

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT is dated for reference this 3rd day of November, 2007

BETWEEN:

Name: **FRANK FILECCIA AND JANE FILECCIA, HUSBAND AND WIFE**
Address: 1768 Long Hollow Pk
Gallatin, TN 37066
Telephone: (615) 452-7200
Fax: _____
Email: earthangel888@hotmail.com

(the "Seller")

AND

Name: _____
Address: _____

Telephone: _____
Fax: _____
Email: _____

(the "Purchaser").

1. **AGREEMENT TO PURCHASE:** The Purchaser agrees to purchase from the Seller the property (the "Property") legally described on **Exhibit A** hereto, together with all buildings, improvements and appurtenances thereon, on the following terms and conditions.
2. **PURCHASE PRICE:** The purchase price of the Property will be

_____ DOLLARS (\$) _____) (the
"Purchase Price"). The Purchase Price shall be paid as follows:

- (a) **Deposit:** Concurrently with the execution and delivery of this Agreement, the Purchaser shall pay to Forsythe Title and Escrow Services of Hendersonville, Tennessee (the "Title Company"), as Escrow Agent, an earnest money deposit (the "Deposit") of fifteen percent (15%) of the Purchase Price, in the amount of
- _____

DOLLARS (\$_____).

Deposit shall be non-refundable except as provided in section 10 of this Agreement.

- (b) ***Balance of Purchase Price:*** The balance of the Purchase Price, plus or minus prorations as set forth below, shall be paid by the Purchaser at Closing (as defined below) by wire transfer or cashier's check, payable to the Title Company, as Escrow Agent.

THE PURCHASER ACKNOWLEDGES AND AGREES THAT ITS OBLIGATIONS UNDER THIS AGREEMENT ARE NOT CONTINGENT OR CONDITIONED UPON THE PURCHASER OBTAINING FINANCING FROM ANY LENDER.

3. **CLOSING:** The closing (the "Closing") of the purchase shall occur no later than 4:00 pm, local time, on December 17, 2007 (the "Closing Date") or such later date as may be mutually agreed in writing. The Closing shall occur at the offices of the Title Company. At Closing, the Seller shall deliver to the Purchaser a warranty deed in recordable form conveying fee simple title to the Property free and clear of all liens, subject to such permitted encumbrances and exceptions to title set out in the Title Commitment.
4. **POSSESSION:** Possession of the Property will be given at Closing.
5. **CLOSING COSTS:**
 - (a) ***Seller:*** Seller will pay the cost of closing the sale, preparation of the warranty deed, premiums payable for the owner's policy of title insurance, and its attorney's fees.
 - (b) ***Purchaser:*** Purchaser will pay the costs of recording the warranty deed and transfer taxes associated therewith, and its attorney's fees.
6. **PRORATIONS / TAXES:** Seller's hazard insurance will be cancelled and Purchaser will obtain a new policy as of the date of Closing. Taxes for the year of closing will be prorated between the parties, and Seller will be responsible for any delinquent taxes. If the tax assessment for the calendar year of closing is not known at the Closing Date, the proration will be based on taxes for the previous tax year, and the Purchaser and Seller will adjust the prorations in cash within 30 days of the time the actual assessment and taxes are known. The Seller will promptly notify the Purchaser of all notices of proposed or final tax valuations and assessments that the Seller receives after Closing.
7. **TITLE:** Seller will provide Purchaser with an owner's policy of title insurance through a reputable title insurance company selected by Seller, and Purchaser hereby agrees to accept title to the Property subject to (a) all standard exclusions and printed exceptions set forth in the Title Commitment, (b) liens for taxes not yet due and payable, (c) easements for public utilities affecting the Property; (d) all other easements or claims to easements, covenants, restrictions and rights-of-way affecting the Property, (e) rights and claims of parties in possession and (f) all permitted title exceptions referenced in the Title

Commitment. All applicable zoning ordinances and other land use laws and regulations shall be deemed as permitted title exceptions.

