



Central Texas Auction Services, LLC
d/b/a United Country Central Texas Auction and Realty
202 Lake Road, Belton, TX 76513
Mailing Address: P.O. Box 1775, Belton, TX 76513
("Auctioneer")

Bidder Terms and Conditions
(Real Property)

These Bidder Terms and Conditions apply to auctions conducted by Central Texas Auction Services, LLC d/b/a United Country Central Texas Auction and Realty, and constitute a legal, valid, binding, and enforceable contract between Auctioneer and each Participant, Bidder, and Buyer. These bidder terms and conditions also form the basis for the contract of sale between the Sellers and the Buyers.

1. **Auction Conducted in Accordance with These Bidder Terms and Conditions.** The Auction is conducted in accordance with these Bidder Terms and Conditions. By participating in the Auction, whether at the auction site, online, telephonically, or through any other means (including Absentee Bid), each Participant agrees to be bound by, and to abide by, these Bidder Terms and Conditions.

2. **Definitions.** The following definitions apply to these Bidder Terms and Conditions for each auction conducted by Auctioneer:

"Absentee Bid" means a bid submitted to Auctioneer by an Absentee Bidder for the execution during the Auction.

"Absentee Bidder" means a person or entity, typically not present at the Auction, who submits an Absentee Bid.

"Absolute Auction" or "Absolute" applies only if and when expressly indicated and means an auction at which property is sold to the highest bidder regardless of the amount of the final bid, with no limiting conditions, restrictions, or reservations. This type of auction is also known as an auction Without Reserve. Once the bidding begins, property that is expressly offered for sale at an Absolute Auction will be sold to the highest bidder regardless of the final bid amount. **NO AUCTION CONDUCTED BY AUCTIONEER IS ABSOLUTE OR WITHOUT RESERVE, AND NO PROPERTY IS OFFERED ABSOLUTE OR WITHOUT RESERVE, UNLESS SPECIFICALLY AND EXPRESSLY STATED BY AUCTIONEER IN WRITING.**

"Attendee" means any person who attends the Auction at the Auction Site, whether such person is a Registered Bidder or not.

"Auction" means the auction sale at which Auctioneer solicits bids, or is scheduled to solicit bids.

"Auction Site" means the physical location of the Auction.

"Bidder" means any person or entity that makes a bid at the Auction.

"Bidder Number" means the number or other identifier issued by Auctioneer to a Registered Bidder for the purposes of identifying bids to such Registered Bidder.

"Bidder Registration" means the information provided by a prospective Bidder, and the process of registering such prospective Bidder, to bid at the Auction, including the prospective Bidder's agreement to be bound by these Bidder terms and Conditions.

"Bidder Terms and Conditions" means these Bidder Terms and Conditions.

"Broker Participation Fee" means, if applicable, an amount drawn from the Commission and/or Buyer's Premium that is paid to a broker who has participated in procuring a Buyer, or has otherwise assisted in facilitating the sale of Property at the Auction, under the terms and conditions and in the amount established by Auctioneer.

"Buyer" means the Winning Bidder with respect to each parcel of Real Property.

"Buyer's Premium" is an amount with respect to each parcel of Real Property Struck Off at the Auction, calculated as a percentage of the Hammer Price, that is payable by the Buyer to Auctioneer for Auctioneer's own account.

"Commission" means the amount payable by or on behalf of Seller to Auctioneer for Auctioneer's services, calculated as a percentage of the Hammer Price.

"Fall of the Hammer" means the point, after bids have been received, at which Auctioneer declares a parcel of Real Property "sold" to the Bidder acknowledged by Auctioneer as having made the Winning Bid. During an auction that is exclusively online, the Fall of the Hammer will occur electronically at the end of timed (or extended) bidding.

"Hammer Price" means the price established by the highest bid at the Fall of the Hammer.

"High Bid" means the high bid amount recognized by Auctioneer at the conclusion of bidding on a parcel of Real Property.

"High Bidder" means the Bidder recognized by Auctioneer as having made the High Bid with respect to a parcel of Real Property.

"Knocked Down" or "Knock Down" means that Auctioneer has acknowledged the Winning Bid on Real Property with the Fall of the Hammer, or by announcing "sold", or by giving a similar such indication. Property may be Knocked Down electronically at the conclusion of a timed online auction event. (See "Struck Off" or "Strikes Off").

"No Sale" occurs if Property is offered at the Auction but is not Struck Off or sold, and Auctioneer passes on such Property or declares a No Sale.

"Online Bidding Period" means, with respect an Auction conducted in whole or in part online, the time period during which bids may be tendered against any Real Property offered at an Auction conducted by Auctioneer as set forth on Auctioneer's website and incorporated into Auctioneer's Bidder Terms and Conditions.

