

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

IN RE:	)	
	)	Case No. 3:16-bk-2065
JACKSON MASONRY, LLC,	)	Chapter 11
	)	Judge Walker
Debtor.	)	

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**THE DEADLINE FOR FILING A TIMELY RESPONSE IS: SEPTEMBER 22, 2016.  
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: OCTOBER 4, 2016,  
AT 9:00 A.M., COURTROOM 2, 701 BROADWAY, NASHVILLE, TENNESSEE 37203**

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**NOTICE OF MOTION FOR ORDER APPROVING SALE FREE AND CLEAR  
OF LIENS, CLAIMS, AND ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363**

Jackson Masonry, LLC (the “Debtor”) has asked the Court to enter an order authorizing Debtor to sell certain real property located at 657 Old Hickory Boulevard, Nashville, Tennessee 37209 (the “Property”) free and clear of liens, claims, and encumbrances pursuant to 11 U.S.C. § 363.

**YOUR RIGHTS MAY BE AFFECTED.** If you do not want the Court to grant the attached motion, or if you want the Court to consider your views on the motion, then on or before **September 22, 2016**, you or your attorney must:

1. File with the Court your response or objection explaining your position. **PLEASE NOTE: THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE REQUIRES ELECTRONIC FILING. ANY RESPONSE OR OBJECTION YOU WISH TO FILE MUST BE SUBMITTED ELECTRONICALLY. TO FILE ELECTRONICALLY, YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT: <<https://ecf.tnmb.uscourts.gov>>.**

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: US Bankruptcy Court, 701 Broadway, 1st Floor, Nashville, TN (Monday - Friday, 8:00 A.M. - 4:00 P.M.).

2. **Your response must state that the deadline for filing responses is September 22, 2016, the date of the scheduled hearing is October 4, 2016, and the application to which you are responding is Motion for Order Approving Sale Free and Clear of Liens, Claims, and Encumbrances Pursuant to 11 U.S.C. § 363.**

3. You must serve your response or objection **by electronic service through the Electronic Filing system** described above.

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. ***THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.*** You may check whether a timely response has been filed by calling the Clerk's office at (615) 736-5584 or viewing the case on the Court's website at [www.tnmb.uscourts.gov](http://www.tnmb.uscourts.gov).

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the application and may enter an order granting that relief.

DATED: September 1, 2016.

Respectfully submitted,

/s/ Ned Hildebrand

Griffin S. Dunham

Henry E. ("Ned") Hildebrand, IV

DUNHAM HILDEBRAND, PLLC

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*Counsel for the Debtor*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

IN RE:	)	
	)	Case No. 3:16-bk-2065
JACKSON MASONRY, LLC,	)	Chapter 11
	)	Judge Walker
Debtor.	)	

**MOTION FOR ORDER APPROVING SALE FREE AND CLEAR OF  
LIENS, CLAIMS, AND ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363**

Pursuant to 11 U.S.C. § 363 and Rule 6004 of the Federal Rules of Bankruptcy Procedure, Jackson Masonry, LLC (the “Debtor”) hereby files this motion (the “Sale Motion”) seeking an order approving the sale of real property located at 657 Old Hickory Boulevard, Nashville, Tennessee 37209 (the “Property”) to Contract Properties, LLC (the “Buyer”), free and clear of liens, claims, and encumbrances. In support hereof, the Debtor states as follows:

**I. BACKGROUND**

1. On March 24, 2016, the Debtor filed a voluntary petition for relief, thereby commencing this case under Chapter 11, Title 11, United States Code, in the United States Bankruptcy Court for the Middle District of Tennessee (the “Court”).

2. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is operating its business and managing its property as debtor-in-possession.

3. No trustee or examiner has been appointed in these cases, and no official committee of creditors or equity interest holders has been established.

4. The Debtor is indebted to Franklin Synergy Bank (the “Lender”) pursuant to a Commercial Line of Credit Agreement and Note (the “Note”) and a Business Loan Agreement (the “Loan Agreement”), each dated February 9, 2016. On June 28, 2016, the Lender filed a proof of

claim in this case (ECF Claim No. 6), which reflects an outstanding balance on the Note of \$238,150.00 due as of the Petition Date.

5. The Note is secured by a Commercial Open-Ended Deed of Trust dated February (the “Deed of Trust”) dated February 9, 2016, which granted the Lender a lien on the Property.

6. The Debtor has determined in its business judgment that a sale of the Property as set forth herein is in the best interest of creditors and the estate. The offer is the highest and best offer for the Property presented to the Debtor.

7. The Debtor desires to sell the Property under terms and conditions substantially similar to the Purchase and Sale Agreement (the “Agreement”) attached hereto as **Exhibit 1**. The Terms of the Agreement are summarized as follows:

<u>Purchase Price:</u>	\$475,000.00
<u>Earnest Money:</u>	\$5,000.00
<u>Closing Date:</u>	October 15, 2016
<u>Brokers’ Commission:</u>	The Wilson Group (the “Broker”), whose retention as exclusive broker for the sale of the Property was approved by this Court on June 13, 2016 (Docket No. 123), shall be paid a 3% commission on the purchase price.

## **II. RELIEF REQUESTED**

8. By this Motion, the Debtor seeks entry of an order approving the sale of the Property on the terms set forth herein and granting other relief, including a finding that the sale is in good faith as contemplated by Section 363(m) of the Bankruptcy Code.

### **Approval of the Sale**

9. Section 363 of the Bankruptcy Code authorizes a debtor in possession “after notice

and a hearing . . . to use, sell, or lease other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1).

10. Pursuant to Section 363(f) of the Bankruptcy Code, the Debtor requests that the Court authorize a sale of the Property free and clear of all liens, claims, and encumbrances. The Debtor is permitted to sell property free and clear of liens, claims, and encumbrances with regard to any holder of a claim secured by a lien because the price at which the property is to be sold is greater than the aggregate of the liens on such property and the entities asserting liens on the Property could be compelled in a legal or equitable proceeding to accept a money satisfaction of their interests. In this case, the price at which the Property is to be sold is greater than the value of the Lender’s lien thereon.

**A Finding that the Sale is in Good Faith**

11. The Debtor further seeks the protections afforded to a purchaser with regard to sale transactions under Section 363(m) of the Bankruptcy Code, which provides that the reversal or modification on appeal of the Court’s authorization of a sale or lease of property does not affect the validity of the sale or lease if the entity that purchased or leased the property did so in good faith.

12. Although the Bankruptcy Code does not define good faith, courts have recognized that the kind of misconduct that would destroy a good faith status involves fraud, collusion between the purchaser and other offerors, or an attempt to take grossly unfair advantage of other offerors. *In re Abbotts Dairies*, 788 F.2d 143, 147 (3<sup>rd</sup> Cir. 1986).

