

## REAL ESTATE SALES CONTRACT

THIS AGREEMENT, made and entered into this 20th day of October, 2018, by and between The Wallace and Frances Nichols Living Trust, dated December 5, 1991, referred to as "Seller," and \_\_\_\_\_, hereinafter referred to as "Buyer."

WITNESSETH, that Seller hereby agrees to sell and convey, by a good and sufficient Warranty Deed to the Buyer, in the manner and form directed by Buyer; and Buyer agrees to purchase all of the following described real estate, to wit:

The Northwest Quarter of Section Twenty-Three (23), Township Two (2) South, Range Seven (7) East of the 6<sup>th</sup> P.M. in Marshall County, Kansas,

EXCEPT AND SUBJECT TO: Easements, restrictions and rights-of-way, both visible and of record;

1. PRICE: The total purchase price of \_\_\_\_\_ shall be paid by Buyer as hereinafter provided:

- A.) The sum of ten percent (10%) of the total agreed upon sales price down upon the execution of this agreement to be paid to the escrow agent named herein to be held and applied to the purchase price as hereinafter set out; and,
- B.) The remaining balance of the purchase price, plus any adjustments required under this contract, to be paid at closing to the escrow agent named herein by certified monies.
- C.) All payments made under this contract shall be made payable to Escrow Agent named herein. Further, the Buyer's payment at the time of closing shall be in the form of a money order, cashier's check or other certified funds.

2. MARKETABLE TITLE: Seller shall convey title to the real estate to the Buyer free of all encumbrances except easements and restrictions of record by good and sufficient warranty deed.

Seller shall furnish to Buyer an Owner's Policy of Title Insurance to said real estate showing marketable or insurable record title. Said title insurance commitment shall be delivered to the Buyer or the attorney designated by Buyer for examination. If any defects in the title are present, Seller shall have a reasonable time to correct said defects.

Seller and Buyer shall be equally responsible for the cost of an Owner's Policy of Title Insurance. Any additional title insurance coverage that may be required by Buyer or Buyer's lender shall be borne entirely by Buyer.

This contract is not contingent upon a survey being performed. Seller is not responsible for providing or paying for a survey, marking boundaries, or fencing unless otherwise noted.

3. TAXES: Taxes for 2018 and all prior years shall be paid by Seller. The taxes for 2019 and all subsequent years shall be paid by the Buyer.

4. POSSESSION: Possession of the above described real estate shall be delivered to Buyer on the date of closing which shall be on or before **November 27, 2018**, unless extended by mutual agreement of the parties. Closing of the real estate transaction shall be conducted by Bolton & McNish LLC.

To the extent that any portion of the subject property is enrolled in government sponsored farm programs, Buyer will succeed to such government sponsored program contracts. The Seller and/or the Seller's real estate agent do not guarantee the eligibility or the success of the Buyer in any government sponsored programs. Buyer must adhere to all government sponsored program contract requirements and agrees to hold Seller harmless from any damages, claims, penalties, fines or causes of action should the Buyer fail to comply and penalties or forfeiture is imposed.

Buyer shall take possession of the real estate subject to an existing tenancy; no fall-seeded holdover crop is allowed.

The parties agree to the following: (1) Seller retains all income for the 2018 crops; (2) Seller shall retain any 2018 Agriculture Program payments paid in the event such payments are made in 2019; and (3) Buyer has full possession on March 1, 2019.

5. CONDITION OF PREMISES: Buyer acknowledges that Buyer has made such inspections as Buyer has deemed necessary or prudent; that Buyer is fully aware of the condition of the subject property and that Buyer accepts the subject property in its pre-existing condition, "AS IS" and "WHERE IS," subject to all zoning ordinances and other codes and regulations imposed by the applicable governmental authority. Buyer further accepts the above described premises in its present existing condition without warranty of fitness of purpose or habitability or any other guarantee by Seller or Seller's agents, unless the same is expressly set forth in this contract.

