

CONTRACT FOR SALE OF REAL ESTATE

Tract No. _____

Bidder No. _____

1. **PARTIES:** ___ New Mexico Bank & Trust _____
(collectively, **“Seller”**) agrees to sell and convey to
_____ (**“Buyer”**) and
Buyer agrees to buy from Seller the Property described below according to the terms
hereof.

2. **SALES PRICE:**

Auction Price	\$ _____
Buyer Premium (5.0%)	\$ _____
TOTAL Sales Price	\$ _____

The Total Sales Price shall be paid by Buyer to Seller by wire transfer of immediately available funds at Closing.

3. **EARNEST MONEY:** Upon execution of this Contract by both parties, Buyer must deposit immediately available funds equal to 10.0% of the Total Sales Price (\$ _____) as earnest money (the **“Earnest Money”**) with _____, (the **“Title Company”**). If Buyer fails to deposit the Earnest Money as required by this Contract, Buyer will be in default. The Earnest Money shall be credited against the Total Sales Price due at Closing.

4. **PROPERTY:** As used in this Contract, the term **“Property”** means any and all of the following:

A. Certain real property owned by Seller and situated in Dallam County, Texas, described on **EXHIBIT “A”** attached hereto and made a part hereof for all purposes, together with all improvements thereon and all rights, privileges and appurtenances pertaining thereto, including but not limited to water rights, claims and permits, easements, and all rights and obligations of applicable government programs for years after the 20 22 crop year.

B. The following items, if any: windmills and tanks, domestic water systems, barns, fences, and all other property owned by Seller and attached to the above described real property.

5. **EXCEPTIONS, RESERVATIONS, AND CONDITIONS:** The Property will be conveyed subject to the following exceptions, reservations, and conditions:

A. The oil, gas and other minerals, royalties, and timber interests presently outstanding in third parties.

- B. All items listed in Schedule B to the Commitment for Title Insurance issued by the Title Company and furnished to Buyer prior to the execution of this Contract.
- C. Easements, rights-of-way and prescriptive easements whether of record or not, rights of adjoining owners in fences situated on a common boundary, and any encroachments or overlapping of improvements.
- D. Easements, if any, described on **EXHIBIT "A"**; and easements which may be created at the sole discretion of Seller to benefit tracts of land described in the auction sales brochure, of which the Property is a part, circulated by Clift Land Auctions and Clift Land Brokers, and as described in the information furnished to Buyer at the auction of the Property.
- E. Reservation by Seller of easements for ingress, egress, utilities, drainage, and for other reasonable purposes as Seller, in Seller's sole discretion, determines necessary to accommodate other tracts of land sold at the auction.

6. **TITLE POLICY AND SURVEY:**

A. **TITLE POLICY:**

- (1) Seller shall furnish to Buyer at Seller's expense an owner policy of title insurance (**the "Title Policy"**) issued by the Title Company in the amount of the Total Sales Price, dated at or after Closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (*including existing building and zoning ordinances*) and the following exceptions:
 - (a) The standard printed exception for standby fees, taxes, and assessments.
 - (b) Those matters specifically described in Paragraph 5 above.
 - (c) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements.
 - (d) The standard printed exception as to marital rights.
 - (e) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
- (2) Buyer acknowledges that Seller has furnished Buyer a commitment for title insurance (**the "Commitment"**) and legible copies of documents evidencing exceptions in the Commitment other than the standard printed exceptions.
- (3) Buyer accepts the Commitment and waives the right to object to any item contained in the Commitment other than exceptions in Schedule C of the Commitment which shall be satisfied on or before Closing.

- B. SURVEY AND SURVEYED ACRES SALES PRICE: At Seller's sole and exclusive option, Seller may survey the Property. If Seller determines that a survey is necessary to provide a sufficient legal description of the Property, Seller shall provide such survey at Seller's expense. If the Property is surveyed, the Sales Price shall be adjusted to reflect the acres as shown by the survey (**the "Surveyed Acres"**). Following the survey, the Surveyed Acres Sales Price shall be determined by dividing the Total Sales Price set out in Paragraph 2 above by the number of acres stated in the auction sales brochure to determine the Cost Per Acre. The Cost Per Acre shall be multiplied by the Surveyed Acres to determine the Surveyed Acres Sales Price. The Total Sales Price set out in Paragraph 2 above shall be replaced with the Surveyed Acres Sales Price as determined pursuant to this paragraph.