13. The Debtor submits that the proposed method of conducting the sale is reasonable, appropriate, and designed to ensure fairness. Unless specifically disputed at the hearing approving this Motion, the Debtor requests that the sale should be entitled to the protections of Section 363(m)

of the Bankruptcy Code. If the good faith of the Debtor or the Buyer is disputed, the Debtor requests that such dispute be determined at the hearing on this Motion.

**Other Relief Requested**

14. The Debtor requests that the Court allow the sale to be consummated immediately pursuant to Bankruptcy Rule 6004(h).

15. The Debtor further requests the authority to use the proceeds from the sale of the Property to pay at closing (i) the lien of the Lender; (ii) any other claims that constitute liens on the Property; and (iii) allowed commissions to Brokers.

WHEREFORE, the Debtor respectfully requests the Court enter an order (a) approving the sale of the Property; (b) finding that the Debtor and the Buyer have proceeded in good faith; (c) authorizing payments to the Lender and the Broker, (d) authorizing the sale to be consummated immediately as authorized by Bankruptcy Rule 6004; and (d) granting such other and further relief as is just and proper.

DATED: September 1, 2016

Respectfully submitted,

/s/ Ned Hildebrand  
Griffin S. Dunham  
Henry E. ("Ned") Hildebrand, IV  
DUNHAM HILDEBRAND, PLLC  
2510 Franklin Pike, Suite 210  
Nashville, Tennessee 37204  
615.933.5850  
griffin@dhnashville.com  
ned@dhnashville.com  
*Counsel for the Debtor*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was filed electronically on September 1, 2016.

/s/ Ned Hildebrand \_\_\_\_\_  
Henry E. ("Ned") Hildebrand, IV

# THE WILSON GROUP

real estate services

## PURCHASE AND SALE AGREEMENT

1. **Purchase and Sale.** For and in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned buyer

Contract Properties, LLC ("Buyer") agrees to buy and the undersigned seller Jackson Masonry, LLC ("Seller")

agrees to sell all that tract or parcel of land, with such improvements as are located thereon, described as follows:

All that tract of land known as: 657 Old Hickory Blvd

(Address) Nashville (City), Tennessee, 37209 (Zip), as recorded in

Davidson County Register of Deeds Office,        deed book(s),        page(s),

and/or        instrument number and as further described as:

       together with all fixtures, landscaping, improvements, and appurtenances, all being hereinafter collectively referred to as the "Property."

A. **INCLUDED** as part of the Property (if present): all attached light fixtures and bulbs including ceiling fans; permanently attached plate glass mirrors; heating, cooling, and plumbing fixtures and equipment; all doors, storm doors and windows; all window treatments (e.g., shutters, blinds, shades, curtains, draperies) and hardware; all wall-to-wall carpet; range; all built-in kitchen appliances; all bathroom fixtures and bathroom mirrors; all gas logs, fireplace doors and attached screens; all security system components and controls; garage door opener and all (at least       ) remote controls; an entry key; swimming pool and its equipment; awnings; permanently installed outdoor cooking grills; all landscaping and all outdoor lighting; mailbox(es); attached basketball goals and backboards; TV mounting brackets (but excluding flat screen TVs); antennae and satellite dishes (excluding components); and central vacuum systems and attachments.

B. Other items that **REMAIN** with the Property at no additional cost to Buyer:

C. Items that **WILL NOT REMAIN** with the Property:

D. **LEASED ITEMS:** Leased items that remain with the Property: (e.g., security systems, water softener systems, fuel tank, etc.):       

Buyer shall assume any and all lease payments as of Closing. If leases are not assumable, the balance shall be paid in full by Seller at or before Closing.

☒ Buyer does not wish to assume a leased item. **(THIS BOX MUST BE CHECKED IN ORDER FOR IT TO BE A PART OF THIS AGREEMENT.)**

Buyer does not wish to assume Seller's current lease of       ; therefore, Seller shall have said lease cancelled and leased items removed from Property prior to Closing.

E. **FUEL:** Fuel, if any, will be adjusted and charged to Buyer and credited to Seller at Closing at current market prices.

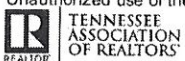
2. **Purchase Price, Method of Payment and Closing Expenses.** Buyer warrants that, except as may be otherwise provided herein, Buyer will at Closing have sufficient cash to complete the purchase of the Property under the terms of this Purchase and Sale Agreement (hereinafter "Agreement"). The purchase price to be paid is: \$ 475,000.00, Four Hundred Seventy-Five Thousand U.S. Dollars, ("Purchase Price") which shall be disbursed at Buyer's expense and paid to Seller or Seller's Closing Agency in immediately available funds in the form of one of the following:

- i. a Federal Reserve Bank wire transfer;
- ii. a Cashier's Check issued by a financial institution as defined in 12 CFR § 229.2(i);
- iii. a check issued by the State of Tennessee or a political subdivision thereof;
- iv. a check issued by an instrumentality of the United States organized and existing under the Farm Credit Act of 1971; OR
- v. in other such form as is approved in writing by Seller.

A. **Appraisal (Select either 1 or 2 below. The sections not checked are not a part of this Agreement).**

☒ 1. This Agreement **IS NOT** contingent upon the appraised value either equaling or exceeding the agreed upon

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Purchase Price.

- 2. This Agreement **IS CONTINGENT** upon the appraised value either equaling or exceeding the agreed upon Purchase Price. In the event that the financing contingency is waived, Buyer must order the appraisal and provide Seller with the name and telephone number of the appraisal company and proof that appraisal was ordered within five (5) days of the Binding Agreement Date. Should Buyer fail to do so, Seller may make written demand for compliance via the Notification form or equivalent written notice. If Buyer does not furnish Seller with the requested notice within two (2) days after such demand for compliance, Buyer shall be considered in default and Seller's obligation to sell is terminated. If the appraised value is equal to or exceeds Purchase Price, this contingency is satisfied. If the appraised value of the Property does not equal or exceed the Purchase Price, Buyer may terminate this Agreement by providing written notice to the Seller and providing written proof of the same (for example, this written proof could include, but is not limited to, a copy of appraisal or a signed letter from Lender) via the Notification form or equivalent written notice. Upon termination, Buyer is entitled to a refund of the Earnest Money/Trust Money.

**B. Closing Costs and Discount Points.**

1. **Seller Expenses.** Seller shall pay all existing loans and/or liens affecting the Property, including all penalties, release preparation costs, and applicable recording costs; any accrued and/or outstanding association dues or fees; fee (if any) to obtain lien payoff/estoppel letters/statement of accounts from any and all associations, property management companies, mortgage holders or other liens affecting the Property; Seller's closing fee, document preparation fee and/or attorney's fees; fee for preparation of deed; and notary fee on deed. Seller additionally agrees to permit any withholdings and/or to pay any additional sum due as is required under the Foreign Investment in Real Property Tax Act. Failure to do so will constitute a default by Seller.