By signing this agreement, Buyer acknowledges that neither Seller nor any real estate agent involved in this transaction is an expert at detecting or fixing environmental hazards or conditions. Buyer further acknowledges that no important representations concerning the condition of the property are being relied upon by the Buyer except as disclosed herein. After closing of the transaction, Buyer assumes all responsibility for detecting or fixing environmental hazards or conditions. Buyer shall hold Seller harmless from any claims or demands related to any environmental hazards or conditions.

6. ESCROW: Seller and Buyer agree that Bolton & McNish LLC will act as Escrow Agent for this transaction. The Escrow Agent is hereby advised to hold the Warranty Deed in Escrow until the purchase price has been paid in full; at which time the Deed will be delivered to the Buyer.

The Escrow Agent is directed to pay all expenses incurred in connection with the sale of the above described real estate.

Seller and Buyer shall share equally in the document preparation, escrow and closing / settlement fees.

Any legal fees incurred by Buyer shall be the Buyer's expense and shall be paid outside of this contract.

Upon delivery of the deed, Buyer shall be responsible to record the deed in the Register of Deeds Office and shall pay all related recording fees and taxes, including the recording fee for any deed, mortgage, and the mortgage registration tax, if any.

In the event that Buyer needs a closing protection letter or other insurance coverage other than legal malpractice insurance available through the above named escrow, Buyer shall be responsible for any additional closing or escrow fees attributable to the change in escrow or closing agent.

The parties will furnish the escrow agent their social security numbers or tax identification numbers in compliance with the IRS tax code. The escrow agent will be responsible for completion and filing of Internal Revenue Service Form 1099-S required to report the sale or exchange of real estate.

7. RELEASE OF INFORMATION TO ESCROW. Seller authorizes the Escrow Agent to receive any mortgage and loan information relative to the above referenced property, specifically directing the lending institution to provide any mortgage pay-off amounts upon request of the Escrow Agent. Buyer authorizes the Escrow Agent to receive any mortgage and loan information relative to the above referenced property and to release to the bank or lending institution which is financing the purchase a copy of this agreement, the deed, a closing statement, and any other documents or information regarding this sale transaction as may be required for the loan application and the closing of this sale.

8. PERSONAL PROPERTY: No personal property items are included in this agreement.

9. IRS CODE SECTION 1031 TAX DEFERRED EXCHANGE. The parties acknowledge that either or both may desire to accomplish an IRS Code Section 1031 tax deferred exchange and that each party's rights and obligations under this agreement may be assigned to a third party for the purposes of completing such exchange. Any party desiring to make an IRS Code section 1031 exchange shall be hereinafter referred to as the "electing party." The parties agree to accept performance from said third party and shall tender performance to said third party and shall cooperate with the electing party and said third party in any manner reasonably necessary or desirable in order to effectuate such exchange, provided that the electing party shall be responsible for any additional expense or liability resulting from said party's exchange. If both parties so elect, Seller shall be responsible for any additional expense or liability resulting from Seller's exchange, and Buyer shall be responsible for any additional expense or liability resulting from Buyer's exchange.

10. DEFAULT: If Seller is unable to deliver marketable/insurable title, any earnest money shall be returned to Buyer and this agreement shall be of no further force and effect. In the

event Buyer fails to make any of the payments or perform any of the covenants contained herein, Seller may declare this agreement null and void and any amounts paid by the Buyer shall be forfeited to Seller as liquidated damages. In the alternative, Seller shall be entitled to pursue such other legal and equitable remedies that may be available to Seller.

11. FORFEITURE OR REFUND OF EARNEST MONEY: The parties understand that applicable Kansas real estate laws prohibit the Escrow Agent from distributing the earnest money, once deposited, without the consent of all parties to this agreement. Buyer and Seller agree that failure by either to respond in writing to a certified letter from the Escrow Agent within Seven (7) days of receipt thereof or failure to make written demand for return or forfeiture of an earnest money deposit within thirty (30) days of notice of cancellation of this agreement, shall constitute consent to distribution of the earnest money as suggested in any such certified letter, or as demanded by the other party hereto.