7. **NOTICE TO SELLER AND BUYER:**

- (1) Eligibility for government farm program benefits may depend upon compliance with a soil conservation plan for the Property. *Before signing this Contract, Buyer has satisfied itself as to compliance with the conservation plan for the Property and all other government programs.*
- (2) Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property.
- (3) Pursuant to Section 5.011 of the Texas Property Code, Seller gives Buyer the following notice:

If the Property that is the subject of this Contract is located outside the limits of a municipality, the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

- (4) According to the terms of the Real Estate License Act of Texas, you, as Buyer, are advised by Broker that you should have the abstract covering the Property examined by an attorney of your selection, or be furnished with or obtain an owner policy of title insurance.

8. **PROPERTY CONDITION:**

- A. INSPECTIONS AND ACCESS: Buyer acknowledges that Buyer has had the opportunity to inspect the Property. Buyer acknowledges that there may be junk

and other debris located on the Property. Buyer accepts the Property according to the terms of this Contract.

- B. PROPERTY CONDITION: EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT AND OTHER THAN SELLER'S SPECIAL WARRANTY OF TITLE, IF ANY, SET FORTH IN THE DEED, IT IS UNDERSTOOD AND AGREED THAT NEITHER SELLER, BROKER, OR AUCTIONEER IS MAKING OR HAS AT ANY TIME MADE ANY WARRANTY OR REPRESENTATION OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ZONING, TAX CONSEQUENCES, LATENT OR PATENT PHYSICAL OR ENVIRONMENTAL CONDITION, UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH LEGAL REQUIREMENTS OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY OR ANY PORTION THEREOF.

BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING, SELLER SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT FROM SELLER THE PROPERTY AND THE LAND "AS IS, WHERE IS, WITH ALL FAULTS", EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS CONTRACT.

BUYER HAS NOT RELIED ON AND WILL NOT RELY ON, AND NO SELLER SHALL BE LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATED THERETO MADE OR FURNISHED BY SELLER, BROKER, AUCTIONEER, OR ANY PARTY REPRESENTING OR PURPORTING TO REPRESENT SELLER, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, UNLESS SPECIFICALLY SET FORTH IN THIS CONTRACT.

THE DEED CONVEYING TITLE TO THE PROPERTY WILL CONTAIN SIMILAR PROVISIONS TO THE ABOVE. THE PROVISIONS OF THIS SECTION WILL SURVIVE CLOSING THIS TRANSACTION.

- C. (1) At Closing, Buyer will accept the Property in its current condition reasonable wear accepted. Buyer releases Seller from any responsibility to remediate or remove any Hazardous Substance (*defined below*) and any violation of environmental laws.
- (2) For purposes of this Contract:
- (a) the term "**Environmental Laws**" means any and all laws, statutes, ordinances, rules, regulations, judgments, orders, decrees, permits,

licenses, or other governmental restrictions or requirements relating to health, the environment, any “Hazardous Substance” now or any time prior to Closing in effect in the jurisdiction in which the Property is located, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1986, as amended (42 U.S.C. § 9601 et seq.), the Resource Conservation Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, as now or hereafter amended (42 U.S.C. § 6901 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 1801 et seq.), the Clean Air Act, as amended (42 U.S.C. § 7401, et seq.), the Clean Water Act, as amended (33 U.S.C. § 1251 et seq.), the Toxic Substances and Control Act, as amended, 15 U.S.C. Sections 2601 et seq., any and all state and local laws similar to, in whole or in part, federal toxic waste laws, which from time to time are in effect in the jurisdiction in which the Property is located, and the regulations adopted pursuant thereto, any laws or regulations governing “wetlands”, and any common law theory based on nuisance or strict liability; and,

- (b) the term “**Hazardous Substance**” means any substance, material, or waste which is regulated by any local government authority, the State of Texas, or other state where applicable, or the United States Government, including, without limitation, any material or substance which is (i) defined as a “hazardous waste”, “hazardous material”, “hazardous substances”, “extremely hazardous waste”, “extremely hazardous substance”, “regulated substance” or “restricted hazardous waste” under any provision of the Environmental Laws and (ii) petroleum, including crude oil and any fraction thereof and any refined petroleum products and derivatives thereof.