**In the event Seller is subject to Tax Withholding as required by the Foreign Investment in Real Property Tax Act, (hereinafter "FIRPTA"), Seller additionally agrees that such Tax Withholding must be collected from Seller by Buyer's Closing Agent at the time of Closing.** In the event Seller is not subject to FIRPTA, Seller shall be required as a condition of Closing to sign appropriate affidavits certifying that Seller is not subject to FIRPTA. *It is Seller's responsibility to seek independent tax advice or counsel prior to the Closing Date regarding such tax matters.*

2. **Buyer Expenses.** Buyer shall pay all transfer taxes and recording fees on deed of conveyance and deed of trust; Buyer's closing fee, document preparation fee and/or attorney's fees; preparation of note, deed of trust, and other loan documents; mortgage loan inspection or boundary line survey; credit report; required premiums for private mortgage, hazard and flood insurance; required reserved deposits for insurance premiums and taxes; prepaid interest; re-inspection fees pursuant to appraisal; insured Closing Protection Letter; association fees as stated within paragraph 4.E.; and any costs incident to obtaining and closing a loan, including but not limited to: appraisal, origination, discount points, application, commitment, underwriting, document review, courier, assignment, photo, tax service and notary fees.

3. **Title Expenses.** Cost of title search, mortgagee's policy and owner's policy (rates to be as filed with the Tennessee Department of Commerce and Insurance) shall be paid as follows:

Buyer's Expense

Simultaneous issue rates shall apply.

Not all of the above items are applicable to every transaction and may be modified as follows:

Closing Agency for Buyer: Midtown Title-615-921-8684  
 Closing Agency for Seller: Midtown Title-1704 Charlotte Ave, Nashville 37203  
 Title Company: Midtown Title  
 or other Closing Agency as mutually agreed by Seller and Buyer.

- C. **Financial Contingency – Loan(s) To Be Obtained.** This Agreement is conditioned upon Buyer's ability to obtain a loan(s) in the principal amount up to \_\_\_\_\_% of the Purchase Price listed above to be secured by a deed of trust on the Property. "Ability to obtain" as used herein means that Buyer is qualified to receive the loan described herein based upon Lender's customary and standard underwriting criteria. In the event Buyer, having acted in good faith and in accordance with the terms below, is unable to obtain financing by the Closing Date, Buyer may terminate this Agreement by providing written notice and a copy of Lender's loan denial letter via the Notification form or equivalent written notice. Upon termination, Buyer is entitled to a refund of the Earnest Money/Trust Money. Lender is defined herein as the financial institution funding the loan.

The loan shall be of the type selected below (Select the appropriate boxes. Unselected items will not be part of this Agreement):



- ☐ Conventional Loan
 ☐ FHA Loan; attach addendum  
☐ VA Loan; attach addendum
 ☐ Other \_\_\_\_\_

Buyer may apply for a loan with different terms and conditions and also Close the transaction provided all other terms and conditions of this Agreement are fulfilled, and the new loan does not increase any costs charged to Seller. Buyer shall be obligated to Close this transaction if Buyer has the ability to obtain a loan with terms as described herein and/or any other loan for which Buyer has applied and been approved.

**Loan Obligations: *The Buyer agrees and/or certifies as follows:***

- (1) Within three (3) days after the Binding Agreement Date, Buyer shall make application for the loan and shall pay for credit report. Buyer shall immediately notify Seller or Seller's representative of having applied for the loan and provide Lender's name and contact information, and that Buyer has instructed Lender to order credit report. Such certifications shall be made via the Notification form or equivalent written notice;
- (2) Within fourteen (14) days after the Binding Agreement Date, Buyer shall warrant and represent to Seller via the Notification form or equivalent written notice that:
  - a. Buyer has secured evidence of hazard insurance which will be effective at Closing and Buyer shall notify Seller of the name of the hazard insurance company;
  - b. Buyer has notified Lender of an Intent to Proceed and has available funds to Close per the signed Loan Estimate; and
  - c. Buyer has requested that the appraisal be ordered and affirms that the appraisal fee has been paid.
- (3) Buyer shall pursue qualification for and approval of the loan diligently and in good faith;
- (4) Buyer shall continually and immediately provide requested documentation to Lender and/or loan originator;
- (5) Unless otherwise stated in this Agreement, Buyer represents that this loan is not contingent upon the lease or sale of any other real property and the same shall not be used as the basis for loan denial; and
- (6) Buyer shall not intentionally make any material changes in Buyer's financial condition which would adversely affect Buyer's ability to obtain the Primary Loan or any other loan referenced herein.

Should Buyer fail to timely comply with section 2.C.(1) and/or 2.C.(2) above and provide notice as required, Seller may make written demand for compliance via the Notification form or equivalent written notice. If Buyer does not furnish Seller the requested documentation within two (2) days after such demand for compliance, Buyer shall be considered in default and Seller's obligation to sell is terminated.

**X Financing Contingency Waived (THIS BOX MUST BE CHECKED TO BE PART OF THIS AGREEMENT.)** (e.g. "All Cash", etc.): Buyer's obligation to close shall not be subject to any financial contingency. Buyer reserves the right to obtain a loan. Buyer will furnish proof of available funds to close in the following manner:  
Bank letter (e.g. bank statement, Lender's commitment letter) within five (5) days after Binding Agreement Date. Should Buyer fail to do so, Seller may make written demand for compliance via the Notification form or equivalent written notice. If Buyer does not furnish Seller with the requested notice within two (2) days after such demand for compliance, Buyer shall be considered in default and Seller's obligation to sell is terminated. Failure to Close due to lack of funds shall be considered default by Buyer.

**3. Earnest Money/Trust Money.** Buyer has paid or will pay within 5 days after the Binding Agreement Date to The Wilson Group Real Estate Services (name of Holder) ("Holder") located at 304 42nd Ave N. Nashville TN 37209 (address of Holder), a Earnest Money/Trust Money deposit of \$ 5000 by check (OR \_\_\_\_\_) ("Earnest Money/Trust Money").

**A. Failure to Receive Earnest Money/Trust Money.** In the event Earnest Money/Trust Money is not timely received by Holder or Earnest Money/Trust Money check or other instrument is not honored for any reason by the bank upon which it is drawn, Holder shall promptly notify Buyer and Seller of the Buyer's failure to deposit the agreed upon Earnest Money/Trust Money. Buyer shall then have one (1) day to deliver Earnest Money/Trust Money in immediately available funds to Holder. In the event Buyer does not deliver such funds, Buyer is in default and Seller shall have the right to terminate this Agreement by delivering to Buyer or Buyer's representative written notice via the Notification form or equivalent written notice. In the event Buyer delivers the Earnest Money/Trust Money in immediately available funds to Holder before Seller elects to terminate, Seller shall be deemed to have waived his right to terminate, and the Agreement shall remain in full force and effect.

