

EARNEST MONEY CONTRACT
[FARM AND RANCH AUCTION]

* * * * *

This is a Contract whereby McClain Feedyard Inc C/O Glenn Karlberg ("**Seller**"), agrees to sell to _____ ("**Buyer**"), who agrees to purchase, upon the terms and provisions hereof, the following described real property:

4010 FM 1057, Hereford, TX 79045

BLOCK K-8 SECTION 26, (E336.69' OF W991.94' OF S2587.50' MORE OR LESS) 20 AC, A-1129

BLOCK K-8 SECTION 26, S2587' OF W606', 36.03AC;

together with all improvements thereon and all rights, privileges, and appurtenances pertaining thereto, including but not limited to: water rights, claims and permits, easements, all rights and obligations of applicable government programs and cooperative or association memberships. Included with the sale are the following items, if any: windmills and tanks, domestic water systems, curtains and rods, draperies and rods, valances, blinds, window shades, screens, shutters, awnings, wall-to-wall carpeting, mirrors fixed in place, ceiling fans, attic fans, mail boxes, television antennas and satellite dish with controls and equipment, permanently installed heating and air conditioning units, window air conditioning units, built-in security and fire detection equipment, plumbing and lighting fixtures, including chandeliers, water softener, stove, built-in kitchen equipment, garage door openers with controls, built-in cleaning equipment, all swimming pool equipment and maintenance accessories, shrubbery, landscaping, permanently installed outdoor cooking equipment, built-in fireplace screens, artificial fireplace logs, and all other property owned by Seller and attached to the above described real property.

The following crops and equipment are included: AS IS IN CURRENT CONDITION

The following property is not included: _____

All property sold by this Contract is called the "**Property**". Buyer acknowledges and agrees that Buyer is purchasing the Property **AS IS, WHERE IS, IN ITS PRESENT PHYSICAL CONDITION**, subject to ad valorem tax liens, if any, against the Property. The Property will be conveyed subject to the following exceptions, reservations, conditions, and restrictions (if none, insert "none"):

- A. Minerals, Royalties, and Timber Interests: PER TITLE COMMITMENT
- (1) Presently outstanding in third parties: _____
- (2) To be additionally retained by Seller: _____
- B. Mineral Leases: PER TITLE COMMITMENT
- C. Surface Leases: PER TITLE COMMITMENT
- D. Easements: PER TITLE COMMITMENT
- E. Restrictions, Zoning Ordinances, or other Exceptions: PER TITLE COMMITMENT

Article 1

1.1 Sales/Purchase Price. The total sales/purchase price is \$_____ payable to Seller in cash or immediately available funds at closing.

1.2 Earnest Money. Upon the execution of this Contract by all parties, as a condition precedent to the enforcement of this Contract, Buyer shall deposit 10 percent of the Sales/Purchase Price, totaling \$_____ (the "**Earnest Money**") in immediately available funds with STEWART TITLE _____ (the "**Title Company**"). The

Title _____ Company's _____ address _____ is _____
7810 Hillside Rd #200, Amarillo, TX 79119

Telephone No. (806) 353-5591, and Facsimile No. (____) _____. The Title Company is not required to deposit the Earnest Money in an interest bearing account. **The Earnest Money is non-refundable to Buyer.** Within 24 hours of the Closing Date or termination of this Contract, whichever is earlier, the Earnest Money will be distributed by the Title Company to Assiter & Associates, LLC ("Assiter") as compensation for auctioneering services.

1.3 Closing Date. Closing will be on or before March 18, 2024, at the offices of the Title Company.

Article 2

2.1 Title Commitment. Buyer acknowledges receipt of a title commitment (the "**Commitment**") covering the Property binding the Title Company to issue a Texas owner policy of title insurance. Buyer will accept title to the Property as shown in the Commitment. All exceptions to title shown in the Commitment will be considered "**Permitted Exceptions**". On or before closing, all exceptions to title in Schedule C to the Commitment applicable to Seller will be satisfied by Seller so that they are not exceptions to title in the Title Policy.

2.2 Title Insurance. Seller will furnish Buyer with an owner policy of title insurance (the "**Title Policy**") issued by the Title Company. The Title Policy will be delivered as soon as possible after the sale is closed. The Title Policy will be in the form prescribed by the Texas State Board of Insurance, dated as of the closing date, and issued to Buyer in the amount of the total sales price, guaranteeing Buyer's title to be good and indefeasible subject to the Permitted Exceptions. The cost of the Title Policy will be paid by BUYER.

2.3 Conveyance. At closing, Seller will convey the Property to Buyer as-is by a special warranty deed subject to the Permitted Exceptions.

