

## REAL ESTATE AUCTION TERMS AND CONDITIONS

1. **CONDITIONS OF SALE:** The terms and conditions for this sale are set forth in the Purchase and Sale Agreement which will be executed by the successful bidder(s) at the auction. Copies of the Purchase and Sale Agreement are available for inspection prior to this event by contacting Kincaid Real Estate.
  
2. **AUCTION PROCEDURE:** For purposes of the auction, the property will be offered in a single parcel. The selling price(s) shall be determined by competitive bidding. Bids remain open until the auctioneer declares the bidding closed. **A 10% BUYER'S PREMIUM WILL BE ADDED TO THE HIGH BID TO DETERMINE THE TOTAL SALES PRICE.** Should any dispute arise between Bidders, the Auctioneer shall have the right to make the final decision to either determine the successful Bidder or to re-offer the property that is in dispute. The auction will be recorded and if any dispute arises, the Auctioneer's sales records shall be conclusive in all respects.
  
3. **BIDDER REGISTRATION:** This Auction is for registered bidders and their guests. **ALL BIDDERS, prior to receiving a bid number, must provide sufficient evidence (e.g bank letter or equivalent) to the Auctioneer and/or the Broker that they have adequate funds and/or financing to close on the offered property.** Bidders **MUST** register their name, address, and telephone number with the registration clerk, providing photo I.D. (i.e. driver's license); and the specified **bidder deposit** in cashier's check made payable to Pioneer Title Company or **PRE-APPROVED** company or personal check. If a successful bidder intends to enter into a contract as a husband and wife, business partners, etc., all parties must be in attendance at auction in order to execute Purchase and Sale. In lieu of attendance, anyone representing other individuals, estates, organizations, businesses, etc. must provide, at time of registration, legal proof of authority to sign on behalf of the registering entity. All checks not endorsed by winning bidders will be returned to providers at the close of the auction. The Seller and/or Auctioneer reserve the right to refuse admittance to or expel anyone from the auction premises for interference with the auction activities, nuisance, canvassing or other reasons.
  
4. **TERMS:** Cash at closing on or before Tuesday, November 6, 2018.
  
5. **RIGHT TO ACCEPT OR REJECT:** This property is being offered for sale subject to seller acceptance. Seller also reserves the right to accept or reject any and all offers for any reason. However, the sole purpose of this auction is to sell the property. Please come prepared to purchase this property at auction.
  
6. **PROPERTY INFORMATION PACKETS:** Property information packages are available (containing but not limited to: a copy of the Purchase and Sale Agreements, Terms and Conditions, Preliminary Title Reports, Plat Maps, Law of Real Estate Agency) by contacting Kincaid Real Estate.
  
7. **CONFIRMATION OF BID:** Successful bidder will execute a "Confirmation of Bid" immediately upon award of the right to execute an offer to purchase, as announced by the Auctioneer. Successful bidder must then complete the Purchase and Sale Agreement immediately following the close of the auction.