**B. Handling of Earnest Money/Trust Money upon Receipt by Holder.** Earnest Money/Trust Money is to be deposited promptly after the Binding Agreement Date or the agreed upon delivery date in this Earnest Money/Trust Money paragraph or as specified in the Special Stipulations paragraph contained at paragraph 19 herein. Holder shall disburse Earnest Money/Trust Money only as follows:

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- (a) at Closing to be applied as a credit toward Buyer's Purchase Price;
- (b) upon a written agreement signed by all parties having an interest in the funds;
- (c) upon order of a court or arbitrator having jurisdiction over any dispute involving the Earnest Money/Trust Money;
- (d) upon a reasonable interpretation of the Agreement; or
- (e) upon the filing of an interpleader action with payment to be made to the clerk of the court having jurisdiction over the matter.

Holder shall be reimbursed for, and may deduct from any funds interpleaded, its costs and expenses, including reasonable attorney's fees. The prevailing party in the interpleader action shall be entitled to collect from the other party the costs and expenses reimbursed to Holder. No party shall seek damages from Holder (nor shall Holder be liable for the same) for any matter arising out of or related to the performance of Holder's duties under this Earnest Money/Trust Money paragraph. Earnest Money/Trust Money shall not be disbursed prior to fourteen (14) days after deposit unless written evidence of clearance by bank is provided.

**4. Closing, Prorations, Special Assessments and Warranties Transfer.**

**A. Closing Date.** This transaction shall be closed ("Closed") (evidenced by delivery of warranty deed and payment of Purchase Price, the "Closing"), and this Agreement shall expire, at 11:59 p.m. local time on the 15th day of October, 2016 ("Closing Date"), or on such earlier date as may be agreed to by the parties in writing. Such expiration does not extinguish a party's right to pursue remedies in the event of default. Any extension of this date must be agreed to by the parties in writing via the Closing Date/Possession Date Amendment or equivalent written agreement.

**1. Possession.** Possession of the Property is to be given (Select the appropriate boxes below. Unselected items will not be part of this Agreement):

☒ with delivery of warranty deed and payment of Purchase Price;

**OR**

- ☐ on \_\_\_\_\_ at \_\_\_\_\_ o'clock ☐ am/ ☐ pm, local time;
- ☐ Occupancy Agreement attached which addresses issues including but not limited to: occupancy term, compensation due, legal relationships of the parties, condition of the Property upon transfer, utilities, and property insurance.

**B. Prorations.** Real estate taxes, rents, dues, maintenance fees, and association fees on said Property for the calendar year in which the sale is Closed shall be prorated as of the Closing Date. In the event of a change or reassessment of taxes for the calendar year after Closing, the parties agree to pay their recalculated share. Real estate taxes, rents, dues, maintenance fees, and association fees for prior years and roll back taxes, if any, will be paid by Seller.

**C. Special Assessments.** Special assessments approved or levied prior to the Closing Date shall be paid by the Seller at or prior to Closing unless otherwise agreed as follows:

**D. Warranties Transfer.** Seller, at the option of Buyer and at Buyer's cost, agrees to transfer Seller's interest in any manufacturer's warranties, service contracts, termite bond or treatment guarantee and/or similar warranties which by their terms may be transferable to Buyer.

**E. Association Fees.** Buyer shall be responsible for all homeowner or condominium association transfer fees, related administration fees (not including statement of accounts), capital expenditures/contributions incurred due to the transfer of Property and/or like expenses which are required by the association, property management company and/or the bylaws, declarations or covenants for the Property (unless otherwise specifically addressed herein and/or unless specifically chargeable to Seller under applicable bylaws, declarations, and/or neighborhood covenants).

**5. Title and Conveyance.**

**A.** Seller warrants that at the time of Closing, Seller will convey or cause to be conveyed to Buyer or Buyer's assign(s) good and marketable title to said Property by general warranty deed, subject only to:

- (1) zoning;
- (2) setback requirements and general utility, sewer, and drainage easements of record on the Binding Agreement Date upon which the improvements do not encroach;
- (3) subdivision and/or condominium declarations, covenants, restrictions, and easements of record on the Binding Agreement Date; and
- (4) leases and other encumbrances specified in this Agreement.

If title examination, closing or loan survey pursuant to Tenn. Code Ann. § 62-18-126, boundary line survey, or other information discloses material defects, Buyer may, at Buyer's discretion:

- (1) accept the Property with the defects **OR**

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(2) require Seller to remedy such defects prior to the Closing Date. Buyer shall provide Seller with written notice of such defects via the Notification form or equivalent written notice. If defects are not remedied prior to Closing Date, Buyer and Seller may elect to extend the Closing Date by mutual written agreement evidenced by the Closing Date/Possession Amendment form or other written equivalent. If defects are not remedied by the Closing Date or any mutually agreed upon extension thereof, this Agreement shall terminate, and Buyer shall be entitled to refund of Earnest Money/Trust Money.

Good and marketable title as used herein shall mean title which a title insurance company licensed to do business in Tennessee will insure at its regular rates, subject only to standard exceptions. The title search or abstract used for the purpose of evidencing good and marketable title must be acceptable to the title insurance agent and the issuing title insurance company. Seller agrees to execute such appropriate affidavits and instruments as may be required by the issuing title insurance company.

**B. Deed.** Deed is to be made in the name of Contract Properties, LLC. The manner in which Buyer takes title determines ownership and survivorship rights. It is the Buyer's responsibility to consult the closing agency or attorney prior to Closing.

**6. Seller's Property Disclosure.** Pursuant to the requirements of the Tennessee Residential Property Condition Disclosure Act at Tenn. Code Ann. § 66-5-201, et seq. as amended, a Property Condition Disclosure Statement, Exemption, or if Buyer waives Disclosure, a Disclaimer, has been or will be provided prior to the Binding Agreement Date.

**7. Lead-Based Paint Disclosure (Select the appropriate box. Items not selected are not part of this Agreement).**  
☐ does not apply. ☒ does apply (Property built prior to 1978 – see attached Lead-Based Paint Disclosure).

**8. Inspections.**

**A. Buyer's Right to Make Inspection(s).** All inspections/reports, including but not limited to the home inspection report, those required/recommended in the home inspection report, Wood Destroying Insect Infestation Inspection Report, septic inspection and well water test, are to be made at Buyer's expense, unless otherwise stipulated in this Agreement. The parties hereto agree that in the event Buyer shall elect to contract with a third party inspector to obtain a "Home Inspection" as defined by Tennessee law, said inspection shall be conducted by a licensed Home Inspector. However, nothing in this paragraph shall preclude Buyer from conducting any inspections on his/her own behalf, nor shall it preclude Buyer from retaining a qualified (and if required by law, licensed) professional to conduct inspections of particular systems or issues within such professional's expertise or licensure, including but not limited to inspection of the heating/cooling systems, electrical systems, foundation, etc., so long as said professional is not in violation of Tenn. Code Ann. § 62-6-301, et seq. as may be amended. **Seller shall cause all utility services and any pool, spa, and similar items to be operational so that Buyer may complete all inspections and tests under this Agreement.** Buyer agrees to indemnify Seller from the acts of himself, his inspectors and/or representatives in exercising his rights under this Purchase and Sale Agreement. Buyer's obligations to indemnify Seller shall also survive the termination of this Agreement by either party, which shall remain enforceable. **Buyer waives any objections to matters of purely cosmetic nature (e.g. decorative, color or finish items) disclosed by inspection. Buyer has no right to require repairs or alterations purely to meet current building codes, unless required to do so by governmental authorities. In the event Buyer fails to timely make such inspections and respond within said timeframe as described herein, the Buyer shall have forfeited any rights provided under this Paragraph 8, and in such case shall accept the Property in its current condition, normal wear and tear excepted.**

