

REAL ESTATE CONTRACT
(A&M SYSTEM - SELLER)

This Real Estate Contract (this "Contract") is made and entered into by and between the **BOARD OF REGENTS OF THE TEXAS A&M UNIVERSITY SYSTEM**, an agency of the State of Texas ("A&M SYSTEM") for the use and benefit of Texas A&M Forest Service, as seller, and _____, ("PURCHASER" or "GRANTEE"), as purchasers.

ARTICLE 1
SALE AND PURCHASE

1.01 Property. **A&M SYSTEM** agrees to sell and convey, and **PURCHASER** agrees to purchase and pay for, fee simple title in and to the following real property:

The surface only of approximately 12.706 acres of land, consisting of four tracts, more particularly described in the Angelina County Appraisal District Records under Property IDs 31090, 31091, 31124, 91392 and 91491, together with all and singular the rights and appurtenances pertaining thereto, including the right, title and interest of **A&M SYSTEM**, if any, in all streets, roads, and rights-of-way, and any easements, licenses, rights-of-way, reservations, privileges and rights of ingress and egress appurtenant thereto ("Property"),

1.02 Reservation from Conveyance. The **A&M SYSTEM** reserves unto itself, its successors and assigns, all oil, gas and other minerals, in and under and that may be produced from the Property, as well as all water rights. If the mineral estate is subject to existing production, this reservation includes the production, the lease, and all benefits from it.

1.03 Covenants, Conditions and Restrictions. The conveyance of the Property shall be subject to all other restrictions, reservations, covenants, easements, rights-of-way, and encumbrances apparent on the ground or of record in the county in which the Property is located.

ARTICLE 2
PURCHASE PRICE

2.01 Total Purchase Price. In consideration of the sale of the Property and subject to the terms and conditions of this Contract, **PURCHASER** agrees to pay **A&M SYSTEM** a purchase price for the Property of \$_____ (the "Purchase Price").

2.02 Earnest Money Deposit. Within three days following the date this Contract is signed by **A&M SYSTEM**, **PURCHASER** shall deliver to Chicago Title Company, 1501 S. Mopac, Suite 130, Austin, Texas 78746, Attention: Jennifer Pederson ("Title Company") a sum equal to five percent of the Purchase Price or \$_____ as **PURCHASER**'s earnest money deposit (the "Earnest Money Deposit"), which shall thereafter be held by the Title Company in an interest-bearing account in a federally

insured financial institution and in accordance with this Contract. If the purchase and sale of the Property is consummated in accordance with the terms and conditions hereof, the Earnest Money Deposit, plus interest, shall be applied to the purchase price at Closing; otherwise, it shall be applied as further described in this Contract. This Contract shall be null and void if the Earnest Money Deposit is not delivered to the Title Company as required by this Section.

ARTICLE 3 PROPERTY CONDITION

- 3.01** No Representations by A&M SYSTEM. **PURCHASER** agrees that the Property is to be sold to and accepted by **PURCHASER** “AS IS”, “WHERE IS”, “WITH ALL FAULTS” and “WITHOUT REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL (EXCEPT FOR THE WARRANTY OF TITLE EXPRESSLY SET FORTH IN THE SPECIAL WARRANTY DEED).” **PURCHASER** acknowledges that **PURCHASER** has had the opportunity to independently inspect the Property or cause the Property to be inspected on **PURCHASER**’s behalf and that **PURCHASER** has not entered into this Contract based upon any representation, warranty, agreement, statement, or expression of opinion by **A&M SYSTEM** or by any person or entity acting or allegedly acting for or on behalf of **A&M SYSTEM** as to the Property or the condition of the Property.
- 3.02** Language in Special Warranty Deed. **PURCHASER** agrees that the Special Warranty Deed from **A&M SYSTEM** will contain the following provisions:

“The Property is sold “AS IS”, “WHERE IS”, “WITH ALL FAULTS” and “WITHOUT REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL (EXCEPT FOR THE WARRANTY OF TITLE EXPRESSLY SET FORTH IN THIS SPECIAL WARRANTY DEED).” Without limitation of the foregoing, **GRANTEE**, by acceptance of this deed, acknowledges that (except for the warranty of title expressly set forth herein) **A&M SYSTEM** has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to (a) the value, nature, quality or condition of the Property, including, without limitation, the acreage, water, soil or geology, (b) the income to be derived from the Property, (c) the suitability of the Property for any and all activities and uses which **GRANTEE** may conduct thereon, (d) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body, including without limitation any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, (e) the disposal or existence, in or on the Property, of any hydrocarbons, asbestos, PCB emissions, or hazardous or toxic materials, (f) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property, or (i) any other matter with respect to the Property. **A&M SYSTEM** shall not be liable or bound in any manner by any verbal or written

statements, representations, or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, employee, servant, or other person.”

ARTICLE 4
TITLE COMMITMENT AND SURVEY

- 4.01** Title Commitment. Within 20 days following the Effective Date of this Contract, **PURCHASER** shall obtain a current standard Texas form of Commitment for Owner’s Policy of Title Insurance (the "Title Commitment"), issued through the Title Company, describing the Property, listing **PURCHASER** as the prospective named insured, and accompanied by legible copies of all instruments listed in Schedule B of the Title Commitment affecting the Property.
- 4.02** Survey. Within 45 calendar days following the Effective Date of this Contract, **PURCHASER** may have a new survey of the Property prepared by a Registered Professional Land Surveyor in accordance with customary survey standards, or may, at its option, have an update of the existing survey (if any) of the Property prepared (in either case, the “Survey”). Within 10 calendar days of receipt, **PURCHASER** will deliver to **A&M SYSTEM** a copy of the Survey, and any updates.
- 4.03** Review of Title Commitment and Survey. **PURCHASER** shall have a period of 15 days (the "Title Review Period") after receipt by **PURCHASER** of the Title Commitment in accordance with Section 5.01 above, and the Survey in accordance with Section 5.02 above, in which to review the Title Commitment, the Survey, and legible copies of the title instruments referenced therein, and to give written notice to **A&M SYSTEM** specifying **PURCHASER**'s objections (the "Objections"), if any, to them (other than the standard printed exceptions in Schedule B to the Title Commitment). If **PURCHASER** fails to give written notice of Objections to **A&M SYSTEM** prior to the expiration of the Title Review Period, then all exceptions to title shown on Schedule B of the Title Commitment shall be deemed to be “Permitted Exceptions.” However, all Schedule C items must be resolved prior to and as a condition of closing.
- 4.04** **A&M SYSTEM’s** Obligation to Cure; **PURCHASER**'s Right to Terminate. If **PURCHASER** shall have timely notified **A&M SYSTEM** in writing of Objections to the Title Commitment or the Survey, then **A&M SYSTEM** may, but shall not be obligated to, cure the Objections to the reasonable satisfaction of **PURCHASER** within 15 days following **A&M SYSTEM’s** receipt of **PURCHASER**'s written Objections (the “Cure Period”). If the Objections are not cured to **PURCHASER’s** reasonable satisfaction within the Cure Period, then **PURCHASER** shall have five days from the end of the Cure Period within which to give **A&M SYSTEM** written notice of **PURCHASER’s** election to terminate this Contract, in which event neither party shall have any further duties or obligations under this Contract, which shall automatically terminate, and the Earnest Money Deposit shall be returned to **PURCHASER**. If **PURCHASER** does not terminate this Contract within the 5-day period, **PURCHASER** shall be deemed to waive the unsatisfied Objections, in which event those unsatisfied Objections shall become Permitted Exceptions.

ARTICLE 5
CLOSING

5.01 Date. Closing of the sale and purchase (the “Closing”) shall be at the offices of the Title Company no later than _____, or such date as mutually agreed upon by the parties (the “Closing Date”).

