

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement (“**Agreement**”) is made this _____ day of September, 2021 by Sonya R. Lacina, in her capacity as Administrator of the Estate of Barbara A. Fullmer (“**Seller**”), and _____ (“**Buyer**”).

WHEREAS, Seller is the owner of a parcel of land, including all buildings and fixtures thereon, located at 112 Ferry Street, LeClaire, IA 52753 and legally described as follows:

The North Ninety (90) feet of “Mill Lot” lying East of the right of way of the Iowa and Illinois Railway Company and Davenport, Rock Island and North Railway Company, in Davenport and Rogers’ Addition to the Town of LeClaire, Scott County, Iowa. (“**Property**”);

WHEREAS, the property is being sold under auction guidelines by Steffes Group, Inc., who is serving as agent for and representative of the Seller;

WHEREAS, Buyer is considered the high bidder, Seller has agreed to sell and convey, and Buyer has agreed to buy by becoming the high bidder, all of that plot, piece or parcel of land described above, together with all improvements located thereon, fixtures, and such personal property located on the Property; and

WHEREAS, Buyer desires to purchase the Property, together with any easements, restrictions and covenants, if any, upon the following terms and conditions.

NOW THEREFORE, for and in consideration of the mutual promises set forth herein, together with other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

1. **SALE OF PROPERTY.** Seller hereby agrees to sell to Buyer, and Buyer agrees to buy from Seller, the Property, including all fixtures that integrally belong to, are specifically adapted to, or are considered part of the Property, free and clear of all liens and encumbrances, but subject to any easements, restrictions and covenants on the Property. The Property, including the buildings, grounds and all improvements, will be preserved by the Seller in its present condition until Closing, ordinary wear and tear excepted.

2. **AUCTION TERMS AND CONDITIONS:** The Property is being sold pursuant to the auction terms, conditions and announcements (the “**Auction Terms**”) made and distributed prior to auction shall be deemed part of this Agreement and being attached hereto and made a part hereof as if set forth in this Agreement in their entirety. In the event a conflict between the terms and conditions of this Agreement and those of the Auction Terms, the Auction Terms shall govern. In addition, any announcements made by Steffes Group, Inc. on the day of sale shall take precedence over any advertising or announcements previously conducted.

3. **PURCHASE PRICE.** The total purchase price for the Property shall be \$ _____ (“**Purchase Price**”) and shall be payable as follows:

- a. Buyer shall pay a deposit to Lane & Waterman LLP (“**Escrow Agent**”) upon execution of this agreement. Escrow Agent shall hold the Earnest Money and shall (i) pay it to the Seller at settlement for application to the payment of the Purchase Price (ii) return it to the Buyer when

instructed to do so by Seller upon the conditions set forth herein or (iii) in the event of Buyer's default and at Seller's option, pay it to the Seller as liquidated damages.

- b. Buyer shall pay the remainder of the Purchase Price to Seller at settlement in cash, wire transfer, or by certified or cashier's check.
- c. Buyer acknowledges that the Purchase Price includes a Buyer's Premium of five percent (5%). A summary of the terms of the sale follows:

High Bid	\$		plus
5% Buyer's Premium	\$	_____	equals
Purchase Price	\$	_____	less
Earnest Money Deposit	\$	_____	equals
Amount Due at Settlement	\$		

Earnest Money shall be applied as part payment of the Purchase Price of the Property at Closing or disbursed as otherwise provided under the provisions of this agreement. Buyer shall pay the balance of the Purchase Price in full in legal tender to Seller at Settlement. Escrow Agent will hold the earnest money in an escrow or trust account until it is conveyed to the Settlement Agent.

4. **EARNEST MONEY.** An amount totaling 10% of the Purchase Price has been deposited by the Buyer with Escrow Agent, and shall be held for the benefit of the parties hereto. Said earnest money shall be applied to the purchase price at Closing. In the event any contingency is not met by the date contained in such contingency, the Seller recognizes the earnest money will be returned to the Buyer and this Agreement shall be void. If there is an unresolved dispute over any contingency, the Escrow Agent shall hold the earnest money and not disburse except by agreement of the parties. Seller and Buyer agree to indemnify, defend and hold harmless Escrow Agent from and against any and all liabilities and claims arising out of the duties as escrow agent.