**B. Initial Inspections.** Buyer and/or his inspectors/representatives shall have the right and responsibility to enter the Property during normal business hours, for the purpose of making inspections and/or tests of the Property. Buyer and/or his inspectors/representatives shall have the right to perform a visual analysis of the condition of the Property, any reasonably accessible installed components, the operation of the Property's systems, including any controls normally operated by Seller including the following components: heating systems, cooling systems, electrical systems, plumbing systems, structural components, foundations, roof coverings, exterior and interior components, any other site aspects that affect the Property, and environmental issues.

**C. Wood Destroying Insect Infestation Inspection Report.** If desired by Buyer or required by Buyer's Lender, it shall be Buyer's responsibility to obtain **at Buyer's expense** a Wood Destroying Insect Infestation Inspection Report (the "Report"), which shall be made by a Tennessee licensed and chartered pest control operator.

The foregoing expense may be subject to governmental guidelines relating to VA Loans (See VA/FHA Loan Addendum if applicable).

The inspection shall include each dwelling, garage, and other permanent structure on the Property excluding \_\_\_\_\_ for evidence of active infestation and/or damage.



Buyer shall cause such Report to be delivered to Seller simultaneously with any repairs requested by the Buyer or the end of the Inspection Period, whichever is earlier. If the Report indicates evidence of active infestation, Seller agrees to treat infestation at Seller's expense and provide documentation of the treatment to Buyer prior to Closing. Requests for repair of damage, if any, should be addressed in the Buyer's request for repairs pursuant to Subparagraph 8.D., Buyer's Inspection and Resolution below.

**D. Buyer's Inspection and Resolution.** Within \_\_\_\_\_ days after the Binding Agreement Date ("Inspection Period"), Buyer shall cause to be conducted any inspection provided for herein, including but not limited to the Wood Destroying Insect Infestation Inspection Report AND shall provide written notice of such to Seller as described below. **In said notice Buyer shall either:**

(1) furnish Seller with a list of written specified objections and immediately terminate this Agreement via the Notification form or equivalent written notice, provided Buyer has conducted a Home Inspection or other inspection(s) as allowed herein, and in good faith discovers matters objectionable to Buyer within the scope of such inspection(s). As additional consideration for Buyer's right to terminate, Buyer shall deliver to Seller or Seller's representative, upon Seller's request, a copy of all inspection reports. All Earnest Money/Trust Money shall be returned to Buyer upon termination.

**OR**

(2) accept the Property in its present "AS IS" condition with any and all faults and no warranties expressed or implied via the Notification form or equivalent written notice. Seller has no obligation to make repairs.

**OR**

(3) furnish Seller a written list of items which Buyer requires to be repaired and/or replaced with like quality or value in a professional and workmanlike manner. Seller shall have the right to request any supporting documentation that substantiates any item listed.

a. Resolution Period. Seller and Buyer shall then have a period of \_\_\_\_\_ days following receipt of the above stated written list ("Resolution Period") to reach a mutual agreement as to the items to be repaired or replaced with like quality or value by Seller, which shall be evidenced by the Repair / Replacement Amendment or written equivalent(s). ***The parties agree to negotiate repairs in good faith during the Resolution Period.*** In the event Seller and Buyer do not reach a mutual written resolution during such Resolution Period or a mutually agreeable written extension thereof as evidenced in an Amendment to this Agreement signed by both parties within said period of time, this Agreement is hereby terminated. If terminated, Buyer is entitled to a refund of the Earnest Money/Trust Money.

☒ **E. Waiver of All Inspections. THIS BOX MUST BE CHECKED TO BE PART OF THIS AGREEMENT.** Buyer, having been advised of the benefits of inspections, waives any and all Inspection Rights under this Paragraph 8 (including but not limited to the Wood Destroying Insect Infestation Inspection Report).

**9. Final Inspection.** Buyer and/or his inspectors/representatives shall have the right to conduct a final inspection of Property on the Closing Date or within 1 day(s) prior to the Closing Date only to confirm Property is in the same or better condition as it was on the Binding Agreement Date, normal wear and tear excepted, and to determine that all repairs/replacements agreed to during the Resolution Period, if any, have been completed. Property shall remain in such condition until Closing at Seller's expense. Closing of this sale constitutes acceptance of Property in its condition as of the time of Closing, unless otherwise noted in writing.

**10. Buyer's Additional Due Diligence Options.** If any of the matters below are of concern to Buyer, Buyer should address the concern by specific contingency in the Special Stipulations Paragraph of this Agreement.

**A. Survey and Flood Certification.** Survey Work and Flood Certifications are the best means of identifying boundary lines and/or encroachments and easements or flood zone classifications. Buyer may obtain a Mortgage Inspection or Boundary Line Survey and Flood Zone Certifications.

**B. Insurability.** Many different issues can affect the insurability and the rates of insurance for property. These include factors such as changes in the Flood Zone Certifications, changes to the earthquake zones maps, the insurability of the buyer, and previous claims made on the Property. It is the right and responsibility of Buyer to determine the insurability, coverage and the cost of insuring the Property. It is also the responsibility of Buyer to determine whether any exclusions will apply to the insurability of said Property.

**C. Water Supply.** The system may or may not meet state and local requirements. It is the right and responsibility of Buyer to determine the compliance of the system with state and local requirements. [For additional information on this subject, request the "Water Supply and Waste Disposal Notification" form.]



**D. Waste Disposal.** The system may or may not meet state and local requirements. It is the right and responsibility of Buyer to determine the compliance of the system with state and local requirements. In addition, Buyer may, for a fee, obtain a septic system inspection letter from the Tennessee Department of Environment and Conservation, Division of Ground Water Protection. [For additional information on this subject, request the "Water Supply and Waste Disposal Notification" form.]

**E. Title Exceptions.** At Closing, the general warranty deed will be subject to subdivision and/or condominium declarations, covenants, restrictions and easements of record, which may impose obligations and may limit the use of the Property by Buyer.