5.02 Documentation.

A. Conveyance: At Closing, **A&M SYSTEM** will convey fee simple title to the Property free and clear of any lien, encumbrance or exception other than Permitted Exceptions, to **PURCHASER** by Special Warranty Deed in substantially the same format as Exhibit A attached to this Contract and incorporated for all purposes. The Special Warranty Deed will convey the surface estate only, and will not include any mineral interests or rights whatsoever.

B. Title Insurance: At Closing, the Title Company shall issue a current commitment to promptly deliver to **PURCHASER** an Owner’s Policy of Title Insurance (excluding optional coverages) (the “Title Policy”), in an amount equal to the Purchase Price with no title exceptions other than Permitted Exceptions. No Schedule C items may appear as exceptions to the Title Policy.

C. Authority. Such evidence or documents as may reasonably be required by either party or the Title Company evidencing the status and capacity of the parties and the authority of the person or persons who are executing the various documents on behalf of each party in connection with the sale of the Property.

D. Miscellaneous: **A&M SYSTEM** and **PURCHASER** will execute such other instruments as are customarily executed in the State of Texas in connection with the conveyance and purchase of real property, including all required closing statements, releases, affidavits, evidences of authority to execute documents, tax forms, and other instruments which may be required by the Title Company, **A&M SYSTEM** and/or **PURCHASER**.

5.03 Payment of Consideration. At Closing, **PURCHASER** shall deliver to the Title Company the consideration required pursuant to Section 2.01 above, by wire transfer or **PURCHASER**'s certified or cashier's check in immediately available U.S. funds, adjusted appropriately for closing costs, and with a credit for the Earnest Money Deposit.

5.04 Closing Costs. To the extent the following fee allocations do not contradict other terms of this Contract, the closing costs and fees, if applicable, will be apportioned as follows: **A&M SYSTEM** shall pay the cost of deed preparation, the premium for the Owner's Policy of Title Insurance, and one-half of the escrow fees charged by the Title Company. **PURCHASER** shall pay all other closing costs.

ARTICLE 6
DEFAULT BY PURCHASER

If **PURCHASER** fails or refuses to comply with the terms of this Contract, and is not excused from performance by the express terms of this Contract, or excused by law, after **PURCHASER** has received ten days prior written notice and an opportunity to cure, **A&M SYSTEM** may terminate the Contract, retain the Earnest Money Deposit and pursue any remedies available to it at law or in equity.

ARTICLE 7
DEFAULT BY A&M SYSTEM

If **A&M SYSTEM** fails or refuses to comply with the terms of this Contract, and is not excused from performance by the express terms of this Contract, or excused by law, after **A&M SYSTEM** has received notice and had a reasonable time to cure, **PURCHASER** may terminate this Contract and receive a refund of the Earnest Money Deposit, as **PURCHASER**'s sole and exclusive remedy.

ARTICLE 8
CONDEMNATION

If, prior to Closing, all or any portion of the Property is condemned by governmental or other lawful authority, or such condemnation is threatened, **PURCHASER** will have the option of:

- A. Closing the transaction to purchase the Property, in which event all condemnation monies, rights, or claims relating to the Property will be assigned to **PURCHASER**; or
- B. Terminating this Contract, with neither party incurring any penalty, and without any further obligation under this Contract; however, **A&M SYSTEM** will retain all condemnation monies, rights or claims, and the Earnest Money Deposit will be returned to **PURCHASER**.

PURCHASER must exercise its option by giving written notice to **A&M SYSTEM** within ten days following **PURCHASER**'s receipt of written notice from **A&M SYSTEM** (or a copy of such condemning authority's offer and appraisal reports) that a condemnation proceeding has commenced or been threatened.

ARTICLE 9
NOTICES

Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the

intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. **A&M SYSTEM** and **PURCHASER** can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

A&M SYSTEM:

The Texas A&M University System
Office of General Counsel
Attn: System Real Estate Office
301 Tarrow, 6th Floor
College Station, Texas 77840-7896
Tel: (979) 458-6350
Fax: (979) 458-6359
Email: sre@tamus.edu

PURCHASER:

Tel: _____
Email: _____

ARTICLE 10
COMMISSIONS

Each party shall be responsible only for such commissions or fees as required in a separate, written agreement signed by such party.

