

AUCTION REAL ESTATE PURCHASE AGREEMENT

THIS AUCTION REAL ESTATE PURCHASE AGREEMENT (the “**Agreement**”) is made and entered into (as of the Effective Date as set out in Section 13 hereof) by and between **The Ervin Family Trust, dated 1/20/2017** (the “**Seller**” whether one or more) and _____, or assigns (the “**Buyer**” whether one or more). Seller and Buyer agree as follows:

1. **Property.** The Seller agrees to sell and convey to Buyer, by a good and sufficient warranty deed, subject to easements, rights of ways, covenants, restrictions, and other matters of record, the following described real property and the improvements thereon, if any, (the “**Property**”):

South 1.12 Ft. of Lot 105, and the North 23.5 Ft. of Lot 107, Main Street, City of Caldwell, Sumner County, Kansas. Commonly known as 11 N. Main Street, Caldwell, KS 67022

A general depiction of the Property is shown on **Exhibit “A”** attached hereto and made a part hereof.

2. **Purchase Price.** Buyer agrees to purchase, and to pay to Seller, as consideration for the conveyance of the Property, the sum of:
- | | |
|----------------------|----------|
| Final Bid | \$ _____ |
| 10% Buyer’s Premium | \$ _____ |
| Total Purchase Price | \$ _____ |
- in the following manner: _____ and ___/100 Dollars (\$ _____) in the form of **non-refundable** earnest money, which shall be applied to the Purchase Price at closing, if such closing occurs, with the balance to be paid in cash or immediately available funds at closing.

3. **Title Evidence.** Seller agrees to share equally with Buyer the closing agent costs and the cost of a title insurance company's commitment and policy (Buyer's coverage, but not lender's coverage's) to insure the Property, showing a merchantable title vested in Seller, subject to easements, rights of ways, restrictions, covenants and other matters of record.

4. **Delivery.** A duly executed copy of this Agreement shall be delivered to the parties.

5. **Earnest Money and Default.** Buyer hereby deposits with Security 1st Title, LLC, 727 North Waco, Suite 300, Wichita, Kansas, 67203, (the “Title Company”) upon the execution of this Agreement, the sum of _____ and ___/100 Dollars (\$ _____) as **non-refundable** earnest money, as a guarantee that the terms and conditions of this Agreement shall be fulfilled by Buyer, said deposit to be applied toward the Purchase Price at closing upon acceptance of title by Buyer and delivery of deed by Seller. If Buyer fails to fulfill its obligations under this Agreement, Seller may, at its option, cancel this Agreement and the earnest money deposit shall then become the property of Seller, not as a penalty, but as liquidated damages, or seek specific performance. Notwithstanding any of the other terms of this Agreement providing for forfeiture or refund of the earnest money deposit, 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. If Seller is unable to furnish merchantable title, the earnest money deposited shall be returned to Buyer, and this Agreement shall be null and void and of no further force and effect, or Buyer may elect to waive the title objections and close.

6. **Proration.** All rentals, taxes, installments for special assessments, insurance (if policies acceptable to Buyer), and interest, if any, shall be adjusted and prorated through the date of closing. Taxes shall be prorated for the calendar year on the basis of taxes levied. If taxes have not been levied, then they will be prorated based upon taxes for the previous year, adjusted for the most recent mill levy, if known.

7. **Closing.** Time is of the essence of this Agreement and closing for this transaction shall be consummated on or before thirty (30) days after the Effective Date of this Agreement. Buyer and Seller shall equally share the closing agent's costs.

8. **Possession.** Possession to be given to Buyer at closing. Seller further agrees to convey the Property with all the improvements located thereon, if any, and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

9. **Agency Disclosure.** J.P. Weigand & Sons, Inc. (“Weigand”) is functioning as a transaction broker with Kevin Howell functioning as a designated agent of the Seller with the duty to represent Seller's interests in this transaction. Seller and Buyer acknowledge receipt of the Real Estate Brokerage Relationships brochure.