**11. Disclaimer.** It is understood and agreed that the real estate firms and real estate licensee(s) representing or assisting Seller and/or Buyer and their brokers (collectively referred to as "Brokers") are not parties to this Agreement and do not have or assume liability for the performance or nonperformance of Seller or Buyer. Buyer and Seller agree that Brokers shall not be responsible for any of the following, including but not limited to, those matters which could have been revealed through a survey, flood certification, title search or inspection of the Property; the insurability of the Property or cost to insure the Property; for the condition of the Property, any portion thereof, or any item therein; for any geological issues present on the Property; for any issues arising out of the failure to physically inspect Property prior to entering into this Agreement and/or Closing; for the necessity or cost of any repairs to the Property; for hazardous or toxic materials; for the tax or legal consequences of this transaction; for the availability, capability, and/or cost of utility, sewer, septic, or community amenities; for any proposed or pending condemnation actions involving Property; for applicable boundaries of school districts or other school information; for the appraised or future value of the Property; for square footage or acreage of the Property; for any condition(s) existing off the Property which may affect the Property; for the terms, conditions, and availability of financing; and/or for the uses and zoning of the Property whether permitted or proposed. Buyer and Seller acknowledge that Brokers are not experts with respect to the above matters and that they have not relied upon any advice, representations or statements of Brokers (including their firms and affiliated licensees) and waive and shall not assert any claims against Brokers (including their firms and affiliated licensees) involving same. Buyer and Seller understand that it has been strongly recommended that if any of these or any other matters concerning the Property are of concern to them, that they secure the services of appropriately credentialed experts and professionals of Buyer's or Seller's choice for the independent expert advice and counsel relative thereto.

**12. Brokerage.** As specified by separate agreement, Seller agrees to pay Listing Broker at Closing the agreed upon compensation. The Listing Broker will direct the closing agency to pay the Selling Broker, from the compensation received, an amount in accordance with the terms and provisions specified by separate agreement. The parties agree and acknowledge that the Brokers involved in this transaction may receive compensation from more than one party. All parties to this Agreement agree and acknowledge that any real estate firm involved in this transaction shall be deemed a third party beneficiary only for the purposes of enforcing their commission rights, and as such, shall have the right to maintain an action on this Agreement for any and all compensations due and any reasonable attorney's fees and court costs.

**13. Default.** Should Buyer default hereunder, the Earnest Money/Trust Money shall be forfeited as damages to Seller and shall be applied as a credit against Seller's damages. Seller may elect to sue, in contract or tort, for additional damages or specific performance of the Agreement, or both. Should Seller default, Buyer's Earnest Money/Trust Money shall be refunded to Buyer. In addition, Buyer may elect to sue, in contract or tort, for damages or specific performance of this Agreement, or both. In the event that any party hereto shall file suit for breach or enforcement of this Agreement (including suits filed after Closing which are based on or related to the Agreement), the prevailing party shall be entitled to recover all costs of such enforcement, including reasonable attorney's fees. In the event that any party exercises its right to terminate due to the default of the other pursuant to the terms of this Agreement, the terminating party retains the right to pursue any and all legal rights and remedies against the defaulting party following termination.

**14. Home Protection Plan.** This is not a substitution for Home Inspection. Exclusions to coverage may apply. (Select the appropriate box below. Items not selected are not part of this Agreement).

☐ **Home Protection Plan.** \_\_\_\_\_ to pay \$ \_\_\_\_\_ for the purchase of a limited home protection plan to be funded at Closing. Plan Provider: \_\_\_\_\_  
Ordered by: \_\_\_\_\_ (Real Estate Company)

☒ **Home Protection Plan waived.**

**15. Other Provisions.**

**A. Binding Effect, Entire Agreement, Modification, Assignment, and Binding Agreement Date.** This Agreement shall be for the benefit of, and be binding upon, the parties hereto, their heirs, successors, legal representatives and assigns. This Agreement constitutes the sole and entire agreement between the parties hereto and no modification of

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this Agreement shall be binding unless signed by all parties or assigns to this Agreement. No representation, promise, or inducement not included in this Agreement shall be binding upon any party hereto. It is hereby agreed by both Buyer and Seller that any real estate agent working with or representing either party shall not have the authority to bind the Buyer, Seller or any assignee to any contractual agreement unless specifically authorized in writing within this Agreement. Any assignee shall fulfill all the terms and conditions of this Agreement. The parties hereby authorize either licensee to insert the time and date of receipt of the notice of acceptance of the final offer and further agree to be bound by such as the Binding Agreement Date following the signatory section of this Agreement, or Counter Offer, if applicable.

**B. Survival Clause.** Any provision contained herein, which by its nature and effect is required to be performed after Closing, shall survive the Closing and delivery of the deed and shall remain binding upon the parties to this Agreement and shall be fully enforceable thereafter.

**C. Governing Law and Venue.** This Agreement is intended as a contract for the purchase and sale of real property and shall be governed by and interpreted in accordance with the laws and in the courts of the State of Tennessee.

**D. Time of Essence.** Time is of the essence in this Agreement.

**E. Terminology.** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; (2) all pronouns shall mean and include the person, entity, firm or corporation to which they relate; (3) the masculine shall mean the feminine and vice versa; and (4) the term day(s) used throughout this Agreement shall be deemed to be calendar day(s) ending at 11:59 p.m. local time unless otherwise specified in this Agreement. Local time shall be determined by the location of Property. **In the event a performance deadline**, other than the Closing Date (as defined in paragraph 4 herein), Date of Possession (as defined in paragraph 4 herein), Completion of Repair Deadline (as defined in the Repair/Replacement Amendment), and Offer Expiration Date (as defined in paragraph 20 herein), occurs on a Saturday, Sunday or legal holiday, the performance deadline shall extend to the next following business day. Holidays as used herein are those days deemed federal holidays pursuant to 5 U.S.C. § 6103. In calculating any time period under this Agreement, the commencement shall be the day following the initial date (e.g. Binding Agreement Date).

**F. Responsibility to Cooperate.** Buyer and Seller agree to timely take such actions and produce, execute, and/or deliver such information and documentation as is reasonably necessary to carry out the responsibilities and obligations of this Agreement. Except as to matters which are occasioned by clerical errors or omissions or erroneous information, the approval of the closing documents by the parties shall constitute their approval of any differences between this Agreement and the Closing. Buyer and Seller agree that if requested after Closing, they will correct any documents and pay any amounts due where such corrections or payments are appropriate by reason of mistake, clerical errors or omissions, or the result of erroneous information.

**G. Notices.** Except as otherwise provided herein, all notices and demands required or permitted hereunder shall be in writing and delivered either (1) in person; (2) by a prepaid overnight delivery service; (3) by facsimile transmission (FAX); (4) by the United States Postal Service, postage prepaid, registered or certified, return receipt requested; or (5) Email. **NOTICE** shall be deemed to have been given as of the date and time it is actually received. Receipt of notice by the real estate licensee or their Broker assisting a party as a client or customer shall be deemed to be notice to that party for all purposes under this Agreement as may be amended, unless otherwise provided in writing.

**H. Risk of Loss.** The risk of hazard or casualty loss or damage to Property shall be borne by the Seller until transfer of title. If casualty loss prior to Closing exceeds 10% of the Purchase Price, Seller or Buyer may elect to terminate this Agreement with a refund of Earnest Money/Trust Money to Buyer.