12. TIME IS OF THE ESSENCE: The parties agree that this agreement constitutes the entire agreement and that there are no unwritten, oral or implied promises, covenants or warranties. Time is of the essence of this agreement and all payments shall be made promptly and in accordance with the terms hereof and all the covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors in interest, and assigns of the respective parties.

13. BROKER'S RELATIONSHIPS DISCLOSURE: Midwest Land and Home is the Broker/Auctioneer, and hereby notifies the undersigned Buyer, as follows: (a) Midwest Land and Home is acting as Seller's Agent and represents the Seller's interest; (b) the undersigned acknowledges that the above disclosure notice was announced to all potential bidders prior to the auction. Notwithstanding any other provision set forth herein, Seller shall be responsible for the real estate commission payable to Midwest Land and Home.

By signing this contract, Seller and Buyer acknowledge that they have read and understand the foregoing Brokerage Relationships Disclosure and further acknowledge that they were previously furnished with a copy of the Kansas Brokerage Relationships in Real Estate Transactions brochure.

The real estate firm involved in this transaction are agents only and not parties to this contract and will in no case whatsoever be held liable to either party for performance of any term or condition of this agreement or for damages for non-performance. Buyer acknowledges that said firm has made no representations and has given no express or implied warranties with regard to the condition of the subject property. Seller and Buyer agree that the real estate firm shall not be responsible for the conduct of third parties providing specialized services whether those services were arranged by Seller, Buyer or the real estate firm on behalf of either.

14. COUNTERPARTS. This agreement and related documents (excepting the warranty deed of conveyance) may be executed and delivered (including by facsimile transmission) in one or more counterparts, each of which shall be deemed an original but all together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Seller and Buyer have hereunto set their hands the day and year first above written.

SELLER

BUYER

\_\_\_\_\_  
Frank Nichols,                      Date  
Trustee

\_\_\_\_\_  
[Print] \_\_\_\_\_                      Date

\_\_\_\_\_  
[Print] \_\_\_\_\_                      Date

ACCEPTANCE BY ESCROW AGENT

The undersigned hereby accepts the appointment of Escrow Agent in the Wallace and Frances Nichols Living Trust Auction Contract for Sale of Real Estate as set out above and acknowledges receipt of the following:

- \_\_\_\_\_ 1. Original contract executed by the parties;
- \_\_\_\_\_ 2. Original Warranty Deed;
- \_\_\_\_\_ 3. Down Payment in the amount of \$ \_\_\_\_\_;

Dated: \_\_\_\_\_.

\_\_\_\_\_  
Escrow Agent

**SELLER INFORMATION PROVIDED FOR ESCROW AGENT USE, ONLY  
CONFIDENTIAL**

Sellers' Names: (1) Wallace and Frances Nichols Living Trust  
Frank Nichols, Trustee

Sellers' Address after sale (1) \_\_\_\_\_  
(2) \_\_\_\_\_

Sellers' Soc. Sec. No.:(1) \_\_\_\_\_  
(2) \_\_\_\_\_

Sellers' telephone #: \_\_\_\_\_  
\_\_\_\_\_

Name of Sellers' Mortgage company, if applicable \_\_\_\_\_  
Sellers' loan/account # \_\_\_\_\_ Mortgage company phone # \_\_\_\_\_

**BUYER INFORMATION PROVIDED FOR ESCROW AGENT USE, ONLY  
CONFIDENTIAL**

Buyer Names: \_\_\_\_\_  
\_\_\_\_\_

Buyers' Address after sale \_\_\_\_\_  
\_\_\_\_\_

Buyers' Soc. Sec. No.: (1) \_\_\_\_\_

(2) \_\_\_\_\_

Buyers' telephone #: (1) \_\_\_\_\_

(2) \_\_\_\_\_

Email: \_\_\_\_\_

Buyer's Lender: \_\_\_\_\_ name  
\_\_\_\_\_ address  
\_\_\_\_\_ phone number

Address of Property being sold:

156.2 acres of real estate in NW/4 less right of way in 23-2-7, Marshall County,  
Kansas.