ARTICLE 11
MISCELLANEOUS

11.01 Governing Law. The validity of this Contract and all matters pertaining thereto, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the laws of the State of Texas. Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against **A&M SYSTEM** shall be in the county in which the primary office of the chief executive officer of **A&M SYSTEM** is located which at the time of execution of this Contract is Brazos County, Texas.

11.02 Grammatical. Whenever the singular number is used, it includes the plural, and the masculine gender includes the feminine and neuter gender, unless the context requires otherwise.

11.03 Time. Time is of the essence in this Contract.

- 11.04** Drafting. The rule of construction that ambiguities in a document are construed against the party who drafted such ambiguous language will not be applied to this Contract.
- 11.05** Entire Agreement. This Contract constitutes the entire agreement between **A&M SYSTEM** and **PURCHASER** regarding the sale and purchase of the Property and will not be explained, modified, or contradicted by any prior or contemporaneous negotiations, representations, or agreements, either written or oral. This Contract can be amended only by a subsequent written instrument signed by both parties.
- 11.06** Binding Agreement. Upon execution and delivery this Contract will constitute a valid and legally binding obligation of **A&M SYSTEM** and of **PURCHASER**, and their respective successors and permitted assigns.
- 11.07** Survival of Covenants. The representations, warranties, covenants, and agreements of the parties, as well as any rights and benefits of the parties, specified in this Contract, will survive Closing and will not be merged into the Special Warranty Deed or any other conveyance instrument.
- 11.08** Parties Bound. This Contract is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors in interest or office, and assigns.
- 11.09** Savings Clause. Should any clause in this Contract be found invalid, unlawful or unenforceable by a court of law, the remainder of this Contract will not be affected and all other provisions in this Contract will remain valid and enforceable to the fullest extent permitted by law.
- 11.10** Effective Date. The Effective Date of this Contract is the date the last party signs.
- 11.11** Counterparts. This Contract may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.
- 11.12** Assignment. **PURCHASER** may not assign this Contract or any rights under this Contract without the prior written consent of **A&M SYSTEM**, which may be withheld for any or no reason at **A&M SYSTEM'S** discretion.
- 11.13** Headings. Headings are for reference only and will not be construed to limit or alter the meaning of the provisions of this Contract.

ARTICLE 12
SPECIAL PROVISIONS-CONTINGENCIES TO CLOSING

[SIGNATURE PAGES FOLLOW]

SAMPLE

EXECUTED _____, 2018, by **PURCHASER**.

PURCHASER:

By: _____

Print Name: _____

SAMPLE

EXECUTED _____, 2018, by A&M SYSTEM.

**BOARD OF REGENTS OF THE TEXAS A&M
UNIVERSITY SYSTEM**, an agency of the State
of Texas

By: _____

JOHN SHARP
Chancellor
The Texas A&M University System

RECOMMEND APPROVAL:

THOMAS G. BOGGUS
Director
Texas A&M Forest Service

APPROVED AS TO FORM:

R. J. DOLD
Assistant General Counsel
Office of General Counsel
The Texas A&M University System

EXHIBIT "A"

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

DATE: This Deed is effective _____, 2018

GRANTOR: **BOARD OF REGENTS OF THE TEXAS A&M UNIVERSITY SYSTEM, as successor in interest to the State of Texas, for the use and benefit of the Agricultural and Mechanical College of Texas ("GRANTOR")**

GRANTOR'S MAILING ADDRESS: The Texas A&M University System
Office of General Counsel
Attn: System Real Estate Office
301 Tarrow, 6th Floor
College Station, Texas 77840-7896

GRANTEE: _____ (hereafter referred to as
"GRANTEE")

GRANTEE'S MAILING ADDRESS: _____

CONSIDERATION: The sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged.

