

## CONTRACT FOR SALE OF REAL PROPERTY

This Contract of Sale (“**Contract**”) for the real property known as 3615 Highland Avenue, Niagara Falls, County of Niagara, NY 14305 is entered as of **this \_\_\_\_ day of \_\_\_\_\_, 2009 (“effective date”)**, by and between \_\_\_\_\_ (“**Buyer**”) and the **United States of America (“Government”)**, **by and through the United States Marshals Service**. The Buyer and the Government are hereafter jointly referred to as the “parties.” Pursuant to 28 C.F.R. §§ 0.111(i) and 0.156, the United States Marshal for the Western District of New York and/or his designee, is authorized to execute this contract and bind the Government to its terms. \_\_\_\_\_ (name), \_\_\_\_\_ (title), \_\_\_\_\_, is the duly authorized agent of the Buyer with full authority to execute this contract and bind the Buyer to the terms. Accordingly, the parties enter into this contract based on the following facts, understandings and intentions.

By order of the U.S. District Court for the Northern District of Alabama, the Government owns all of the property described in the Default Judgment of Forfeiture on the Pleadings in the case of United States of America v. Certain Real Property Located at 811 Crest Avenue, Gadsden, Alabama, Together With All Improvements, Fixtures, and Appurtenances Thereon; Certain Real Property Located at 920 Avenue A, Gadsden, Alabama, Together With All Improvements, Fixtures, and Appurtenances Thereon, Certain Real Property Located At 813 Crest Avenue, Gadsden, Alabama, Together With All Improvements, Fixtures, and Appurtenances Thereon; Certain Real Property Located At 1426 Walnut Street, Gadsden, Alabama, Together With All Improvements, Fixtures, and Appurtenances Thereon; Certain Real Property Located At 3508 Highland Avenue, Niagara Falls, New York, Together With All Improvements, Fixtures and Appurtenances Thereon; Certain Real Property Located at 3615 Highland Avenue, Niagara Falls, New York, Together With All Improvements, Fixtures and Appurtenances Thereon; and United States Currency; XXXX.XX, Civil No. 4:08-CV-02026-VEH (N.D. AL.), including, without limitation, the premises known as 3615 Highland Avenue, Niagara Falls, County of Niagara, NY 14305 as described in the Default Judgment of Forfeiture, which is attached.

1. Accordingly, the parties agree that the Default Judgment of Forfeiture and all of its attachments are hereby incorporated herein by reference to this Contract.
2. The property shall be sold “AS IS, WHERE IS” with no warranties or representations whatsoever, except to the extent of the validity of the Default Judgment of Forfeiture which the Government represents and warrants bestowed title to the property to the Government.
3. The Government intends to transfer the property to the Buyer, and the Buyer intends to acquire the property from the Government, on all of the mutual terms, covenants and conditions set forth herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the parties, the parties hereto agree as follows:

1. Purchase Price.

Amount of the Purchase Price. The parties agree that the Buyer shall pay to the Government a purchase price for the property in the amount of \_\_\_\_\_ **dollars (words)** (\$ \_\_\_\_\_ **(figure)**) (“**purchase price**”) in certified check or cashier’s check, at the closing on this property in accordance with the

terms of this Contract. Buyer has placed a \$ \_\_\_\_\_ bid deposit; the outstanding balance due is \$ \_\_\_\_\_.

2. Title.

- a. The Government will convey the property in fee simple to the Buyer by a special warranty deed. The Buyer, at its discretion, will be responsible for its own purchase and review of a current title report for the property.
- b. The Buyer, at its discretion, will be responsible for any survey performed on the property pursuant to the Buyer's intent to purchase the property.
- c. The Government will provide the Buyer with a copy of the deed prior to the closing on the property.

3. Compliance with Law

- a. Neither party will voluntarily commit, or knowingly permit, any action that will result in a violation of any applicable law concerning the property or any structures or improvements thereon.
- b. This contract shall be governed by and construed in accordance with federal law.

4. Closing.

- a. "Closing" shall mean the delivery of the special warranty deed which conveys title to the property to the Buyer by the Government in exchange for the payment in full of the balance of the purchase price. Closing shall be **thirty calendar days from the close of the auction**. Please note that the auction for this property closed on \_\_\_\_\_. Either party may extend the closing date up to **ten (10) days prior to the closing date** upon written notice to the remaining party for good cause. However, "good cause" shall not include matters or events which exclusively and/or inordinately enhance the bargaining position of the requesting party.
- b. The Buyer shall pay all closing costs in accordance with applicable law.
- c. Failure to settle through no fault of the seller will constitute forfeiture of the bid deposit.

5. Real Estate Commissions.

- a. Each party shall be solely responsible for the payment of real estate commissions based on their independent agreements, if any, with realtors or real estate entities in connection with this transaction.

6. No Further Encumbrances.

- a. After the effective date of this contract, the Government agrees not to enter into any agreements or cause any matter to be recorded that may constitute an exception to the

title of the property or be binding on the Buyer after the closing date, without the prior written consent of the Buyer, which the Buyer may withhold at his/her/its own discretion.

- b. The Government further agrees not to authorize any person(s), or entity (or entities) to occupy the property without the written consent of the Buyer.