"Participant" means any person who attends, or otherwise participates in, the Auction (in person or remotely). The term Participant includes, but is not limited to, Attendees, Registered Bidders, Bidders, and Buyers.

"Private Sale" means an event in which the Real Property is sold by Seller, or on Seller's behalf, other than at the Auction (including a sale at an auction conducted by a person or entity other than Auctioneer).

"Private Sale Price" means the fair market purchase price of Property paid, or agreed to, at a Private Sale in an arms-length transaction between Seller and a buyer. If such Property is sold through a Private Sale for less than its fair market value, or in a transaction that is not an arms-length transaction, or is gifted by Seller, the Private Sale Price, for the purposes of this Agreement, will be an amount equal to the fair market value of such Property in an arms-length transaction.

"Purchase Price" means, with respect to each parcel of Real Property, an amount equal to the Hammer Price, *plus* the Buyer's Premium.

"Real Property" means, if applicable, the real property, including improvements, located at:

_____. If the Real Property is comprised of separately deeded parcels, such separately deeded parcels are identified on a List of Separately Deeded Parcels.

"Realty Closing" means the time and place at which Seller sells, transfers, assigns, and conveys all of Seller's right, title and interest in and to the Real Property to the Buyer, and at which the Buyer pays the Purchase Price in full.

"Realty Closing Date" means the date on which the Realty Closing occurs.

"Realty Deposit" means, with respect to Real Property put up at the Auction, the money that the Winning Bidder must deposit with Auctioneer on the execution of the Realty Purchase and Sale Agreement.

"Realty Purchase and Sale Agreement" means the contract for the purchase and sale of Real Property put up at the Auction executed at the close of bidding by the Winning Bidder.

"Registered Bidder" means a person or entity that has registered to bid at the Auction and has been issued a Bidder Number.

"Reserve" or "With Reserve" refers to circumstances under which a seller of property offered at auction reserves the right to accept or decline any and all bids prior to the Fall of the Hammer. **UNLESS SPECIFICALLY AND EXPRESSLY STATED OTHERWISE IN WRITING ALL PROPERTY IS OFFERED WITH RESERVE.**

"Reserve Price" means, if applicable, the minimum price that Seller is willing to accept for Property.

"Struck Off" or "Strikes Off" means that Auctioneer has acknowledged the Winning Bid on Real Property with the Fall of the Hammer, or by announcing "sold", or by giving a similar such indication. Property may be Struck Off electronically at the conclusion of a timed online auction event. (See "Knocked Down" or "Knock Down").

"Winning Bid" means the highest bid received and accepted for Property put up at the Auction.

"Winning Bidder" means the Bidder who is recognized by Auctioneer as having made the Winning Bid.

3. **Auction Conducted in the Commonwealth of Texas.** The Auction is conducted in the State of Texas. The Real Property is offered for sale in the State of Texas, and will be Knocked-Down or Struck Off in the State of Texas. Notwithstanding the physical location of any Participant, these Bidder Terms and Conditions are entered into in the State of Texas, all bids and payments are received in the State of Texas and the Realty Purchase and Sale Agreement will be formed and entered into in the State of Texas.

4. **Nature of the Auction.** The provision checked below applies to the Auction:

The Real Property is offered **With Reserve**, and, as such, any bid may be rejected and the Property may be withdrawn by Auctioneer at any time before the Fall of the Hammer.

The Auction for the Real Property will be an **Absolute Auction**. This means that, once a bid is received, the Real Property will be sold to the highest Bidder.

5. **Agency.** Central Texas Auction Services, LLC/United Country Central Texas Auction and Realty and our agents, representatives, auctioneers and employees are Exclusive Agents of the Seller.

6. **Bidder Package.** An informational packet relating to the Real Property may be obtained by prospective Bidders by contacting Auctioneer at United Country Central Texas Auction and Realty, 202 Lake Road, Belton, TX 76513 (Mailing Address: P.O. Box 1775, Belton, TX 76513), tel. 254-718-5120. The Bidder Package provides general information, and is not designed to replace a Bidder's responsibility of conducting such Bidder's own due diligence, investigations, and pre-Auction inspections with respect to the Real Property. The information in the Bidder Package is subject to inspection and verification by all parties. Neither Auctioneer, nor Seller, nor their respective employees, agents, representatives, or independent contractors will be liable for errors or omissions in the Bidder Package. Any information contained in the listing and all related materials are subject to the terms and conditions of the Auction Purchase Agreement and Sale Agreement.

7. **Bidder Qualification.** A Bank Letter of Guarantee for ten percent (10%) of the amount that a Bidder plans to bid is required to register to bid at the Auction, and must be presented at registration. At the conclusion of bidding, the Winning Bidder must make a Realty Deposit an amount equal to ten percent (10%) of the Purchase Price. Auctioneer may impose additional qualifications for bidding on the Real Property, which qualifications may include, without being limited to, proof of the availability of funds. Any additional Bidder qualifications will be posted on Auctioneer's website, and attached to (and incorporated into) these Bidder Terms and Conditions.