8. **RISK / DAMAGE TO PROPERTY:** Seller will bear risk of hazard loss to the date of delivery of the warranty deed. The Seller shall maintain the Property, from and after the date of execution of this Agreement to and including the Closing Date, in the same condition as exists on the date of execution hereof, reasonable wear excepted. In the event the Property is significantly damaged, in the opinion of the Seller, prior to the Closing Date by fire, wind, flood or other casualty, the Seller shall have the option to restore the Property to its pre-casualty position or to cancel this Agreement and return the Deposit to the Purchaser as a complete and final settlement to the Purchaser of all of the Seller's obligations hereunder. Should Seller elect to restore the Property to its pre-casualty condition, the Seller shall so notify the Purchaser and thereafter shall have 120 days to complete such restoration, with the Closing Date postponed to the date which is 10 days following the date of completion of such restoration, as notified by the Seller to the Purchaser.

9. **CONDITION OF THE PROPERTY:** THE PURCHASER SHALL ACCEPT THE PROPERTY IN AN "AS-IS" CONDITION AS OF THE CLOSING DATE, AND PURCHASER SPECIFICALLY AGREES THAT THE SELLER HAS NOT AND DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, TO THE PURCHASER REGARDING THE PROPERTY OR ANY IMPROVEMENTS THEREON INCLUDING, WITHOUT LIMITATION, ANY ZONING RESTRICTIONS, THE DIMENSION OR ACREAGE OF THE PROPERTY OR IMPROVEMENTS, ANY ASPECT OF THE CONDITION OF THE PROPERTY OR IMPROVEMENTS OR THE FITNESS OF THE PROPERTY OR IMPROVEMENTS FOR ANY INTENDED OR PARTICULAR USE, ANY AND ALL SUCH REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, BEING HEREBY EXPRESSLY WAIVED BY THE PURCHASER AND DISCLAIMED BY THE SELLER. THE PURCHASER REPRESENTS AND WARRANTS TO THE SELLER THAT THE BUYER HAS NOT BEEN INDUCED TO EXECUTE THIS AGREEMENT BY ANY ACT, STATEMENT OR REPRESENTATION OF THE SELLER OR ITS AGENTS, EMPLOYEES OR REPRESENTATIVES.

The Purchaser acknowledges and agrees that it is the Purchaser's responsibility to make such legal, factual and other inquiries and investigations as the Purchaser considers necessary with respect to the Property, and the Purchaser hereby represents and warrants that they have executed this Agreement based solely on their own independent due diligence and investigation, and not in reliance upon any information provided by the Seller or McLemore Auction Company, LLC or their agents, employees, or representatives.

10. **BREACH OF CONTRACT BY SELLER:** If the Seller defaults in the performance of any of its obligations hereunder and Closing fails to occur by reason thereof, the Purchaser may terminate this Agreement and shall be entitled to the return of the Deposit, or seek specific performance of this Agreement.