9. **BROKERS' FEES:**

- A. Seller shall be solely responsible for the Broker’s fees due to Clift Land Brokers (“**Broker**”), a Texas real estate broker. Broker is Seller’s exclusive agent. **BROKER DOES NOT REPRESENT BUYER.**
- B. Broker will pay up to a 2.0% commission to any broker who represents Buyer and who has complied with the guidelines set by Broker in connection with the land auction by Seller of approximately 595 acres, more or less. **BUYER IS SOLELY RESPONSIBLE FOR ANY ADDITIONAL COMMISSION DUE TO BUYER’S BROKER AND SHALL INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY CLAIMS BY A BROKER REPRESENTING BUYER, INCLUDING BUT NOT LIMITED TO ATTORNEY’S FEES AND REASONABLE COSTS.**

10. **CLOSING:** The closing ("**Closing**") of the sale will be on or before June 17, 2022, (the "**Closing Date**"), in the offices of the Title Company. If either party fails to close this sale by the Closing Date, the non-defaulting party will be entitled to the remedies contained in Paragraph 15 below. At Closing, Seller shall furnish tax statements or certificates showing no delinquent taxes, and a deed, in a form solely satisfactory to Seller, conveying good and indefeasible title showing no additional exceptions to those permitted in Paragraph 6 above.
11. **POSSESSION:** Seller shall deliver possession of the Property to Buyer at Closing and funding.
12. **SETTLEMENT AND OTHER EXPENSES:** The following expenses must be paid at or prior to Closing:
 - A. Seller's Expenses: Releases of existing liens, including prepayment penalties, and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of the escrow fee charged by the Title Company; and other expenses stipulated to be paid by Seller under other provisions of this Contract.
 - B. Buyer's Expenses: Loan application, origination and commitment fees; lender required expenses incident to new loans, including PMI premium, preparation of loan documents, recording fees, tax service and research fees, warehouse or underwriting fees, amortization schedule, premiums for mortgagee title policies and endorsements required by lender, credit reports, photos; required premiums for flood and hazard insurance; required reserve deposit for insurance premiums and ad valorem taxes; interest on all monthly installment notes from date of disbursements to one month prior to dates of first monthly payments; customary Program Loan costs for Buyer; one-half of the escrow fee charged by the Title Company; recording fees, and other expenses stipulated to be paid by Buyer under other provisions of this Contract.
13. **PRORATIONS AND ROLLBACK TAXES:**
 - A. PRORATIONS: Taxes for the year in which Closing occurs will be prorated through the Closing Date.
 - B. ROLLBACK TAXES: If this sale or Buyer's use of the Property after Closing results in the assessment of additional taxes, penalties, or interest (the "**Assessments**") for periods prior to Closing, the Assessments will be the obligation of Buyer. If Seller's change in use of the Property prior to Closing or denial of a special use valuation on the Property claimed by Seller results in the Assessments for periods prior to Closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive Closing.
14. **CASUALTY LOSS:** In the event of loss or damage to the improvements by fire or other cause, prior to closing, the proceeds of Seller's existing insurance policy coverage shall be used to repair said loss or damage. But if the proceeds are insufficient to repair the same, Buyer, at Buyer's option, may terminate this Contract. The risk of loss shall be

Seller's until the time of closing. The risk of loss shall be Buyer's after the time of closing.

15. **DEFAULT:** If Buyer fails to comply with this Contract, Buyer will be in default, and Seller's sole remedy will be to either (a) enforce specific performance or (b) terminate this Contract and receive the Earnest Money as liquidated damages, thereby releasing both parties from this Contract. If Seller fails to comply with this Contract, Seller will be in default and Buyer's sole remedy will be to either (i) enforce specific performance or (ii) terminate this Contract and receive the Earnest Money, thereby releasing both parties from this Contract.
16. **ATTORNEY'S FEES:** The prevailing party in any legal proceeding brought under or with respect to the transaction described in this Contract is entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.
17. **REPRESENTATIONS:** Seller represents that as of the Closing Date there will be no liens, assessments, or security interests against the Property.
18. **FEDERAL TAX REQUIREMENT:** If Seller is a "foreign person" as defined by applicable law, or if Seller fails to deliver an affidavit that Seller is not a "foreign person", then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. IRS regulations require filing written reports if cash in excess of specified amounts is received in the transaction.
19. **AGREEMENT OF PARTIES:** This Contract, together with the attached exhibits, contains the entire agreement of the parties and cannot be changed except by their written agreement. This Contract supersedes all prior negotiations, correspondence, understandings, brochures, and agreements among the parties hereto respecting the subject matter hereof.
20. **CONSULT YOUR ATTORNEY:** This Contract was furnished to Buyer prior to its execution. The Buyer has been advised to consult an attorney BEFORE signing.
21. **NOTICES:** All notices from the parties to each other must be in writing and are effective when mailed, via certified mail, postage prepaid or hand-delivered as follows:

If to Seller: New Mexico Bank & Trust
 Attn: John Mackay
 700 Locust St.
 Dubuque, IA 52001-6838
 406-655-5110
 jmackay@htlf.com

with copies to: Clift Land Brokers
 Attn: George Clift
 905 S. Fillmore St., Ste. 102

Amarillo, TX 79101
Telephone No. 806.355.9856
Cell No. 806.674.8979
Facsimile No. 806.358.3481
E-mail: George@CliftLandBrokers.com