**I. Equal Housing.** This Property is being sold without regard to race, color, sex, religion, handicap, familial status, or national origin.

**J. Severability.** If any portion or provision of this Agreement is held or adjudicated to be invalid or unenforceable for any reason, each such portion or provision shall be severed from the remaining portions or provisions of this Agreement, and the remaining portions or provisions shall be unaffected and remain in full force and effect. In the event that the contract fails due to the severed provisions, then the offending language shall be amended to be in conformity with state and federal law.

**K. Contract Construction.** This Agreement or any uncertainty or ambiguity herein shall not be construed against any party but shall be construed as if all parties to this Agreement jointly prepared this Agreement.

**L. Other.** In further consideration of Buyer's right to legally, properly and in good faith invoke a right to terminate this Agreement pursuant to any specific Buyer contingency as stated herein, Buyer agrees, upon Seller's request, to



provide Seller or Seller's representative with copies of any supporting documentation which supports Buyer's right to exercise said contingency, the sufficiency and adequacy of said additional consideration being acknowledged. Any such supporting documents shall be provided for Seller's benefit only and Seller shall not disseminate the same to third parties. However, Buyer shall not be required to provide any documents to Seller in violation of any confidentiality agreement or copyright protection laws, if applicable.

**16. Seller's Additional Obligations.** If Seller has any knowledge of an exterior injection well, a sinkhole as defined pursuant to Tenn. Code Ann. § 66-5-212(c), and/or a percolation test or soil absorption rate on the Property, Seller shall be obligated to counter this offer by disclosure of the existence of the above including any tests and reports unless disclosure has already been received and acknowledged in writing by Buyer. Seller shall also disclose in the same manner whether any single family residence located on the Property has been moved from an existing foundation to another foundation where such information is known to the Seller. Seller shall also be obligated to counter this offer to disclose if the Property is located in a Planned Unit Development (PUD) as defined pursuant to Tenn. Code Ann. § 66-5-213 unless said disclosure has already been received in writing and acknowledged by Buyer. If the Property is in a PUD, Seller agrees to make available copies of the development's restrictive covenants, homeowner bylaws, and master deed to Buyer upon request.

**17. Method of Execution.** The parties agree that signatures and initials transmitted by facsimile, other photocopy transmittal, or by transmittal of digital signature as defined by the applicable State or Federal law will be acceptable and may be treated as originals and that the final Purchase and Sale Agreement containing all signatures and initials may be executed partially by original signature and partially on facsimile, other photocopy documents, or by digital signature as defined by the applicable State or Federal law.

**18. Exhibits and Addenda.** All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement:

**19. Special Stipulations.** The following Special Stipulations, if conflicting with any preceding paragraph, shall control:  
Contract contingent upon third party court approval.

Closing shall take place ON or BEFORE October 15, 2016.

Total commission in the amount of 3 percent of the purchase price to be paid to The Wilson Group Real Estate Services by the seller.

Contract contingent upon confirmation from the closing attorney that the easement running on the rear of the property to Charlotte is in fact a part of the deed and an easement for life that runs with the land.

**20. Time Limit of Offer.** This Offer may be withdrawn at any time before acceptance with Notice. Offer terminates if not countered or accepted by 10 o'clock ☐ a.m./☒ p.m.; on the 31st day of August, 2016.



484 **LEGAL DOCUMENTS:** This is an important legal document creating valuable rights and obligations. If you have  
 485 any questions about it, you should review it with your attorney. Neither the Broker nor any Agent or Facilitator is  
 486 authorized or qualified to give you any advice about the advisability or legal effect of its provisions.

487 **NOTE:** Any provisions of this Agreement which are preceded by a box "☐" must be marked to be a part of this  
 488 Agreement. By affixing your signature below, you also acknowledge that you have reviewed each page and have  
 489 received a copy of this Agreement.

490 Buyer hereby makes this offer. *Contract People*  
 491 *Prasid*  
 492 **BUYER** **BUYER**  
 493 \_\_\_\_\_ at \_\_\_\_\_ o'clock ☐ am/ ☐ pm \_\_\_\_\_ at \_\_\_\_\_ o'clock ☐ am/ ☐ pm  
 494 **Offer Date** **Offer Date**

495 Seller hereby:  
 496 ☒ **ACCEPTS** – accepts this offer.  
 497 ☐ **COUNTERS** – accepts this offer subject to the attached Counter Offer(s).  
 498 ☐ **REJECTS** this offer and makes no counter offer.  
 499 *Regina Jackson* *JACKSON MASONRY*  
 500 **SELLER** **SELLER**  
 501 \_\_\_\_\_ at \_\_\_\_\_ o'clock ☐ am/ ☐ pm \_\_\_\_\_ at \_\_\_\_\_ o'clock ☐ am/ ☐ pm  
 502 **Date** **Date**

503 **Binding Agreement Date.** This instrument shall become a "Binding Agreement" on the date ("Binding Agreement Date")  
 504 the last offeror, or licensee of the offeror, receives notice of offeree's acceptance.  
 505 Notice of acceptance of the final offer was received on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ ☐ am/ ☐ pm  
 506 by \_\_\_\_\_ (Name).

**For Information Purposes Only:**

Listing Company: <u>The Wilson Group</u>	Selling Company: _____
Listing Firm Address: <u>304 42nd Ave, North</u>	Selling Firm Address: _____
Firm License No.: <u>244136</u>	Firm License No.: _____
Firm Telephone No.: <u>615-385-1414</u>	Firm Telephone No.: _____
Listing Licensee: <u>Alicia Griffith</u>	Selling Licensee: _____
Licensee License Number: <u>317326</u>	Licensee License Number: _____
Licensee Email: <u>alicia@aliciagriffith.net</u>	Licensee Email: _____
Home Owner's / Condominium Association ("HOA/COA"):	
HOA / COA Phone: _____	HOA/COA Email: _____
Property Management Company: _____	Email: _____
Phone: _____	

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

IN RE:	)	
	)	Case No. 3:16-bk-2065
JACKSON MASONRY, LLC,	)	Chapter 11
	)	Judge Walker
Debtor.	)	

**ORDER APPROVING SALE FREE AND CLEAR OF  
LIENS, CLAIMS, AND ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363**

THIS MATTER IS BEFORE THE COURT upon the Debtor's *Motion for Order Approving Sale Free and Clear of Liens, Claims, and Encumbrances Pursuant to 11 U.S.C. § 363* (Docket No. \_\_) (the "Motion"). In the Motion, the Debtor sought entry of an Order approving the sale of certain real property located at 657 Old Hickory Boulevard, Nashville, Tennessee 37209 (the "Property") free and clear of liens, claims, and encumbrances pursuant to Section 363 of the Bankruptcy Code and Rule 6004 of the Federal Rules of Bankruptcy Procedure. Any capitalized terms not otherwise defined herein shall take the meaning set forth in the Motion.