11. **BREACH OF CONTRACT BY PURCHASER:** If the Purchaser defaults in the performance of any of its obligations hereunder and Closing fails to occur by reason thereof, the Deposit shall be forfeited to the Seller and McLemore Auction Company, LLC.
12. **AUCTIONEER'S AGENCY DISCLOSURE:** The Purchaser acknowledges that McLemore Auction Company, LLC, the auctioneer of the Property, is acting as a single agent representing the Seller exclusively in this transaction and is not acting as a subagent, a buyer's agent, a facilitator or a limited consensual dual agent in connection with this transaction.
13. **OTHER:**
 - (a) **Time:** Time is of the essence hereof.
 - (b) **Counterparts:** This Agreement may be executed in any number of original counterparts, with the same effect as if all the parties had signed the same document, and will become effective when one or more counterparts have been signed by all of the parties and delivered to each of the other parties. All counterparts will be construed together and evidence only one agreement, which, notwithstanding the dates of execution of any counterparts, will be deemed to be dated the date first above written.
 - (c) **Execution by Fax:** This Agreement may be executed by the parties and transmitted by fax and if so executed and transmitted this Agreement will be for all purposes as effective as if the parties had executed and delivered an original Agreement.
 - (d) **Notices:** All notices under this Agreement shall be deemed delivered when personally delivered or sent by registered mail or courier service to the address of either party as set forth on page 1 above.
 - (e) **Assignment:** The Purchaser shall not assign this Agreement nor its rights hereunder without the prior written consent of the Seller.
 - (f) **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors, administrators, executors and permitted assigns.
 - (g) **Choice of Law:** This Agreement shall be interpreted according to the laws of the state in which the Property is located.
 - (h) **Enforcement Costs:** In the event it becomes necessary for the Seller, the Purchaser or McLemore Auction Company, LLC to enforce this Agreement through litigation, the prevailing party shall be entitled to recover all of its costs of enforcement, to include attorneys' fees, court costs, costs of discovery and costs of all appeals.

- (i) ***Entire Agreement:*** This Agreement constitutes the entire agreement between the Purchaser and the Seller, and all prior agreements and understandings, whether written or oral, are merged herein.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

SELLER: FRANK FILECCIA AND JANE FILECCIA, HUSBAND AND WIFE

Frank Fileccia

Jane Fileccia

PURCHASER:

[Name to which title to the Property will be issued]

Signature:

Name:

Title:

EXHIBIT "A"

Legal Description of Property

PARCEL 1:

Land in the 8th Civil District of Sumner County, Tennessee, according to a survey made by G. Barry Greer, Surveyor, dated November 1, 1971, more particularly described as follows:

Beginning at a point in the northerly margin of Long Hollow Pike, said point being 380.66 feet in an easterly direction along the northerly margin of Long Hollow Pike from the southwest corner of the Property conveyed to Henry E. Priest and wife, Ellen I. Priest by deed from Mildred D. Giles, et als, as of record in Deed Book 246, page 584, Register's Office for Sumner County, Tennessee; thence North 05 degrees 38 minutes East 1328.60 feet to a steel fence post South 85 degrees 51 minutes East 215.0 feet to a steel fence post, South 04 degrees 12 minutes West 672.0 feet to an iron pin, North 77 degrees 50 minutes West 100.0 feet to an iron pin, South 03 degrees 49 minutes West 647.34 feet to a point in the northerly margin of Long Hollow Pike; thence along the northerly margin of Long Hollow pike in a westerly direction, 155.33 feet to the point of beginning and containing 5.6 acres, more or less.

Being the same property conveyed to Harold K. Duncan and wife, June M. Duncan by deed of record in Deed Book 385, Page 740, Register's Office for Sumner County, Tennessee.

PARCEL 2:

Land in the eighth Civil District of Sumner County, Tennessee, more particularly described as follows:

Beginning at a point on the northeasterly corner of the property conveyed to David R. Haltom and wife, Gayle J. Haltom, by deed from Leo C. Greer and wife, Evelyn D. Greer of record in Book 326, page 1140 of the Register's Office for Sumner County, Tennessee; thence North 4 degrees 05 minutes 43 seconds East a distance of 116.05 feet to an iron pin; thence North, 88 degrees 53 minutes 04 seconds West, a distance of 167.61 feet to an iron pin; thence South, 17 degrees 37 minutes 51 seconds West, a distance of 10.52 feet to an iron pin; thence South 33 degrees 30 minutes 32 seconds West, a distance of 74.25 feet, thence, South 5. degrees 24 minutes 08 seconds West, a distance of 25.01 feet, thence South 85 degrees 51 minutes East a distance of 207.06 feet to the point of beginning. Said property contains 0.47 acres, more or less and is shown on a survey made by Bruce Rainey & Associates, Land Surveyors.