5. **TITLE.** Seller shall, at its cost, provide an Abstract of Title continued through a date not earlier than thirty (30) days prior to Closing ("**Continuation Date**"), prepared in conformity with this Agreement, title law of the State of Iowa and in accordance with the Title Standards of the Iowa and Scott Bar Associations, and demonstrating that Seller has clear title to the Property, free and clear of all liens and encumbrances. Seller's Abstract of Title shall be submitted to Buyer's attorney for examination as soon after the Continuation Date as reasonably possible. Any objection to title raised by Buyer's attorney shall be made in writing as soon as thereafter as reasonably possible, so that the same may be cured on or before the Closing Date. The Seller shall make every reasonable effort to promptly perfect title. If Seller fails to cure any title deficiency on or before the Closing date, this Agreement shall be deemed terminated, unless such objection is waived by Buyer. The Abstract of Title shall become the property of Buyer when the Purchase Price is paid in full. Seller shall pay the costs of any additional abstracting and title work due to any act or omission of Seller. The Abstract of Title shall be obtained from an abstracter qualified by the Guaranty Division of the Iowa Housing Finance Authority.

6. **PROPERTY CONDITIONS, WARRANTIES, CONTINGENCIES, AND INSPECTION RIGHTS:** THIS PROPERTY HAS BEEN PURCHASED "**AS IS – WHERE IS**" AT AUCTION. THERE ARE NO WARRANTIES ASSOCIATED WITH AUCTION SALES. THERE ARE NO FINANCING CONTINGENCIES OR INSPECTION RIGHTS FOR BUYER. SELLER IS NOT OBLIGATED TO MAKE ANY REPAIRS, CHANGES, IMPROVEMENTS OR OTHER MODIFICATIONS TO THE PROPERTY. PRIOR TO SUBMITTING THE HIGH BID FOR THE PROPERTY, BUYER DETERMINED THAT THE PROPERTY MET ALL LEGAL REQUIREMENTS FOR BUYER'S

INTENDED USE OF THE PROPERTY AND IS NOT SUBJECT TO GOVERNMENTAL OR PRIVATE RESTRICTIONS THAT WILL INTERFERE WITH SUCH INTENDED USE, INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL REGULATIONS, WETLAND QUALIFICATION, FLOOD HAZARD OR FLOOD PLAIN DESIGNATION AND SEPTIC SYSTEM SUITABILITY.

- a. Buyer acknowledges that it has examined and inspected, and is satisfied with, the physical condition of the Property and the improvements thereon. Buyer expressly agrees that the Property is or will be sold “as is, where is, with all faults” without any warranty or representation, express, implied or arising by operation of law, including, but not limited to, any warranty of condition, habitability, merchantability or fitness for a particular purpose, and subject to ordinary wear and tear occurring after the date hereof. Buyer further acknowledges that Seller has neither made nor extended to Buyer any representation, warranty or indemnity with regard to the environmental condition of the Property or with regard to its compliance with the Americans with Disabilities Act of 1990, if applicable, and Buyer hereby assumes sole responsibility therefore, indemnifies and agrees to hold Seller and its attorneys harmless from and waives any right, action, claim or cause of action it or its successors or assigns may have now or in the future against Seller and its attorneys with regard thereto.
- b. If the improvements on the Property are damaged after the date hereof, but before settlement, Seller may (but will not be obligated to) attempt to repair the improvements and, at Seller’s option, there will be a reasonable extension of the Settlement date in which Seller may attempt to complete the repair. If Seller notifies Buyer(s) that Seller does not intend to attempt to repair or if Seller attempts but is not successful in effecting repair and notifies Buyer within ten (10) days of either such notification Buyer either (i) will terminate this Agreement, in which case Buyer will be entitled to the return of the Deposit and neither party will have any further liability to the other or (ii) will waive any objection to the damage and any right to reduce the Purchase Price, in which case Seller will convey to Buyer the Property with such damaged improvements as are then thereon and will assign to Buyer all of Seller’s right, title and interest to any insurance proceeds, if any, received or to be received in payment of damage to the improvements (but no other insurance proceeds, such as proceeds from damage to personal property).
- c. The closing of sale of the Property under this Agreement is subject to court approval by the Iowa District Court for Scott County.

7. **REAL ESTATE TAXES/SPECIAL ASSESSMENTS.** Seller shall pay all real estate taxes which are due and constitute a lien upon the Property as of the Closing Date, as well as all special assessments levied or to be levied on the Property prior to the Closing Date. Real estate taxes for the year of possession shall be prorated as of the date of Closing. Buyer shall be responsible for the payment of all unpaid real estate taxes and special assessments for any year subsequent to Closing.

8. **POSSESSION/CLOSING.** Complete possession and title to the Property shall be delivered to Buyer not later than October 22, 2021 (“**Closing**”). Seller agrees to permit Buyer to inspect the Property within 24 hours prior to Closing to assure that the property is in the condition required by this Agreement.