- 8. DEPOSITS:** The successful bidder will be required to provide a minimum earnest money deposit of ten percent (10%) of the purchase price at the close of the real estate auction. The cashier's check bidder deposit specified in Item 3 will be applied to that percentage. Buyer must be prepared to issue a personal check for the balance due in excess of the bidder deposit, to be made payable to Pioneer Title Company to complete the earnest money deposit requirement.
- 9. ENVIRONMENTAL DISCLAIMER:** Seller, Brokers and Auctioneer do not warrant or covenant with Buyer with respect to the existence or nonexistence of any pollutants, contaminants, or hazardous waste prohibited by federal, state or local law or claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration or escape of such substances at, from or into the demised premises. Buyer is to rely upon his/her own environmental audit or examination of the premises.
- 10. CLOSING:** The sales transactions must close no later than November 6, 2018, unless extended in writing by the Seller. Sale will be closed by Pioneer Title Company, Pullman, WA.
- 11. CLOSING COSTS AND PRORATIONS:** Seller shall pay all customary and usual closing costs paid by Sellers of Real Estate in Whitman County, WA including title insurance premiums, excise tax, one-half of document preparation, one-half of escrow fees, and pro-ratable items. Purchaser shall pay all customary and usual closing costs paid by buyers of real estate in Whitman County, WA, including recording fees, one-half of document preparation, one-half of escrow fees, sales or use tax, if any, and pro-ratable items.
- 12. ADDITIONAL TERMS AND CONDITIONS:** All dimensions and descriptions are approximations only based on the best information available and are subject to possible variation. Bidders should inspect the property and also review all of the pertinent documents and information available at Kincaid Real Estate as each bidder is responsible for evaluating the property and shall not rely upon the Seller, Broker, or Auctioneer. The Seller, Broker, Auctioneer, or their agents assume no liability for errors or omissions. The properties herein are being sold subject to federal, state and county laws, ordinances and regulations which may affect the property and its use, including all conditions, restrictions and limitations and other matters of record. "The property is being sold as-is and without any warranties or representations, expressed or implied." No claim will be considered for allowance, adjustment or rescission based upon failure of the property to correspond to any particular standard or exception. The Auctioneer, at his sole discretion, reserves the right to accept a personal check from a pre-qualified bidder in-lieu of a cashier's check. Seller, Broker, and Auctioneer have the right to postpone or cancel the auction, in whole or in part, to add or delete properties, at their sole discretion, and to modify or add any terms and conditions of sale and to announce such modifications or additional terms and conditions either prior to or at the auction. Announcements made at the auction will take precedence over printed matter. No phone, fax or emailed bids will be acknowledged on sale day unless prior arrangements have been made with Kincaid Real Estate.
- 13. AGENCY DISCLOSURE:** Kincaid Real Estate and Booker Auction Company are representing the Seller and will be paid by the Seller. Purchaser will be required to acknowledge such agency.
- 14. BROKER PARTICIPATION:** A cooperating broker referral fee of 2.0% will be paid to the appropriately licensed real estate broker whose pre-registered prospect pays and successfully closes on subject property. Participating brokers must follow all guidelines set by the Listing Broker and must complete and submit to the Listing Broker a Cooperation Agreement Between Brokers no later than **2 p.m. Friday, October 5, 2018**. Agreements may be obtained from the Listing Broker. No agent will be recognized on a prospect who has previously contacted or been contacted by the Seller or its representatives. **Registered**

**broker(s) must have shown their client(s) the property. Registered broker(s) and their client(s) must attend the auction.**

15. **SELLER'S PERFORMANCE:** The seller has agreed to the terms of the sale as published. However, the Broker and Auctioneer make no warranties or guarantees as to the Seller's performance. All properties are being offered for sale to qualified purchasers without regard to the prospective purchaser's sex, race, color, religion or national origin.

16. **FAILURE TO CLOSE:** In the event that the successful bidder fails to close for any reason that is not the fault of the Seller, the earnest money shall be retained by the Seller as liquidated damages and divided equally between the Seller and the Broker.

17. **DISCLAIMER:** The square footage dimensions and acreage amounts represented are based upon information provided by the Seller and are believed to be correct; however, Purchaser and/or Purchaser's Agent/Broker shall bear the responsibility to confirm all calculations prior to the auction. This offering is not available to residents of any state in which this property is not in compliance with the real estate laws or other laws of that state. The Broker, Auctioneer and/or Auction Company shall not be responsible or liable in any way if the Seller fails to honor any bid, refuses to, or cannot close title in accordance with the winning bid or any contract in respect thereof.

*The Broker and/or Auctioneer reserve the right to deny any person admittance to the auction. The Seller reserves the right to withdraw the property or any parcel thereof, to postpone or cancel the auction, or to change any terms of the auction upon announcement prior to or during the sale. Announcements made at the auction supersede all printed material. All information contained in this brochure was derived from sources believed to be accurate but is not guaranteed.*

REAL ESTATE PURCHASE AND SALE AGREEMENT

Single Parcel

Received from:

\_\_\_\_\_ (Buyer)

the sum of \_\_\_\_\_ Dollars

(\$ \_\_\_\_\_) in the form of a \_\_\_\_\_ check which will be deposited with Pioneer Title Company, Pullman WA, by Broker within three (3) days after mutual acceptance. The earnest money will be applied as a credit to Buyer on the closing of the following described real estate, which Buyer agrees to buy and Seller agrees to sell, located in Whitman County, Washington, legally described in Exhibit "A" attached hereto, and by this reference is made a part of this Agreement.

