



AGREEMENT TO PURCHASE REAL ESTATE

Mellowood Vineyard
El Dorado County, California

March 5, 2018

THIS AGREEMENT, made and entered into this 5th day of March, by and between Mellowood Vineyard (Seller) and [redacted] hereinafter referred to as Purchaser, is entered into by Seller and Purchaser through Coldwell Banker, Steve Shoemake (Broker) and Albert Burney, Inc., (Auction Company) pursuant to Purchaser being the highest bona fide bidder on the Property described herein as: 2979 Mellowood Drive, Somerset, CA, 95684, El Dorado County, California at a real estate auction conducted on the date herein. Seller acknowledges and agrees that the auction was conducted pursuant to a separate Agreement between Seller, Broker, Auctioneer and Albert Burney, Inc. (Auction Company), and accept Purchaser was the successful bidder. Upon approval of this Agreement by both Purchaser and Seller, as evidenced by their signatures hereto, a valid and binding contract of sale shall exist under the terms and conditions of which are as follows:

- 1. PROPERTY DESCRIPTION: Seller is the owner of certain real property, hereinafter described as 2979 Mellowood Drive, Somerset, California, located in El Dorado County, California ("the Property").
2. SALE: Seller agrees to sell and convey to Purchaser by General Warranty Deed and Purchaser agrees to purchase the above described real estate ("the Property") (attached Exhibit "A") pursuant to the terms hereinafter provided, together with all improvements thereon in their present condition "AS IS WHERE IS, WITH ALL FAULTS".
3. PURCHASE PRICE: Purchaser agrees to pay to the Seller (\$ [redacted]) for the property hereinabove described, of which the earnest money of (\$ [redacted]) is to be applied as partial payment of the purchase price; and the balance of the purchase price shall be paid in cash, cashier's check or certified check at closing upon delivery of the General Warranty Deed (the "Closing"). Purchaser and Seller agree this is a "CASH, AS-IS SALE" not subject to Purchaser obtaining financing, or any other contingencies.
4. EARNEST MONEY DEPOSIT: Purchaser has given to First American Title Company, Emily Kuyper (Closing Agent) a deposit to be credited against the payment of the purchase price and as a guaranty of specific performance of this contract. Seller and Purchaser agree that should this contract not be performed and the Seller is unable to meet the conditions and terms of this agreement through no fault of their own, the Escrow Agent is directed to refund the earnest money received for herein to the Purchaser.
5. BROKERAGE: Purchaser and Seller mutually warrant and represent that, Coldwell Banker, Steve Shoemake (Broker), Albert Burney, Inc. (Auction Company) and, if applicable [redacted] ("Participating Buyer Broker") are the only Broker(s) involved in this transaction unless notice was otherwise given in writing prior to the auction and accepted and agreed to by Seller and Broker/Auctioneer. The fees stated in the Exclusive Right to Sell Auction Agreement, as well as any addendums between Seller, Broker, Auctioneer and Auction Marketing Company shall be paid before any part of the sales proceeds are disbursed to any other person or entity.
6. TAXES AND PRORATIONS:
A. The Seller shall pay in full; (i) all special assessments against the Property upon the date of Closing, whether or not payable in installments; (ii) all taxes, other than general ad valorem taxes for the

current calendar year, which are a lien on the Property upon the date of Closing; and (iii) the cost of any item or workmanship or material furnished prior to the date of closing which is, or may become, a lien on the Property.

B. Unless otherwise disclosed, the following items shall be prorated between the Seller and Purchaser as of the date of Closing; (i) home owners association dues, and (ii) general ad valorem and real property and school taxes for the current calendar year, provided that if the amount of such taxes has not then been fixed, the proration shall be based upon the rate of levy for the previous calendar year.

C. If this sale or the Purchaser's use of the Property after closing results in the assessment of additional taxes for periods prior to Closing, the additional taxes shall be at the obligation of the Purchaser.