It appearing that no objection has been filed with the Court within the time set forth in the Notice of Motion or under Local Rule 9013, the Court, after due deliberation, makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT & CONCLUSIONS OF LAW**

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

B. To the extent any of the following findings of fact constitute conclusions of law, they

are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

C. Proper, timely, adequate, and sufficient notice of the Motion and the hearing thereon was provided in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the procedural due process requirements of the United States Constitution.

D. The Debtor provided a reasonable opportunity for parties in interest to object or be heard regarding the relief requested in the Sale Motion.

E. The purchase price to be paid, as set forth in the Agreement, is fair, is in the best interest of the Debtor's estate, and constitutes full and adequate consideration and reasonably equivalent value for the Property.

F. The Buyer is a purchaser in good faith, as that term is used in the Bankruptcy Code, and is therefore entitled to the protections of Sections 363(m) and (n) of the Bankruptcy Code with respect to all of the Property. The Agreement was negotiated and entered into in good faith, based upon arm's length bargaining and without collusion. There are no undisclosed deals or agreements between the Buyer and the Debtor, or any other party in interest. Neither the Debtor nor the Buyer has engaged in any conduct that would prevent the application of Section 363(m) or cause the Application of Section 363(n).

G. The Debtor has the authority to execute the Agreement and all other documents contemplated thereby.

H. The Debtor has advanced sound business reasons for seeking to enter the Agreement and for selling the Property, as set forth more fully in the Motion, and the sale of the Property to the

Buyer is a reasonable exercise of the Debtor's business judgment.

I. The Terms and conditions of the Agreement are fair and reasonable, and the transactions contemplated by the Agreement are in the best interest of the Debtor's creditors and bankruptcy estate.

J. A valid business purpose exists for approval of the transaction contemplated by the Motion under Section 363(b) of the Bankruptcy Code. The transfer of the Property from the Debtor is a legal, valid, and effective transfer of the Property notwithstanding any requirement for approval or consent by any person.

K. The Buyer is not assuming any of the debts, liabilities, or obligations of the Debtor. The Agreement is being entered into in good faith and not to hinder, delay, or defraud any creditors of the Debtor. The Debtor shall not in any way be liable or responsible for any liabilities, commitments, or obligations in any way related to the Property arising from and after the Closing Date. The Buyer is not merely a continuation of the Debtor or the estate. There is no continuity of enterprise between the Debtor and the Buyer. The Buyer is not a successor to the Debtor or the estate, and the transactions contemplated in the Agreement do not amount to, or otherwise constitute a consolidation, merger, or *de facto* merger of the Buyer and the Debtor or its estate.

L. The Court has jurisdiction to hear and determine the Motion and to grant the relief requested in the Motion pursuant to 28 U.S.C. §§ 157(b)(1) and 1334(b). Venue of this case and of the Motion is proper in this Court under 28 U.S.C. §§ 1408 and 1409.

Accordingly, based on the foregoing, it is hereby ORDERED as follows:

1. The Motion is hereby granted.

2. This proceeding is a core proceeding within the meaning of 28 U.S.C. § 157b)(2)(A), (N), and (O).

3. The statutory predicate for the Motion is Section 363 of the Bankruptcy Code and Bankruptcy Rules 2002 and 6004.

4. The Agreement, and the transaction contemplated thereby, is hereby approved, and the Debtor is authorized and empowered to enter into and perform the obligations under the Agreement and to take such other actions as are necessary or desirable to effectuate the terms of the Agreement.

5. The Debtor is authorized, empowered, and directed to sell the Property to the Buyer upon delivery of the Purchase Price in accordance with the Agreement and to complete all other deliveries and conditions required of the Debtor under the Agreement.

6. Pursuant to, and to the extent provided for by Section 363(f) of the Bankruptcy Code, the sale of the Property pursuant to the Agreement and this Order shall be free and clear of any and all liens, claims, encumbrances, interests, and other liabilities, whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, contingent or noncontingent, liquidated or unliquidated, matured or unmatured, disputed or undisputed, or known or unknown, whether arising prior to or subsequent to the Petition Date (collectively, the “Encumbrances”). The Encumbrances on or otherwise attached to the Property shall attach to the proceeds of the sale, except for the portion of the proceeds remaining with the Debtor after payment of the amounts set forth herein. And in accordance with the Motion, the Debtor is authorized to use the proceeds from the sale to satisfy in full (i) the lien of the Lender, (ii)

any other claims that constitute liens on the Property, and (iii) allowed commissions to Brokers.

7. This Order and the Agreement shall be binding upon and shall inure to the benefit of the Debtor and the Buyer, and their respective successors and assigns, including without limitation any chapter 11 trustee hereinafter appointed for the Debtor's estate, or any chapter 7 trustee if this case is converted from chapter 11.

8. This Court shall retain exclusive jurisdiction to enforce the provisions of this Order and the Agreement, and it shall resolve any dispute concerning this Order, the Agreement, or the rights and duties of the parties thereunder, including but not limited to interpretation of the terms, conditions, and provisions thereof.

9. The Debtor and the Buyer are free to close immediately under the Agreement in accordance herewith. If the Debtor and the Buyer close under the Agreement, the Buyer shall be deemed to be acting in "good faith" and shall be entitled to the protection of Section 363(m) of the Bankruptcy Code as to all aspects of the transaction provided for in the Agreement and this Order.

10. The sale approved by this Order is not subject to avoidance under Section 363(n) of the Bankruptcy Code.

11. The Debtor and the Buyer are authorized and empowered to take all actions (including any pro-rations, adjustments, and similar items required by the Agreement) and to execute and deliver any and all documents and instruments that either the Debtor or the Buyer deem necessary or appropriate to implement and effectuate the terms of the Agreement or this Order.

12. The buyer is not a successor to the Debtor or its estate by reason of any theory of law or equity, and the Buyer shall not assume or in any way bear responsibility for any liability or

obligation of the Debtor and/or the estate.

13. All persons are enjoined from taking any action against the Buyer to recover any claim which such person has solely against the Debtor.

14. The failure specifically to include any particular provision of the Agreement or any related agreements in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court, the Debtor, and the Buyer that the Agreement and any related agreements are authorized and approved in their entirety with such amendments thereto as may be made by the parties in accordance with this Order prior to Closing.

15. Notwithstanding Bankruptcy Rule 6004(h), this Order will take effect immediately upon entry.

IT IS SO ORDERED

THIS ORDER WAS SIGNED AND ENTERED  
ELECTRONICALLY AS INDICATED AT THE TOP OF THE FIRST PAGE.

/s/ Ned Hildebrand  
Griffin S. Dunham  
Henry E. ("Ned") Hildebrand, IV  
DUNHAM HILDEBRAND, PLLC  
2510 Franklin Pike, Suite 210  
Nashville, Tennessee 37204  
615.933.5850  
griffin@dhnashville.com  
ned@dhnashville.com  
*Counsel for the Debtor*