AGENCY DISCLOSURE: At the signing of this Agreement, the Selling Broker (insert name of Selling Broker) \_\_\_\_\_ represented (check one) \_\_\_ Buyer, \_\_\_ both parties; and the Listing Broker, C.D. "Butch" Booker, Kincaid Real Estate, represented (check one) \_\_\_ Anne J. Brown (Seller), \_\_\_ both parties. Buyer and Seller both confirm that prior oral and/or written disclosure of agency was provided to each of them in this transaction. If Selling Agent and Listing Agent are different licensees affiliated with the same broker, then both parties consent to that broker acting as a dual agent. If Selling Agent and Listing Agent are the same person representing both parties, then both parties confirm their consent to that agent and his/her broker acting as dual agents. Both parties acknowledge receipt of a copy of the pamphlet entitled "The Law of Real Estate Agency."

1. PURCHASE PRICE: The total purchase price is \$ \_\_\_\_\_.

2. METHOD OF PAYMENT: The purchase price shall be paid in cash at closing, including earnest money.

3. BUYER'S REPRESENTATION: Buyer represents that Buyer has sufficient funds available to close this sale in accordance with this Agreement and is not relying on any contingent source of funds unless otherwise set forth in this Agreement.

4. TITLE - Title to the property shall be marketable at closing. Rights, reservations, covenants, conditions, and restrictions presently of record or of apparent use, easements and encroachments of record or apparent use, not materially affecting the value of the property or unduly interfering with Buyer's intended use of the property shall not cause the title to be considered unmarketable. Additionally, the property is subject to the standard policy printed exceptions of Pioneer Title Company, and the encumbrances, if any, retained by Seller for security as set forth in this Agreement. Buyer accepts the property subject to all easements and encroachments of record or of apparent use, including, but not limited to, easements granted to or retained or held by public utilities or governmental entities, and subject to easements, restrictions, and reservations for the supply of water and water rights and future assessments therefore. Encumbrances to be discharged by Seller shall be paid by Seller on or before closing and may be paid out of the closing. See Commitment for Title Insurance which is, by this reference, made a part of the Agreement.

5. TITLE INSURANCE: The parties authorize the closing agent, at Seller's expense, to apply for a standard form owner's policy of title insurance to be issued by Pioneer Title Company. The title insurance shall

50 contain no exceptions other than those contained in said standard form, those referred to in this Agreement, those  
51 accepted by Buyer, and those not inconsistent with this Agreement. If title is not so insurable and cannot be made  
52 so insurable prior to closing, Buyer may elect either to waive such encumbrances or defects and proceed with the  
53 closing, or to terminate this Agreement and receive a refund of the earnest money, at which time, this Agreement  
54 shall be at an end. Buyer acknowledges that a standard form title insurance does not insure the location of  
55 boundaries, and that an extended form of insurance is available at additional cost, with such additional cost to be  
56 borne by the Buyer.

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58 6. **CONVEYANCE:** This Agreement provides for a cash sale and title shall be conveyed by Special  
59 Warranty Deed free of encumbrances and defects except those included in this Agreement or otherwise acceptable  
60 to Buyer.

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62 7. **UTILITIES:** Seller represents to the best of Seller’s knowledge that the subject property is provided  
63 electrical service from NONE.

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65 8. **PROPERTY CONDITION:** Seller represents to the best of Seller’s knowledge that Seller is not aware  
66 of any material facts adversely affecting the property.

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68 9. **CLOSING:** This sale shall be closed within ten (10) days after satisfaction or waiver of all  
69 contingencies, if applicable, but in any event, within thirty (30) days of mutual acceptance and subject to terms of  
70 lease, by or through Pioneer Title Company, Pullman, WA. “Closing” means the date on which all documents are  
71 recorded and the sale proceeds are available for disbursement to Seller. Buyer and Seller shall deposit with  
72 closing agent all documents and monies required to complete this sale in accordance with this Agreement.

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74 10. **CLOSING COSTS AND PRORATIONS:** Seller shall pay all customary and usual closing costs paid  
75 by Sellers of Real Estate in Whitman County, Washington, including title insurance premiums, excise tax, one-  
76 half of document preparation, one-half of the escrow fees, survey fees, if any, real estate commission and pro-  
77 rata items. Buyer shall pay all customary and usual closing costs paid by buyers of real estate in Whitman  
78 County, Washington, including recording fees, one-half of document preparation, one-half of escrow fees, pro-  
79 rata sales or use tax, if applicable.

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81 11. **POSSESSION:** At closing on or before November 6, 2018.