If to Buyer:

Telephone No. _____

Cell No. _____

Facsimile No. _____

E-mail: _____

with copies to:

Telephone No. _____

Facsimile No. _____

E-mail: _____

If to Title Company:

Telephone No. _____

Facsimile No. _____
E-mail: _____

22. **TAX-FREE EXCHANGE:** Seller shall cooperate fully with Buyer in connection with any tax-free exchange Buyer or Buyer's assignees desire to complete. Seller shall not be charged with any additional expense on account of an exchange transaction. **Buyer shall indemnify and hold Seller harmless from any liability incurred by Seller as a result of Seller's participation in the tax-free exchange.**
23. **ESCROW:** The Earnest Money is deposited with the Title Company with the understanding that the Title Company is not a party to this Contract and does not have any liability for the performance or nonperformance of any party to this Contract. If both parties make written demand for the Earnest Money, the Title Company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the Title Company from all parties. If one party makes written demand for the Earnest Money, the Title Company shall give notice of the demand by providing to the other party a copy of the demand. If the Title Company does not receive written objection to the demand from the other party within 30 days after notice to the other party, the Title Company may disburse the Earnest Money to the party making demand reduced by the amount of unpaid expenses incurred by the Title Company and the Title Company may pay the same to the creditors. If the Title Company complies with the provisions of this paragraph, each party releases the Title Company from all adverse claims related to the disbursement of the Earnest Money. The Title Company's notice to the other party will be effective when deposited in the U.S. mail, postage prepaid, certified mail, return receipt requested, addressed to the other party at such party's address shown above. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.
25. **PARAGRAPH HEADINGS:** The paragraph headings are included only for convenience and are not to be used to construe any provision of this Contract.

EXECUTED the 3rd day of May, 2022 (the "**Effective Date**").

[INTENTIONAL END OF PAGE]

SELLER'S SIGNATURE PAGE
TO CONTRACT FOR SALE OF REAL ESTATE

OWNERS: NEW MEXICO BANK & TRUST

By: _____
John Mackay

BUYER'S SIGNATURE PAGE
TO CONTRACT FOR SALE OF REAL ESTATE

Tract No. _____

Bidder No. _____

BUYER:

TITLE COMPANY RECEIPT

Receipt of [] Contract and [] \$ _____ Earnest Money in the form of _____ is acknowledged.

Date: _____.

By: _____
Name: _____
Title: _____

SAMPLE

EXHIBIT "A"

Legal Description

All of the South 240 acres of the West one-half of Section 2, Block 4, FDW Subdivision, Dallam County, Texas; and

All of the North 154 acres of the East one-half of Section 8, Block 4, FDW Subdivision, Dallam County, Texas, SAVE AND EXCEPT a tract of land conveyed to Tim Proffitt out of the North 154 acres of the East one-half of said Section 8; and

The East one-half of the North 268 acres and the West one-half of Section 7, Block 4, FDW Subdivision, Dallam County, Texas, SAVE AND EXCEPT the South 158.91 acres of the West one-half of Section 7, FDW Subdivision, Dallam County, Texas;

Together with a perpetual non-exclusive easement for ingress and egress to the above-described property, 30 feet in width along the West boundary line of the South 158.91 acres of the West one-half of said Section 7.

LENDER INFORMATION

AUCTION Dallam Co. Irrigated Farm Auction TRACT NO _____

Buyer Name _____

Buyer Mailing Address _____

City _____ State _____ Zip Code _____

Buyer Phone # _____ Buyer Fax # _____

Buyer Email Address _____

Name of Lending Institution _____

Name of Personal Banker _____

Address _____ City _____ State _____ Zip _____

Lender's Phone # _____ Fax # _____

Lender's Email Address _____



Information About Brokerage Services

Texas law requires all real estate license holders to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

TYPES OF REAL ESTATE LICENSE HOLDERS:

- **A BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- **A SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties the broker must first obtain the written agreement of *each party* to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
 - that the owner will accept a price less than the written asking price;
 - that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
 - any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

George Clift Enterprises, Inc. dba Clift Land Brokers	0588891	George@CliftLandBrokers.com	806-355-9856
Licensed Broker /Broker Firm Name or Primary Assumed Business Name	License No.	Email	Phone
George Clift	0458389	George@CliftLandBrokers.com	806-355-9856
Designated Broker of Firm	License No.	Email	Phone
Licensed Supervisor of Sales Agent/ Associate	License No.	Email	Phone
Sales Agent/Associate's Name	License No.	Email	Phone

Buyer/Tenant/Seller/Landlord Initials

Date