7. Miscellaneous.

- a. Exclusive contract. This Contract represents the entire agreement between the parties regarding the purchase and sale of the property, and may not be amended except in writing and signed by the parties or their duly authorized representatives. No waiver of any breach of this agreement shall be deemed a waiver of any other or subsequent breach.
- b. Attorney's fees. Each party shall bear the cost of its own attorney's fees, costs and expenses, except as otherwise provided by applicable federal law.
- c. Time of Essence. The parties agree that time is of the essence in this contract. However, the parties recognize the possible need for a reasonable extension under circumstances where the requesting party's good faith and diligence are unable to prevent the delay.
- d. Section Headings. Section headings used herein are for convenience only and shall not be deemed to limit or define the scope of any provision hereof.
- e. Notices. All notices and demands by one party to another shall be made in writing and delivered by personal service or sent by registered or certified mail, or by a reliable overnight courier, to the address of the appropriate party as listed below. All notices and demands sent by mail or overnight courier as described above shall be deemed effective upon mailing.
- f. Condition to Seller's performance: Seller shall have the right, at Seller's sole discretion, to extend the closing date or to terminate the Contract at the convenience of the Government. In the event the Seller elects to terminate the Agreement, the bid deposit shall be returned to Purchaser and the parties shall have no further obligation under the Agreement.

To the Buyer:

With copy to:

To the Government:

g. Counterparts. This contract may be signed in counterparts by each of the parties thereto.

By and through the signatures affixed below of their duly authorized agents, the parties hereby execute this Contract which shall become effective on the date of the last signature, as indicated below.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

**(Name)**  
**Purchaser**

Dated: \_\_\_\_\_

\_\_\_\_\_  
**Name:**  
**US Marshals Service**  
**Title**  
**Seller**

**ATTACHMENT A  
CERTIFICATION**

The following certification is attached to and incorporated into the Contract for Sale of Real Property for the property known as 3615 Highland Avenue, Niagara Falls, County of Niagara, NY 14305.

I hereby certify that I am not acting in concert with, or on behalf of, any defendant in the case United States of America v. Certain Real Property Located at 811 Crest Avenue, Gadsden, Alabama, Together With All Improvements, Fixtures, and Appurtenances Thereon; Certain Real Property Located at 920 Avenue A, Gadsden, Alabama, Together With All Improvements, Fixtures, and Appurtenances Thereon, Certain Real Property Located At 813 Crest Avenue, Gadsden, Alabama, Together With All Improvements, Fixtures, and Appurtenances Thereon; Certain Real Property Located At 1426 Walnut Street, Gadsden, Alabama, Together With All Improvements, Fixtures, and Appurtenances Thereon; Certain Real Property Located At 3508 Highland Avenue, Niagara Falls, New York, Together With All Improvements, Fixtures and Appurtenances Thereon; Certain Real Property Located at 3615 Highland Avenue, Niagara Falls, New York, Together With All Improvements, Fixtures and Appurtenances Thereon; and United States Currency; XXXX.XX, Civil No. 4:08-CV-02026-VEH (N.D. AL.).

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Social Security: \_\_\_\_\_

Birth Date: \_\_\_\_\_

Date of Certification: \_\_\_\_\_

\_\_\_\_\_  
Buyer Name Signature

\_\_\_\_\_  
Buyer Name Printed

\_\_\_\_\_  
Witness Name Signature

\_\_\_\_\_  
Witness Name Printed

## **Contract Provision Prohibiting the Sale of Forfeited Property to Government and Contractor Employees**

In order to avoid a conflict of interest, or the appearance of a conflict of interest, the following classes of persons are prohibited from purchasing, either directly or indirectly, property forfeited to the United States which is to be sold under this contract or any subcontract to this contract:

- Any United States Department of Justice (USDOJ) employee prohibited by Federal regulations (5 C.F.R. & 3801.104) from purchasing or using property forfeited to the United States, or any member of his/her immediate family/household.
- The contractor and any of its subcontractors; their employees or members of such employees' immediate families/households; any entity in which the contractor has any financial interest; or any agent or representative for such party.
- Any employee of any federal, state, or local governmental agency, or members of his/her immediate family/household, that was involved in the investigation which led to the forfeiture of the property to be sold by or through the contractor.

To effectuate this prohibition, as a requirement of this contract or any subcontract, the contractor and any subcontractor selling property forfeited to the United States shall include the following provision in Sale Terms and Conditions:

In order to make an offer to purchase property subject to this sale the offeror shall initial one of the following:

\_\_\_\_\_ The offeror warrants that he/she is not: (a) an employee of the United States Department of Justice; (b) an employee of any Federal, state or local governmental agency which participated in investigations that led to the forfeiture of property to the United States subject to this sale; (c) an employee of any contractor or subcontractor whose contract or subcontract provides goods or services to the United States Department of Justice's Asset Forfeiture Program; (d) an agent or member of the immediate family/household of any employee described in (a), (b), or (c) above.

\_\_\_\_\_ Any offeror who is an employee of the United States Department of Justice warrants that he/she has complied with the provisions of 5 C.F.R. & 3801.104(a), and shall provide as part of his/her offer a copy of the written determination by the agency designee by 5 C.F.R. & 3801.104(a).