9. **RISK OF LOSS AND INSURANCE.** Seller shall bear the risk of loss or damage to the Property prior to Closing. Seller agrees to maintain existing insurance through the Closing Date and Buyer may purchase additional insurance. In the event of substantial damage or destruction prior to Closing, this Agreement shall be null and void; provided, however, Buyer shall have the option to complete the Closing and receive insurance proceeds regardless of the extent of damages. The Property shall be deemed substantially damaged or destroyed if it cannot be restored to its condition as of the date of destruction or damage on or before the Closing date.

10. **TIME OF ESSENCE.** Time is of the essence in this Agreement, provided Seller's failure to promptly assert any of its rights under this Agreement or at law or equity shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default.

11. **CONDITION OF PREMISES:** Buyer acknowledges that Buyer has inspected the real estate and the improvements thereof, is acquainted with the condition thereof, and accepts the same in "AS-IS" condition.

12. **FIXTURES AND PERSONAL PROPERTY:** All fixtures presently installed on the premises, including but not limited to: window shades and blinds, all attached carpeting, existing windows and doors, all attached cooling, heating, plumbing and electrical systems; sump pump, ceiling fans and garage door shall be left by the Seller in or upon the premises exactly as they are as of the date of this Agreement and shall be deemed a part of the real estate and title thereto shall pass to Buyer at Closing.

13. **CLOSING DOCUMENTS.** At Closing, Seller shall execute and deliver to Buyer a Warranty Deed, conveying title to the Property to Buyer free and clear of all liens, encumbrances except as provided in this Agreement, a Declaration of Value and Groundwater Hazard Statement and any other document reasonably requested by Buyer.

14. **COSTS.** Each party shall be responsible for its own costs associated with this transaction, including but not limited to attorney's fees and customary closing costs. In addition to the foregoing, Seller shall be responsible for the costs of all abstracting matters, preparing the Warranty Deed and transfer documents, and payment of any transfer taxes due upon recording of the Warranty Deed. Buyer shall be responsible for all other recording costs and costs of title examination.

15. **DEFAULT.**

- a. If Buyer defaults hereunder, Seller may either (a) retain the required deposit(s) under the Agreement as liquidated damages and not as a penalty or (b) pursue such remedies as are available to Seller at law or in equity, including, without limitation, an action for specific performance.
- b. If Seller defaults hereunder, Buyer may pursue such remedies as are available to Buyer at law or in equity, including, without limitation, an action for specific performance.

16. **COMMISSIONS.** Buyer and Seller represent and warrant to each other that no real estate commission will be due as a result of the sale of the Property. Seller agrees to indemnify, defend and hold Buyer harmless from and against any cost and expense, including reasonable attorney's fees incurred by Buyer as a result of any claims for payment of commission by Buyer based upon the actions of Seller.

17. **NOTICE.** All payment and other notices required hereunder shall be delivered personally or sent postage prepaid by certified U.S. mail, return receipt requested, to the parties at the addresses set forth below:

If to Seller:

Lane & Waterman LLP
Attn: Timothy B. Gulbranson
220 N. Main St., Ste 600
Davenport, IA 52801

If to Buyer:

Notices shall be deemed complete upon personal delivery or three (3) days after depositing the same in the U.S. Mail as provided herein.

18. **MECHANIC'S LIENS/CONDEMNATION.** Seller warrants and represents to Buyer that all work and labor performed and all materials furnished to any improvements to activities to the Property have been, or will be at the time of Closing, paid in full, and there will be no liens in connection with any such work, labor and materials performed in or furnished to the Property. Seller has received no notice of pending condemnation proceedings relating to the Property and no such proceedings have been threatened.

19. **CERTIFICATION.** Buyer and Seller each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

20. **ASSIGNMENT/BINDING EFFECT.** Neither this Agreement nor the Property, may be assigned, leased, conveyed or resold on Agreement without first obtaining the written consent of Seller. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the Seller and Buyer.

21. **ENTIRE AGREEMENT/AMENDMENT.** This Agreement is the entire Agreement of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, understandings and agreements among the parties. This agreement shall extend to and be binding upon the heirs, executors, administrators and assigns of the respective parties. The terms of this Agreement may not be amended, waived or terminated orally, but only by an instrument in writing signed by both parties hereto.

22. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Iowa.

23. **LEGAL ASSISTANCE:** The Seller and Buyer are aware that when fully signed, this is a legally binding agreement for the sale and purchase of real estate and that in order to protect their interests in connection with the Agreement, title and other aspects of this transaction, they have the right to consult legal counsel before this agreement is signed.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

SELLER

BUYER

Estate of Barbara A. Fullmer

By: _____
Sonya R. Lacina, Administrator

Name: _____