assigned by PURCHASER without the prior written consent of SELLERS, which consent shall not be unreasonable withheld. This agreement shall be binding upon and shall insure to the benefit of all successors, heirs, and permitted assigns for the Parties hereto.

c. This agreement and the obligations of the Parties hereunder shall be governed in all respects by the laws of the Commonwealth of Kentucky.

(P) FURTHER DOCUMENTATION

The Parties believe that they have identified all documentation necessary in order to consummate the transactions contemplated by this agreement. In the event, however, that other and further documents, consistent with the terms of this agreement, are necessary in order to consummate the transactions contemplated hereby, each of the SELLERS and PURCHASER commit to use its best efforts to provide such documentation as soon as practicable, with the intention that the transactions contemplated hereby shall be completed on or prior to the closing.

(Q) DEFAULT AND REMEDIES

In the event of any material default hereunder, the Parties shall have the following remedies:

a. In the event of a default by SELLERS, PURCHASER shall have the right to recoup the good faith deposit, to terminate this agreement, and/or to seek such other remedies to which PURCHASER might be entitled at law or in equity, including obtaining a decree of specific performance to require conveyance of the Property to PURCHASER in accordance with the terms of this agreement. The SELLERS shall be responsible for all attorney's fees, court costs and expenses paid by the PURCHASER in the event of a default by the SELLERS.

b. In the event of a default by the PURCHASER, SELLERS shall have the right to retain the good faith deposit and to terminate this agreement as its sole and exclusive remedy.

(R) LEGAL REPRESENTATION

David T. Wilson II and the law firm Skeeters, Bennett, Wilson & Humphrey have advised the Purchaser regarding his agreement and provided no legal advice to the Seller. Seller acknowledges that they understand that they have the right to seek their own legal counsel.

(S) PRESUMPTION AS A RESULT OF DRAFTING

There shall be no presumption relative to the interpretation of this Agreement as a result of it being drafted by legal counsel for PURCHASER;

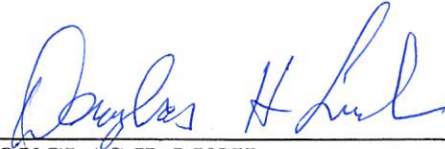
(T) CONTROLLING LAW, VENUE, AND LEGAL FEES OF PREVAILING PARTY

This Agreement shall be governed by the laws of the Commonwealth of Kentucky. Venue shall be in Hardin County, Kentucky to the exclusion of all other venues. In the event of litigation regarding the interpretation and enforcement of this agreement, the prevailing party shall be entitled to reimbursement of legal fees and court costs incurred.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement this _____ day of Jan 15th, 2023.

SEPARATE SIGNATURE PAGES FOLLOW

SELLERS:



DOUGLAS H. LUSH



SHARMIN H. LUSH

PURCHASER:



HARDIN COUNTY BOARD OF EDUCATION

BY: _____

THIS INSTRUMENT PREPARED BY:

R. Terry Bennett, Esq., David T. Wilson, II, Esq.,
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