PROPERTY CONVEYED (including all improvements):

Approximately 12.706 acres of land, consisting of four tracts, more particularly described in the Angelina County Appraisal District Records under Property IDs 31090, 31091, 31124, 91392 and 91491, more particularly described by metes and bounds on Exhibit A attached, together with all and singular the rights and appurtenances pertaining thereto, including the right, title and interest of **GRANTOR**, if any, in all streets, roads, and rights-of-way, and any easements, licenses, rights-of-way, reservations, privileges and rights of ingress and egress appurtenant thereto.

RESERVATIONS FROM CONVEYANCE: The **GRANTOR** hereby reserves unto itself, its successors and assigns, all oil, gas and other minerals, in and under and that may be produced from the Property, as well as all water rights. If the mineral estate is subject to existing production, this reservation includes the production, the lease, and all benefits from it.

EXCEPTIONS TO CONVEYANCE AND WARRANTY: This conveyance is made subject to:

- (1) All presently valid and effective easements and rights-of-way whether of record or not, pertaining to any portion(s) of the Property;
- (2) All presently recorded, valid and effective instruments constituting mineral estate severances of any kind, such as oil, gas and other mineral exceptions, rights of development or leases, and royalty reservations;
- (3) All presently recorded, valid and effective restrictive covenants, terms, conditions, contracts, provisions and other items, and ordinances, governmental regulations, and laws affecting the Property;
- (4) All presently recorded, valid and effective instruments that affect the Property, other than liens;
- (5) Standby fees and taxes which are not yet due and payable for the current year and subsequent years, the payment of which **GRANTEE** assumes, and subsequent assessments for this and prior years due to change(s) in land usage, ownership, or both, the payment of which **GRANTEE** assumes; and
- (6) Any condition that would be revealed by a physical inspection and survey of the Property, including but not limited to, any discrepancy, conflicts, or shortages in area or boundary lines, or any encroachments, or any overlapping of improvements.

NOTWITHSTANDING ANY OTHER TERM OR PROVISION CONTAINED HEREIN TO THE CONTRARY, GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR PHYSICAL CONDITION OF THE PROPERTY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY OR GRANTEE'S USE AND OPERATION THEREOF, (C) THE SUITABILITY OF THE PROPERTY OR ANY PORTION THEREOF FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY, € THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, OR (F) ANY OTHER MATTER WITH RESPECT TO THE PHYSICAL CONDITION OF THE PROPERTY; AND SPECIFICALLY GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, OR

WARRANTIES REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL LAWS. GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN “AS IS” CONDITION AND BASIS, WITH ALL FAULTS.

GRANTOR, for the consideration and subject to the Reservations from Conveyance and Restrictions, and the Exceptions to Conveyance and Warranty, **GRANTS, SELLS, and CONVEYS** to **GRANTEE** the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and to hold to **GRANTEE, GRANTEE’S** successors and assigns forever. **GRANTOR** binds itself and its successors and assigns to **WARRANT** and **FOREVER DEFEND** all and singular the Property to **GRANTEE** and **GRANTEE’S** successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under **GRANTOR** but not otherwise, except as to the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

[Signatures follow on next page]

EXECUTED _____, 2018, to be effective on the date first set forth above.

BOARD OF REGENTS OF THE TEXAS A&M UNIVERSITY SYSTEM, an agency of the State of Texas

NOT FOR SIGNATURE

By: _____
JOHN SHARP
Chancellor
The Texas A&M University System

APPROVED AS TO FORM:

R. J. DOLD
Assistant General Counsel
Office of General Counsel
The Texas A&M University System

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

This instrument was acknowledged before me on _____, 2018 by **JOHN SHARP**, Chancellor of The Texas A&M University System, on behalf of the Board of Regents of The Texas A&M University System, an agency of the State of Texas.

Notary Public in and for
The State of Texas

EXHIBIT "A"

LEGAL DESCRIPTION

[to be attached]

SAMPLE