2.4 Seller's Closing Costs. Seller shall pay the following closing costs: (i) preparation of special warranty deed, (ii) title curative costs, (iii) tax certificates, (iv) one-half of the escrow fees, (v) Seller's attorney's fees, and (vi) other expenses provided herein.

2.5 Buyer's Closing Costs. Buyer shall pay the following closing costs: (i) one-half of the escrow fees, (ii) recording special warranty deed, (iii) Buyer's attorney's fees, and (iv) other expenses provided herein.

2.6 Ad Valorem Taxes. Ad valorem taxes on the Property for 2023 and prior years will be paid by Seller. Taxes for 2024 will be prorated to the closing date.

2.7 Rollback Taxes. If this sale or Buyer's use of the Property after closing results in the assessment of additional taxes, penalties, or interest ("**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 Assessments for periods prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.

2.8 Escrow. The Earnest Money is deposited with the Title Company with the understanding that the Title Company (i) is not a party to this Contract and does not assume or have any liability for performance or non-performance of any party to this Contract, (ii) has the right to require from all parties a written release of liability of the Title Company which authorizes the disbursement of the Earnest Money, and (iii) is not liable for interest or other charge on the funds held. If any party unreasonably fails to deliver promptly the document described in (ii) above, then that party will be liable for attorney's fees.

2.9 Notice to Buyer. According to the terms of the Real Estate License Act of Texas, you, as Buyer, are advised by Assiter that Buyer should have the abstract covering the Property examined by an attorney of Buyer's selection, or be furnished with or obtain an owner policy of title insurance.

2.10 Seller's Remedies. Upon failure of Buyer to comply herewith, Seller may either:

- (a) cancel this Contract and thereupon the Earnest Money shall be distributed pursuant to Paragraph 1.2, and there will be no further obligation to be borne, performed, or enforced by any party hereto; or,
- (b) enforce specific performance hereof; or;
- (c) seek other relief as may be provided by law.

2.11 Buyer's Remedies. If Seller fails to comply herewith for any reason, except Buyer's default, Buyer may either:

- (a) cancel this Contract and thereupon the Earnest Money shall be distributed to Buyer, and there will be no further obligation to be borne, performed, or enforced by any party hereto; or, enforce specific performance hereof; or,
- (b) seek other relief as may be provided by law.

2.12 Attorney's Fees. Any party to this Contract, Assiter, or the Title Company who prevails in any legal proceeding brought under or with relation to this Contract or transaction will be additionally entitled to recover court costs and reasonable attorney's fees.

Article 3

3.1 Examination of Property. **BUYER HAS EXAMINED THE PROPERTY TO BUYER'S COMPLETE SATISFACTION AND KNOWS ITS CONDITION. IN PURCHASING THE PROPERTY, BUYER RELIES ONLY ON BUYER'S EXAMINATION AND JUDGMENT, NOT ON THE REPRESENTATION OF SELLER OR ANY OTHER PERSON AS TO VALUE, FUTURE VALUE, CONDITION, SIZE, AGE, USE, ENVIRONMENTAL CONDITION, OR ANY OTHER MATTER. BUYER ACKNOWLEDGES THAT IN SELLING THE PROPERTY, SELLER MAKES NO WARRANTIES OTHER THAN TITLE. THE PROVISIONS OF THIS PARAGRAPH WILL SURVIVE THE CLOSING.**

3.2 Property Condition. BUYER IS PURCHASING THE PROPERTY ON AN "AS IS" BASIS, WITH ALL FAULTS AND PROBLEMS OF ANY KIND AND NATURE, KNOWN OR UNKNOWN, PATENT OR LATENT, OF A PHYSICAL, ENVIRONMENTAL, OR LEGAL CONCERN, OR OTHERWISE. THE PURCHASE PRICE REFLECTS THE EXISTING CONDITION OF THE PROPERTY AND ANY DAMAGE OR DETRIMENT BUYER MAY SUFFER BY REASON OF THE CONDITION OF THE PROPERTY IS FULLY COMPENSATED FOR BY THE PURCHASE PRICE. THE PROVISIONS OF THIS PARAGRAPH WILL SURVIVE THE CLOSING.

3.3 Notice of Possible Annexation. 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.

3.4 Lead Warning. If the Property includes a house, see "Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law" attached hereto and made a part hereof for all purposes.

3.5 Disclosure. If the Property includes a house, pursuant to Section 5.008 of the Texas Property Code, Seller has furnished Buyer with a Seller's Disclosure Notice. The Notice was given to Buyer because the law requires the Notice be given to Buyer but Buyers should not rely on any of the statements set forth in the Notice. Buyer should have the Property inspected by a qualified inspector or otherwise satisfy itself as to the condition of the Property.