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83 12. **ASSIGNMENT:** Buyer’s rights under this Agreement may not be assigned by Buyer without Seller’s  
84 prior written consent, which consent shall not be unreasonably withheld.

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86 13. **SELLER CITIZENSHIP and FIRPTA** (Foreign Investment in Real Property Tax Act):  
87 Seller \_\_\_ is /  X \_\_\_ is not a foreign person for the purposes of U.S. income taxation. If Seller is a foreign  
88 person for purposes of U.S. income taxation, and this transaction is not otherwise exempt from FIRPTA, Closing  
89 Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

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91 14. **NOTICES:** Unless otherwise specified in this Agreement, any and all notices required to be given under  
92 this Agreement must be given in writing. Notices to Seller must be signed by at least one Buyer and shall be  
93 deemed to be given when actually received by or at the office of the Seller. Notices to Buyer must be signed by at  
94 least one Seller and shall be deemed to be given when actually received by or at the residence of Buyer, or by or  
95 at the office of Selling Broker. Both parties must keep Broker advised of their whereabouts. Broker has no  
96 responsibility for notices beyond calling the party or delivering the notice to the party’s last known address.

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99 15. **COMPUTATION OF TIME:** Unless otherwise expressly specified herein, any period of time specified  
100 in this Agreement shall expire at 4:00 p.m of the last calendar day of the specified period of time, unless the last  
101 day is Saturday, Sunday or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of  
102 time shall expire at 9:00 p.m. of the next business day. Any specified period of three (3) days or less shall include  
103 business days only.

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105 16. **DEFAULT/TERMINATION:** If a dispute should arise regarding the disbursement of any earnest  
106 money, the party holding the earnest money may interplead the funds into court. Furthermore, if either Buyer or  
107 Seller defaults, the non-defaulting party may seek specific performance or damages, and the Seller may, under  
108 some circumstances, retain the earnest money as liquidated damages. The earnest money shall be subject to  
109 retention by Seller, along with all other claims as Seller may have, in the event Buyer fails, without legal excuse,  
110 to complete the purchase of the property. In the event that the Buyer fails, with legal excuse, to complete the  
111 purchase of the property, pursuant to the terms and provisions of this Agreement, then the earnest money shall be  
112 refunded to the Buyer. Each Buyer and Seller shall have all the rights and remedies afforded to them at law or  
113 equity, and pursuant to the terms of this Agreement. If the earnest money is forfeited as liquidated damages, said  
114 money shall be divided equally between Seller and Broker, not to exceed the agreed commission.

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116 17. **GENERAL PROVISIONS:** Time is of the essence. There are no verbal agreements which modify this  
117 Agreement. This Agreement constitutes the full understanding between Seller and Buyer. Buyer has personally  
118 observed the property and has reached Buyer’s own conclusion as to the adequacy and acceptability of the  
119 property based upon such personal inspection. Unless otherwise expressly specified herein, square footage,  
120 dimensions and/or boundaries used in marketing the property are understood to be approximations and are not  
121 intended to be relied upon to determine the fitness or value of the property.

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123 18. **LEGAL AND TAX IMPLICATIONS:** This Agreement affects your legal rights and obligations and  
124 will have tax implications, Agents are not permitted to give legal or tax advice. If you have any questions  
125 regarding this Agreement and the addendums, attachments or other related documents you should consult an  
126 attorney or tax advisor. Further if a dispute arises regarding this transaction, the prevailing party(ies) (i.e., Buyer,  
127 Seller or Broker) shall recover costs and reasonable attorney’s fees, including those for appeals.

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129 In the event Buyer fails, without legal excuse, to complete the purchase of the property, the earnest money  
130 deposit made by the Buyer shall be forfeited to the Seller as the sole and exclusive remedy available to the Seller  
131 for such failure. Furthermore, if the earnest money deposited exceeds five percent (5%) of the sale price, Seller  
132 may retain as liquidated damages and, as Seller’s sole remedy, earnest money equaling only five percent (5%) of  
133 the purchase price; any additional earnest money shall be refunded to Buyer.

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135 19. **EMAIL or FACSIMILE TRANSMISSION:** Emailed or facsimile transmissions of any signed original  
136 document and re-transmission of any signed transmission shall be the same as transmission of any original. At  
137 the request of either party or closing agent, the parties will confirm emailed or facsimile transmitted signatures by  
138 signing the original document.