7. **CLOSING AND OCCUPANCY:** This transaction shall be closed at the office of **First American Title Company, with Emily Kuypers, (Closing Agent)** located at **12180 Industry Blvd, #53, Jackson, CA 95642; phone (209) 223-0740**. Seller and Purchaser agree to close the sale of the property hereinabove described on or before **April 5th, 2018**. Seller shall grant possession of the property to the Purchaser no later than closing unless otherwise agreed in writing. If Purchaser requests an extension of the closing, Seller shall have the sole right to determine whether to grant Purchaser said extension.
8. **CLOSING COST:** Sellers and Purchaser agree to pay their respective closing cost, and Purchaser agrees to pay all loan costs and prepaid items in excess of the total purchase price. Seller will make available at the cost to Purchaser Title Insurance at closing.
9. **DEFAULTS:** Time is of the essence in the performance of the terms of this agreement. Should the Purchaser fail to perform under the terms and conditions of this agreement, it would be reasonable at such time to award to Seller "liquidated damages" equal to the amount represented by the earnest money deposit held by the Closer. Seller may at their option pursue all other remedies available, including without limitation, the alternative right to enforce specific performance of this Agreement. If Seller seeks and obtains a judgment for specific performance of this agreement which results in closing of the sale, Auction Marketing Company shall be paid the full amount of its fee due in respect thereof. If Seller defaults in the performance of this Agreement, Purchaser may reclaim the earnest money deposit or the Purchaser shall have only the right of specific performance.
10. **TITLE/PROPERTY CONDITION:** Seller warrants that they are the owners of the property hereinabove described and that they shall convey and warrant title to the Purchaser and/or their assigns, free and clear of any matters that would adversely affect their title. Should Seller not be able to deliver clear title at time of closing, action to clear title must be taken by Seller promptly at their own expense, whereupon the time here specified for full settlement by the Purchaser shall be extended sixty (60) days to clear the same. Should Purchaser not be able to demonstrate to its lender and/or title insurance underwriter that merchantable title can be obtained to the property from the Seller, Purchaser shall be refunded their earnest money deposit and this agreement shall be null and void. Purchaser agrees to accept title by General Warranty Deed from the Seller, free from any encumbrances, except taxes not yet due and payable, restrictive covenants, building setback lines and easements of record. Seller (at Buyer's option and expense) shall furnish Purchaser at closing an Owner's Title Insurance Policy ("Title Commitment" until issued) which Purchaser and Seller agree shall be issued through the Closer, with a face value equal to the purchase price herein, insuring marketable title in Purchaser, subject to the following "Permitted Title Exceptions": (i) mineral, oil and gas interest (whether owned, severed, or reserved); (ii) all easements of record, including conservation easements; (iii) all restrictions, whether or not recorded, on the Property's use and development under existing and future laws, ordinances, and regulations, including but not limited to zoning laws, ordinances, and regulations; (iv) subdivision restrictions of record; (v) current city, state and county ad valorem property and sanitary taxes not yet due and payable; (vi) current leases affecting the Property; (vii) other easements, restrictions, encumbrances or mortgages specified in the Agreement or any exhibit incorporated herein; and (viii) real property tax exemptions. If a survey is determined by Closer to be necessary for transfer and title insurance, the cost of it shall be paid by Purchaser. Seller and Purchaser agree it is their express intent that a Title Commitment as defined above, from the Closer at or prior to closing, shall constitute full and complete performance on the part of Seller for the purposes of this paragraph. After the date of this Contract, Purchaser may, during normal business hours, inspect the Property prior to Closing; provided, however, it is stipulated and agreed that the Property and improvements are being sold for CASH, AS-

IS WHERE-IS AND WITH ALL FAULTS AND DEFECTS, whether or not any such fault or defect would be disclosed by any inspection, and any inspection of the Property and improvements shall be at Purchaser's and Purchaser's agent's sole risk of personal injury and/or property damage, irrespective of Seller, Broker/Auctioneer or Auction Marketing Company's negligence or claimed negligence. No matter shall be construed as a valid objection to title under this Contract unless it is not stated as a "Permitted Title Exception" above, and in addition, is so construed by the title insurance examination attorney chosen by Closer (such attorney shall be deemed Purchaser's attorney for title examination purposes only), and is provided to the parties herein prior to Closing. In case of such valid objection to the title, Seller shall have sixty (60) days from the date of the Closing as scheduled herein or such additional time as may be agreed to in writing by Seller and Purchaser to satisfy such objections. If such objections cannot be satisfied within the time specified in this paragraph, the earnest money shall be returned to the Purchaser, and this Contract shall be no longer enforceable or in effect.