Article 4

4.1 1031 Deferred Exchange.

- (a) Buyer is aware that Seller may perform a 1031 Tax Deferred Exchange. Buyer agrees to cooperate in the exchange. Seller will hold Buyer harmless from all claims, liabilities, costs, or delays in time resulting from the exchange.
- (b) Seller is aware that Buyer may perform a 1031 Tax Deferred Exchange. Seller agrees to cooperate in the exchange. Buyer will hold Seller harmless from all claims, liabilities, costs, or delays in time resulting from the exchange.

4.2 Possession. Possession of the Property will be delivered to Buyer at closing.

4.3 Notices. Any notice, tender, or delivery to be given hereunder must be in writing and will be effected either by personal delivery or by registered or certified mail, postage prepaid, return receipt requested. Notice will be deemed received upon personal delivery or two days after mailing.

Mailed notices must be addressed as set forth herein, but each party may change his address by written notice according to this paragraph.

4.4 Time. Time is of the essence of this Contract.

4.5 Mutual Understanding. Seller and Buyer have carefully read and understand the effect of this Contract. Each of the parties has had the assistance of separate counsel in carefully reviewing, discussing, and considering all the terms of this Contract. Counsel for each of the parties has read and considered this Contract and advised their clients regarding the execution of the same. This Contract will be construed as if prepared by counsel of both Seller and Buyer.

4.6 Only Agreement. This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the within subject matter.

4.7 Non-Foreign Person Affidavit. At closing, Seller shall deliver to Buyer a duly executed affidavit stating (i) Seller's United States Taxpayer Identification Number for federal income tax purposes and (ii) that Seller is not a "foreign person" within the meaning of Section 1445, et seq., of the Internal Revenue Code.

4.8 Parties Bound. This Contract is binding upon and inures to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

4.9 Signature by Facsimile. This Contract will be deemed fully executed by all parties if it bears the signatures of all parties. A FAX of the signature of a party will be binding on the signing party and delivery of this Contract by FAX will constitute delivery of this Contract for all purposes and will thus be binding on the party sending the FAX.

4.10 Counterparts. This Contract may be executed in counterparts and, if so executed, shall be valid, binding, and have the same effect as if all the parties hereto actually joined in and executed one and the same document.

4.11 Paragraph Headings. Paragraph headings are included only for convenience and are not to be used to construe any provision of this Contract.

4.12 Gender. Whenever the context requires, the singular includes the plural, the plural the singular, and the use of any gender includes all genders.

4.13 Consult Your Attorney. **ASSITER CANNOT GIVE LEGAL ADVICE. THIS IS A LEGALLY BINDING CONTRACT AND SHOULD BE READ VERY CAREFULLY. IF YOU DO NOT UNDERSTAND THE EFFECT OF THIS CONTRACT, CONSULT WITH YOUR ATTORNEY BEFORE SIGNING.**

Dated the ____ day of _____, _____.

DISCLOSURE

BUYER IS ADVISED THAT THE BUILDING(S) LOCATED ON THE PROPERTY WAS CONSTRUCTED BEFORE JANUARY 1, 1981; THEREFORE, IT IS PRESUMED THAT THERE IS ASBESTOS CONTAINING BUILDING MATERIALS IN THE FLOOR COVERINGS, THERMAL INSULATION MATERIALS, SPRAY-ON OR TROWELED-ON WALL AND CEILING SURFACES, AND OTHER MATERIALS IN THE BUILDING(S). THERE MAY BE OTHER HAZARDOUS MATERIALS IN THE BUILDING(S). BUYER ACCEPTS THE PROPERTY WITHOUT THE REMOVAL OF ANY ASBESTOS CONTAINING BUILDING MATERIALS AND OTHER HAZARDOUS MATERIALS.

Address:

Telephone No. _____
Cell No. _____
Facsimile No. _____
Email: _____

SELLER:

Address:

Telephone No. _____
Cell No. _____
Facsimile No. _____
Email: _____

BUYER:

Address:

16650 Interstate 27
Canyon, TX 79015-6157
Telephone No. (806) 655-3900
Facsimile No. (806) 655-393-3939

APPROVED BY ASSITER:

ASSITER & ASSOCIATES, LLC,
a Texas limited liability company

By: _____
Tommy Ray Assiter, II, Member

RECEIPT BY TITLE COMPANY

The Title Company acknowledges receipt of this Contract and \$_____ as Earnest Money from Buyer in the form of _____.

Dated: _____, _____.

By: _____
Name: _____
Title: _____