Buyer's Broker/Licensee, if applicable, is functioning as:

☐ Agent of the Buyer

☐ Transaction Broker

☐ Designated Buyer's Agent*

Buyer's Broker: _____
Licensee: _____

10. **Inspection.** Buyer has carefully examined the Property and the improvements located thereon, if any, and, in making the decision to buy the Property, Buyer is relying wholly and completely on Buyer's own judgment and the judgment of any contractors or inspectors Buyer may have selected. Buyer agrees that Buyer's successful bid resulting in the Purchase Price was submitted following consideration of all possible defects in the Property (including any environmental defects or problems), and Buyer purchases the Property in its present condition, "as is, where is" and without warranties or representations of any kind, concerning the condition, suitability, or value of the Property. Buyer acknowledges that neither Seller nor any broker or salesperson involved in this transaction is an expert at detecting or repairing physical defects in the Property.
11. **As Is, Where Is Condition.** Buyer is purchasing the subject Property in its "as is, where is" condition.
12. **Special Assessments.** In compliance with Kansas law, Seller hereby discloses to Buyer that the Property is subject to special assessments as may be shown on the tax bill and/or in the Title Commitment available for review by Buyer prior to this auction or is located in an improvement district that may occasion the imposition of special assessments on the Property. By signing this Agreement, Buyer acknowledges receipt of this disclosure.
13. **Effective Date.** The Effective Date of this Agreement will be the last date on which this Agreement is executed.
14. **Commission.** Seller and Buyer understand that a real estate commission is to be paid to J.P. Weigand & Sons, Inc. in accordance with the provisions of a separate agreement. In the event Buyer is represented by a Broker as identified by a certain Broker Registration Form, attached hereto and incorporated herein, J.P. Weigand & Sons, Inc. agrees to share the commission as set forth in said Broker Registration Form. Seller and Buyer hereby represent and warrant to each other that there are no other real estate brokers involved in the transaction contemplated herein or entitled to any compensation resulting from this transaction.
15. **Authority to Bind.** Each individual who executes this Agreement on behalf of a party represents that he or she is duly authorized to execute this Agreement on behalf of that party and is operating within the scope of his or her authority.
16. **Good Faith.** Each party to this Agreement shall use good faith and reasonably commercial efforts to accomplish the actions provided for in this Agreement in due time and to cooperate with all other parties in doing so.
17. **Entire Agreement.** This Agreement, including all Exhibits, other attachments and addenda hereto, constitute the entire agreement of the parties hereof concerning the Property and supersede all prior agreements and understandings, both oral and written, between the parties with respect to the Property. This Agreement may be modified only by both Seller and Buyer initialing changes in this Agreement or by a separate written agreement.
18. **Binding Effect.** This Agreement shall be binding upon Buyer, Seller, and their respective heirs, successors, and assigns.
19. **Electronic Signatures and Fax Signatures.** Hand signatures transmitted by fax or electronic mail (such as PDF or electronic signature) are permitted as binding signatures to this Agreement. Signatures may be signed in counterpart, on separate pages, and then assembled as the complete agreement of the parties.
20. **Days of Performance.** Unless otherwise specified, in computing any period of time described herein, the day of the act or event on which the designated period of time begins to run shall not be included and the last day of the period so computed shall be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the next day which is not a Saturday, Sunday or a legal holiday. Further, unless otherwise specified, any reference to a specified number of days shall be deemed to refer to calendar days (count includes weekends and holidays).
21. **Like-Kind Exchange.** Seller and Buyer may, at their respective options, and at their respective sole cost and expense, elect to participate in a tax deferred exchange under Section 1031 of the Internal Revenue Code in connection with this transaction and Buyer and Seller agree to reasonably cooperate with each other in connection with the same provided: (a) neither is required to enter into the chain of title on the other party's property and that they use a qualified intermediary to effect the exchange; (b) each will be exclusively responsible for all costs incurred in connection with their respective exchange; and (c) closing of this transaction is not unreasonably delayed in any manner because of any such exchange.
22. **Governing Law.** This Agreement shall be interpreted in accordance with the laws of the State of Kansas.

23. **Foreign Investment.** Seller represents that Seller is not a foreign person as described in the Foreign Investment in Real Estate Property Tax Act and agrees to deliver a certificate at Closing to that effect which shall contain Seller's tax identification number.
24. **Notices.** All notices, consents, approvals, requests, waivers, objections, or other communications (collectively "notices") to Buyer and Seller required or permitted under this Agreement shall be delivered to same as set forth in the signature blocks of the Seller and Buyer, or such other addresses or contact information as later designated by Seller and Buyer, and to Title Company as provided hereinafter. All notices required under this Agreement shall be made in writing and delivered either by: (a) hand delivery, and considered delivered upon receipt; (b) telefacsimile, and considered delivered upon completion of transmittal; (c) prepaid United States certified mail, and considered delivered upon signed receipt or refusal to accept notice by intended recipient; (d) email and considered delivered upon completion of transmittal; or (e) nationally-recognized overnight delivery service, and considered delivered the next business day after the notice is deposited with that service for delivery. Notices shall be deemed served and received upon the earlier of the third day following the date of mailing (in case of notices mailed by certified mail) or upon delivery (in all other cases). A party's failure or refusal to accept service of a notice shall constitute delivery of the notice.