11. **NOTICES:** All notices affecting this Agreement shall be in writing. A notice shall be delivered to the appropriate party at the address set forth below, or to a new address which party has disclosed in writing. Notices may be delivered in person, certified or registered mail (return receipt requested) or overnight courier.
12. **AGENCY DISCLOSURE:** The Broker, Auctioneer, Auction Company, their Agents, Employees, Officers and Representatives represent the Seller only in this transaction and are to be paid a fee by the Seller pursuant to a separate written agreement. Any third party Broker is not a subagent in this agreement. Purchaser shall indemnify and hold Seller, Broker, Auctioneer, Auction Company, their Agents, Employees, Officers and Representatives harmless from any claim for a fee or other compensation of any Broker or agent claiming to have represented or assisted Purchaser unless set forth in Par.5, pg.1 herein.
13. **DISCLOSURE, DISCLAIMER, WAIVER:** Purchaser agrees, acknowledges and warrants without limitation to Seller, Broker, Auctioneer, Auction Company, their Agents, Affiliates, Officers, Employees or Representatives:
 - A. (i) That Purchaser was advised in sales literature and again immediately prior to the bidding that the Purchaser would be required to sign this agreement; that said Agreement form was made available to Purchaser in the Bidder information packet; that Purchaser had every opportunity to review and read said Agreement prior to the auction; and that all terms, conditions and disclosures made herein were available and disclosed to Purchaser prior to bidding and entering into this agreement; and that Purchaser entered into said Agreement upon his/her own free will, and accepts same as the complete and total understanding between the parties.
 - B. (i) That Purchaser had the opportunity prior to execution of this Contract to make any and all independent inspections of the Property to Purchaser's complete and total satisfaction. Purchaser hereby waives his/her right of revocation in this transaction from the property disclosure/disclaimer law. (ii) That Purchaser conducted and relied solely upon his/her own investigation of the Property; that Purchaser examined the Property and is familiar with the physical condition thereof and has conducted such investigation of the Property as Purchaser has considered appropriate; that neither Broker/Auctioneer, Auction Marketing Company, their Agents, Employees, Officers or Representatives has made any verbal or written representation, warranties, or guarantees with respect to the physical condition, operation, or any other matter or thing affecting or related to the Property or the offering for sale of the Property. Purchaser understands and agrees that neither the Seller, Broker/Auctioneer nor Auction Marketing Company are required to, or will make any inspections or repairs of any kind whatsoever to the property unless otherwise mutually agreed to in writing.
 - C. Purchaser has fully inspected the property, as represented in P.13 (B) above, and/or waived their rights to do so and that the conveyance and delivery of the Property contemplated by this agreement is "AS-IS, WHERE-IS and WITH ALL FAULTS"; and no warranty has arisen through trade, custom or course of dealing with Purchaser.
 - D. That Purchaser's inspection of the Property (or waiver thereof) shall relieve and hold harmless and indemnify the Seller, Broker, Auctioneer, Auction Company, their Agents, Employees, Officers and Representatives of any liability to Purchaser whatsoever; from and against any claims, liabilities, demands, or actions incident to, resulting from or in any way arising out of

this transaction, or the possession, ownership, maintenance or use of the Property. Purchaser shall accept all liability.

E. Purchaser shall look only to the Seller in respect to all matters regarding this Agreement and the Property. Coldwell Banker, Steve Shoemake (Broker), Keith Davis (Auctioneer) and/or Albert Burney, Inc. shall not be responsible or liable in any way if Seller fails or refuses to, or cannot close title.

16. **ENTIRE AGREEMENT:** This is the entire agreement between the parties. It replaces and supercedes any and all oral agreements between the parties, as well as any prior writings. This agreement may not be subsequently changed or amended unless mutually agreed upon in writing and signed by the parties to said Agreement.

17. **RECEIPT:** Purchaser and Seller acknowledge that they have received an executed copy of this agreement.

18. **ATTACHEMENTS:** The items listed below shall be attached to and become a part of the final Agreement.

Exhibit A – Terms and Conditions of Auction
Exhibit B – Any Exhibit Hereto

This is a legal document and each party to the contract acknowledge by their execution hereof that they have fully reviewed the matter and are satisfied with its content and understand the terms and conditions set-forth herein.

APPROVED, ACCEPTED AND AGREED TO 5th day of March, 2018 by:

PURCHASER: _____

SELLER: _____

Printed Name: _____

Printed: _____

Address: _____

Address: _____

City: _____

City: _____

State: _____ **Zip** _____

State: _____ **ZIP:** _____

(Hm)Phone: _____

Phone: _____

(Wk) Phone: _____

(Fax#): _____