



Purchaser's Phone #: \_\_\_\_\_

# A.B. Cole & Associates Auction & Realty, LLC

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## REAL PROPERTY AUCTION PURCHASE AND SALES AGREEMENT

**THIS AGREEMENT** made this \_\_\_\_3rd\_\_\_\_ day of \_\_\_\_December, 2010\_\_\_\_ by and between

\_\_\_\_\_  
And/Or Assigns ("Purchaser(s)"), and

\_\_\_\_\_  
**Smithfield Properties, LLC**

\_\_\_\_\_  
And/Or Assigns

("Seller(s)").

**WHEREAS** at an auction conducted this day by United Country-A.B. Cole Auction & Realty LLC (herein called the "Auction Firm"), Purchaser has become the high bidder, and 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 has agreed to sell and convey, and Purchaser has agreed to buy by becoming the high bidder, all of that plot, piece or parcel of land described below, together with all improvements located thereon, fixtures, and such personal property as listed below (collectively referred to as the "Property"), upon the following terms and conditions:

**1. REAL PROPERTY:** Located in the City of \_\_\_\_\_ Smithfield \_\_\_\_\_ in the state of Virginia, being known as and more particularly described as:

**Lot 6A Sec 1 SMFD Prop & Lot 5A SEC 1 SMFD PROP**

and located at 1607 South Church St., Smithfield, VA 23430

Total Purchase Price

\$ \_\_\_\_\_

**2. PURCHASE PRICE:** The purchase price of the Property is \$ \_\_\_\_\_.

An earnest money deposit in the amount of \_\_\_\_\_  
by CASH \_\_\_\_\_ PERSONAL CHECK \_\_\_\_\_ BANK CHECK \_\_\_\_\_

has this day been paid to Auction Firm. Earnest money deposit(s) 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. Purchaser shall pay the balance of the Purchase Price, plus all costs of closings, in full in legal tender to Seller at Closing. Auction Firm will hold the earnest money in an escrow or trust account until it is conveyed to the Closing Agent.

### 3. PROPERTY DISCLOSURES:

#### A. Notice of Disclosure Pursuant to Virginia Residential Property Disclosure Act:

Disclosure is \_\_\_\_\_ or is not \_\_\_\_\_ attached.

(Attachment does not become part of this Contract.)

**B. Lead-Based Paint Inspection:** This paragraph applies only if the Property was built prior to 1978 and is not exempt from the provisions of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d) and regulations promulgated pursuant thereto. Check as applicable:

\_\_\_\_\_ 1. Attached to this Contract and made a part hereof by this reference is a fully executed "Disclosures of Information and Acknowledgement Lead-Based Paint and/or Lead-Based Paint Hazards."

OR

\_\_\_\_\_ 2. Purchaser waives the right to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

**4. 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 PURCHASER. 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, PURCHASER DETERMINED THAT THE PROPERTY MET ALL LEGAL REQUIREMENTS FOR PURCHASER'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.

**5. SELLER REPRESENTATIONS:**

**A. Property Owner's Association Disclosure:** Seller represents that the Property is \_\_\_\_\_ is not \_\_\_\_\_ located within a development that is subject to the Virginia Property Owner's Association Act (POA), 5-508 et seq of the Code of Virginia.

**B. Virginia Condominium Act:** Seller represents that the Property is \_\_\_\_\_ is not \_\_\_\_\_ a condominium unit subject to Virginia Condominium Act, Section 55-79.39 et seq. of the Code of Virginia.

**C. If Applicable:** Seller represents that Seller has provided Purchaser with all documentation for property affected by POA or Condominium Filings.

**D. Mechanics Lien Notice:** Seller represents that no labor or materials have been furnished to the Property within the statutory period for the filing of mechanic's or materialmen's liens against the Property. If labor or materials have been furnished during the statutory period, Seller shall deliver to Purchaser an affidavit signed by Seller and the person(s) furnishing the labor or materials that the costs thereof have been paid. (Virginia law Section 43-1 et seq.)

**6. CLOSING:** The Closing shall take place on or before January 4, 2011 at the office of the closing agent for this transaction: \_\_\_\_\_ ("Closing Agent"). Closing is defined as the date and time of recording of the deed. The deed is to be made to Purchaser or as Purchaser may direct.

**7. POSSESSION:** Possession shall be delivered at Closing.

**8. PROPRATIONS AND PAYMENT OF CLOSING EXPENSES:** Each party shall bear its own expenses in connection with this Contract, except as specifically provided otherwise herein. Seller agrees to pay the expense of preparing the deed and the recordation tax applicable to grantors; all expenses incurred by Purchaser in connection with the purchase, including without limitation title examination, insurance premiums, survey costs, recording cost and fees of Purchaser's attorney, shall be borne by Purchaser. All taxes, assessments, rent escrow deposits, and other ownership fees, if any, shall be prorated as of the date of settlement. **Rollback Taxes, if any,** to be paid by Seller, unless agreed otherwise in this contract.

**9. TITLE:** Seller shall convey fee simple marketable and insurable title to the Property by:  
\_\_\_\_\_ **GENERAL WARRANTY DEED** subject to all matters of public record OR  
\_\_\_\_\_ **LIMITED or SPECIAL WARRANTY DEED** subject to all matters of public record.

**10. RISK OF LOSS:** Until closing the risk of loss or damage to the Property shall be borne by Seller, except reasonable wear and tear. In the event the Property is substantially damaged so that the Property cannot be conveyed within 90 days of the agreed closing date in substantially the same condition as of the time of the auction, Purchaser may elect to terminate this contract and the earnest money shall be returned to Purchaser.

**11. DEFAULT:** Should either party hereto default in the performance of this Contract, the party so defaulting agrees to pay the "Auction Firm" the full fee "Auction Firm" is entitled to by virtue of securing this Contract. Should Purchaser be the defaulting party, "Auction Firm" shall have the right to apply all monies held in escrow toward their costs incurred in the sale of the Property, and toward "Auction Firm's" fee due under this Contract.

**12. FEE:** The Seller agrees to pay cash to the Auction Firm for its services, a fee on the Contract Price pursuant to the terms of the Real Property Auction Contract, which is incorporated here in reference.

**13. ATTORNEY FEES:** In any action or proceeding involving a dispute between the Purchaser, the Seller and/or Auction Firm arising out of this Contract or to collect the Auction Firm's Fee, the prevailing party shall be entitled to receive from the other party reasonable attorney fees to be determined by a court of competent jurisdiction.

**14. SURVIVAL OF REPRESENTATIONS AND WARRANTIES:** All representations, warranties, covenants and agreements herein made by the parties shall survive the Closing.

**15. TAX-DEFERRED EXCHANGE:** In the event Purchaser or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Purchaser and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Purchaser shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

**16. APPLICABLE LAW:** This contract shall be construed under the laws of the Commonwealth of Virginia.

**17. PARTIES:** This contract shall be binding upon and shall inure to the benefit of the parties; i.e., Purchaser and Seller and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

PURCHASER \_\_\_\_\_ DATE \_\_\_\_\_

PURCHASER \_\_\_\_\_ DATE \_\_\_\_\_

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

*Auction Firm acknowledges receipt of the earnest money and agrees to hold and disburse the same in accordance with the terms hereof.*

United Country – A.B. Cole & Associates Auction & Realty LLC

By: \_\_\_\_\_ DATE \_\_\_\_\_

SAMPLE