NOTICES TO TITLE COMPANY

Security 1st Title, LLC

Attn: Commercial Escrow

727 North Waco, Suite 300

Wichita, KS 67203

Phone: 316-267-8371

Facsimile: 316-267-8115

Email: commercialescrow@security1st.com

25. Miscellaneous.

A. **Representations, Recommendations and Disclosures.** Unless otherwise stated in writing, neither Weigand, its brokers or salespersons have made, on their own behalf, any representations or warranties, express or implied, with respect to any element of the Property, including, but not limited to, the legal sufficiency, legal effect, or tax consequences of this transaction. Any information furnished to either party or in any property condition report should be independently verified by that party before that party relies on such information. Buyer hereby agrees to hold Weigand, its brokers or salespersons harmless if Seller has failed to disclose any known defect or material fact regarding the Property.

Any representations made herein have been made by Weigand, its brokers or salespersons based on information supplied by sources believed to be reliable, and Weigand, its brokers or salespersons have not assumed any responsibility, directly or indirectly, with respect to any representations or warranties which have been made, if any. Since Weigand is acting as broker only, neither Weigand, its brokers or salespersons shall, under any circumstances, be held liable to either Seller or Buyer for performance or lack of performance of any other terms or conditions of this Agreement, or for damages arising out of or relating to the contents of this Agreement over the performance or nonperformance of either of the parties to this Agreement.

B. **Attorney.** Weigand recommends that both Buyer and Seller retain an attorney to answer any legal questions involved in this real estate transaction.

C. **Environmental Conditions.** Buyer and Seller agree that Weigand and Weigand's brokers and salespersons do not have any expertise in evaluating the environmental condition of the Property and that Weigand and Weigand's brokers and salespersons have made no representation concerning environmental condition except as may be noted in writing as a part of this Agreement.

D. **Modification and Non-Waiver.** This Agreement may not be modified or amended, except by an agreement in writing signed by Seller and Buyer. The parties may waive any of the conditions contained herein or any of the obligations of the other party hereunder, but, except as otherwise provided herein, any such waiver shall be effective only if in writing and signed by the party waiving such conditions or obligations. No failure by either party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement, or condition. One or more waivers of any covenant or condition of this Agreement by either party shall not be construed as a waiver of a further breach of the same covenant or condition.

E. **Headings.** The headings of paragraphs herein are for convenience of reference only, do not constitute a part of this Agreement, and shall not be deemed to limit or alter any of the provisions hereof.

F. **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be judicially declared to be invalid, illegal, unenforceable or void in any respect, such declaration shall not have the effect of invalidating or voiding the remainder of this Agreement, and the parties hereto agree that the part or parts of this Agreement so held to be invalid,

illegal, unenforceable or void will be deemed to have been stricken herefrom and the remainder will have the same force and effectiveness as if such part had never been included herein.

26. **Agreement to Terms.** Buyer and Seller acknowledge they have read the entire Agreement and that by signing below agree to all terms contained herein.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.

SIGNATURES IMMEDIATELY FOLLOW.

SELLER:
The Ervin Family Trust

BUYER:

By: _____
Printed Name: _____
Title: _____
Date: _____ Time: _____

By: _____
Printed Name: _____
Title: _____
Date: _____ Time: _____

NOTICES TO SELLER:

Attn: _____

Phone: _____
Email: _____

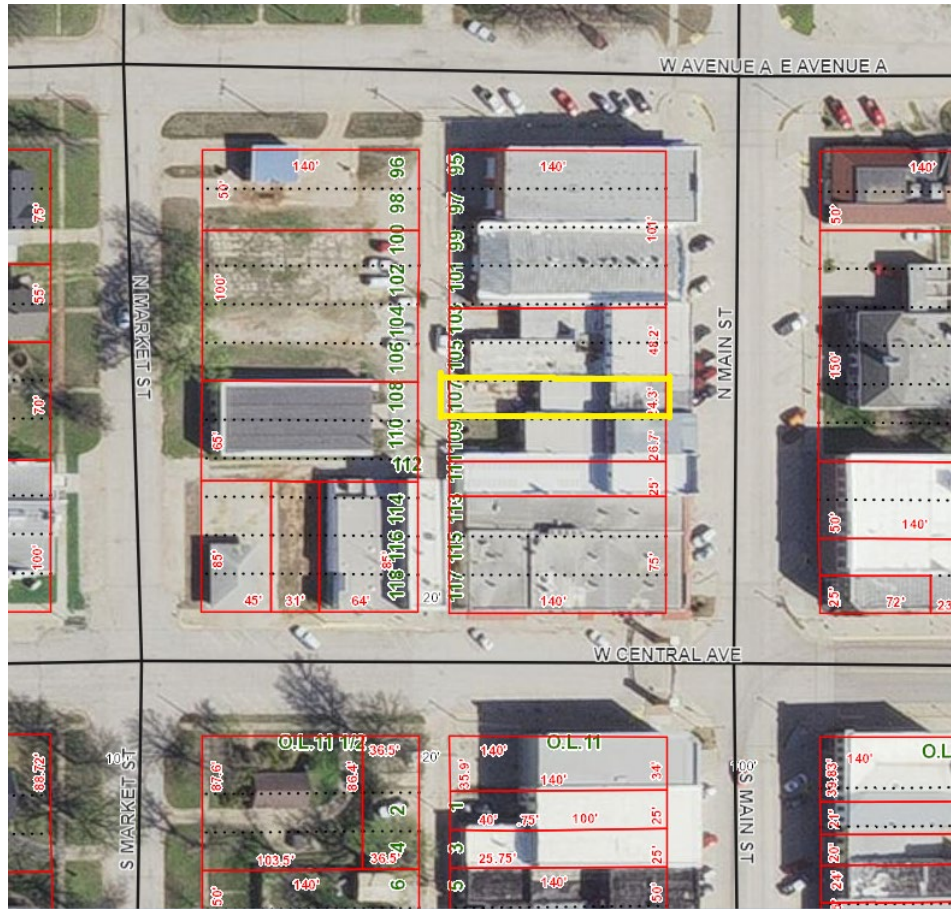
NOTICES TO BUYER:

Attn: _____

Phone: _____
Email: _____

For Office Use Only	
Ordered By: _____	Received By: _____
Drafted By: _____	Date Received: _____
Reviewed By: _____	Time Received: _____

EXHIBIT "A"
(General Depiction of the Property)





CALL BEFORE YOU WIRE FUNDS

PROTECT YOUR MONEY WITH THESE TWO STEPS

1. At the first meeting with your Realtor®, obtain the phone number of your real estate agent and your escrow officer.
2. PRIOR to wiring funds, call the known phone number to speak directly with your escrow officer to confirm wire instructions.

WHAT TO EXPECT FROM SECURITY 1ST TITLE WHEN YOU WIRE FUNDS.

1. To protect your business and customer's information, we will only provide wire instructions to the customer.
2. We will NOT randomly send wire instructions without a request from the customer.
3. We will NOT provide wire instructions if we do not have a signed **Wire Fraud Alert Form** for the party requesting the wire instructions.
4. We will NOT change the wire instructions in the middle of the transaction.
5. If a Buyer/Seller does receive wire instructions:
 - Wire instructions will be given verbally over the phone or sent securely via secured email.
 - The customer needs to verify our phone number at a trusted source like our website, security1st.com
 - Before sending funds, they need to call the verified office number to verify the wire instructions.

**NEVER WIRE FUNDS WITHOUT FIRST CALLING A KNOWN NUMBER FOR YOUR ESCROW OFFICER
TO CONFIRM THE WIRE INSTRUCTIONS. DO NOT RELY ON EMAIL COMMUNICATIONS.**

The undersigned, hereby authorizes Security 1st Title to communicate regarding my real estate closing transaction via electronic communications (cell phone number, e-mail or text message). I understand that this means Security 1st Title will only communicate with me via the authorized cell phone number and email address listed below.

I also acknowledge receipt of this notice and the risks associated with, and the vulnerabilities of electronic transfer of funds. The undersigned further agree that if electronic transfer of funds is utilized in this transaction, they hereby hold Security 1st Title harmless from all claims arising out of inaccurate transfer instructions, fraudulent taking of said funds and/or any other damage relating to the conduct of third parties influencing the implementation of transfer instructions.

Seller Printed Name

Buyer Printed Name

Seller Signature

Buyer Signature

Authorized Email Address

Authorized Email Address

Authorized Phone Number

Authorized Phone Number

Property Address

File Number

FOR MORE INFORMATION ON WIRE-FRAUD SCAMS OR TO REPORT AN INCIDENT, PLEASE REFER TO THE FOLLOWING LINKS:

Federal Bureau of Investigation: <http://www.fbi.gov>

Internet Crime Complaint Center: <http://www.ic3.gov>