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140 20. **CONDITION OF PROPERTY; REPRESENTATION:** Buyer has inspected the subject property in  
141 this transaction and is familiar with the conditions of all property which is the object of this Agreement. Buyer  
142 accepts and agrees to purchase the property, real and personal, if any, on the property, which is the object of this  
143 Agreement, in its present condition, “as is”, without reliance upon any representation made by Owner or Broker  
144 as to the condition or suitability of said property. There are no warranties, express or implied, which are the  
145 object of this offer beyond the description on the face hereof. Buyer acknowledges that Broker and Seller have  
146 made no representations regarding the conditions or suitability for any purpose of the land, fixtures, and  
147 improvements which are the object of this transaction. Buyer is relying solely on Buyer’s own judgment in  
148 entering into this agreement.

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21. **CURRENT USE STATUS:** If subject property is in current use status, Buyer will continue the current use status after closing this transaction. If Buyer elects to discontinue the current use status, Buyer will be responsible for any resulting taxes, penalties, and interest associated therewith.

22. **CRP CONTRACT:** Buyer agrees to accept CRP contract with its current terms. Buyer will indemnify and hold harmless the Seller and Broker from any claims, damages, fines or penalties with respect to the CRP after closing.

23. **CASUALTY LOSS:** If, prior to closing, the property is destroyed or materially damaged by any means, Buyer may elect to terminate this Agreement and the earnest money shall be refunded to Buyer.

24. **ENTIRE AGREEMENT:** This document constitutes the entire agreement of the parties. There are no verbal or other agreements which modify or alter this agreement. Buyer and Seller further agree that they have read and understand all of the contents of this Real Estate Purchase and Sale Agreement and its attached Exhibit "A" – Legal Description.

25. **OFFER TO PURCHASE:** Buyer offers to purchase the property on the above terms and conditions. Seller shall have until \_\_\_\_\_ p.m. on \_\_\_\_\_ to accept this offer, unless sooner withdrawn. Acceptance by Seller shall not be effective until a signed copy hereof is actually received by or at the office of the Selling Broker. If this offer is not so accepted, it shall lapse and the earnest money shall be refunded to Buyer.

26. **OTHER TERMS & CONDITIONS:** \_\_\_\_\_  
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**BUYER(s):**

Print Name

Print Name

Signature

Signature

Address

City, State, Zip

Phone (circle one)    Cell    Home    Work

Alt Phone (circle one)    Cell    Home    Work

Alt Phone (circle one)    Cell    Home    Work

Email address

**SELLING BROKER:**

Name of Selling Broker

Name of Brokerage

Selling Broker Phone

Brokerage Address

Selling Broker Email Address

Brokerage City, State, Zip

Brokerage/Contract Email Address

Brokerage Phone

Brokerage Fax



248 **ACCEPTANCE:** On this date, \_\_\_\_\_, 2018, Seller agrees to sell the property on the  
249 terms and conditions set forth in this Agreement and further agrees to pay a commission according to the terms of  
250 the listing agreement. Seller assigns to Broker a portion of the sale proceeds equal to the commission, and  
251 irrevocably authorizes and instructs the closing agent to disburse the commission directly to Broker at closing.  
252 Seller acknowledges receipt of a copy of this Agreement signed by both parties.  
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256 **SELLER:** Anne J Brown by Raymond M Brown, PoA  
257 19607 S Duncan Road  
258 Spangle WA 99031  
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260 Signed: \_\_\_\_\_

261 Date: \_\_\_\_\_  
262  
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264  
265  
266 **SELLING BROKER:** (print) \_\_\_\_\_  
267 Kincaid Real Estate LLC, License #1859  
268 809 N Main St, Colfax WA 99111 email: kincaidre@colfax.com  
269 Office (509) 397-4434 Fax (509) 397-4451  
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278 **RECEIPT:** On this date: \_\_\_\_\_, 2018, Buyer acknowledges receipt of a copy of this  
279 Agreement signed by both parties.  
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281 **BUYER(s):** \_\_\_\_\_  
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283  
284 Signature \_\_\_\_\_

Date \_\_\_\_\_

285  
286  
287 Signature \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT A**  
**Legal Description**

The east half of the northwest quarter of Section 36, Township 19 North, Range 45 East, W.M., Whitman County, Washington.

Seller:

Anne J Brown by Raymond M Brown, PoA

Initials:

Date:

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Buyer(s):

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Initials:

Date:

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