8. **Bidder Registration.** All persons desiring to bid at the Auction, must register to bid and be issued a Bidder Number. In order to register to bid, each potential Bidder must provide such information (including identifying information and qualifications) as requested by Auctioneer. Auctioneer may refuse to accept a Bidder Registration from any potential Bidder, may refuse to issue a Bidder Number to any potential Bidder, and, if a Registered Bidder breaches any of these Bidder Terms and Conditions, or engages in improper conduct, Auctioneer may revoke any Bidder Number. By registering to bid at the Auction, each Registered Bidder acknowledges and agrees that such Registered Bidder has read, understands, and agrees to be bound by, these Bidder Terms and Conditions. In Auctioneer's sole and absolute discretion, bids may be received from a person who has not registered to bid, and/or who has not satisfied all requirements for Bidder Registration, and/or who has not been issued a Bidder Number, provided that such person immediately completes a Bidder Registration, is issued a Bidder Number, and agrees to be bound by these Bidder Terms and Conditions.

9. **Bidding.** Registered Bidders may only bid at the Auction by agreeing to be bound by these Bidder Terms and Conditions. By bidding, each Registered Bidder acknowledges and agrees that such Registered Bidder has had a full and fair opportunity to read, and understands, these Bidder Terms and Conditions, and affirms that such Registered Bidder is subject to and bound by these Bidder Terms and Conditions.

10. **Registered Bidders Responsible for Bids Placed on Bidder Number.** Each Registered Bidder is responsible for the Bidder Number issued to such Registered Bidder, unless notice of a lost, stolen, or misappropriated Bidder Number was provided to Auctioneer prior to an unauthorized bid being made. Auctioneer is not responsible for monitoring or policing the use of Bidder Numbers. Absent a clerical error, Auctioneer's recording of bids against a Bidder Number will be conclusive as to the making of such bid by, or on behalf of, the Registered Bidder.

11. **No Bid Retraction.** No Bidder may retract a bid that has been acknowledged by Auctioneer or that has been submitted online. Further to the foregoing, each Bidder acknowledges and agrees that Auctioneer is acting in reliance on submitted bids in the conduct of the Auction, and that bid retraction is disruptive and interferes with the Auction, and that, as an inducement for Auctioneer to accept such Bidder's Bidder Registration and for such Bidder to bid at the Auction, each Bidder agrees not to withdraw or to attempt to withdraw any tendered bid that has been acknowledged by Auctioneer.

12. **Online Bidding.** If and to the extent that online or internet bidding is available, the following terms and conditions will apply:

12.1. **Online Bidding Registration.** Any Registered Bidder desiring to bid online, or to establish the possibility of bidding on line, is required to create an online bidding account by completing all necessary online forms and providing all required information.

12.2. **Auction Site Notices and Announcements.** Any Registered Bidder participating at the Auction online is responsible for becoming aware of all notices and announcements made or given at the Auction Site, or as otherwise published on Auctioneer's website.

12.3. **Posted Times.** All times are based on the Central Standard Time zone unless stated otherwise. Any posted closing times and time displays at the Auction Site and online are approximate. Auctioneer reserves the right to close early or extend the Auction at any time at its sole and absolute discretion.

12.4. **Responsibility for Online Bids.** If a Winning Bid is sent to Auctioneer from the computer of a Registered Bidder, and is, thereafter, confirmed by Seller, such Registered Bidder will be the Buyer.

12.5. **No Reduction or Retraction of Online Bids.** Online bids may not be reduced or retracted.

12.6. **Online Bidding Increments.** While Auctioneer may, at Auctioneer's discretion, vary bid increments at the Auction Site, Registered Bidders bidding online may only bid in whole bidding increments.

12.7. **Competing Online and Onsite Bids.** In the event of contemporaneously made online and onsite bids, Auctioneer will determine which bid is the successful bid, and the bid made at the Auction Site will generally take precedence.

12.8. **Records of Online Sales.** The record of sale kept by Auctioneer will be conclusive and final in all disputes, and otherwise. In the event of a discrepancy between any online records or messages provided to a Registered Bidder bidding online and the record of sale kept by Auctioneer, Auctioneer's record of sale will govern.

12.9. **Technical Considerations.** Auctioneer will not be responsible for errors or failures to execute bids placed over the internet, including, without being limited to, errors or failures caused by: (i) a loss of connection; (ii) a breakdown or problems with the online bidding software and/or (iii) a breakdown or problems with a Registered Bidder's internet connection, computer, or system.

12.10. **Failure to Execute Online Bids.** Execution of online internet bids is a service undertaken subject to other commitments at the time of the sale and Auctioneer does not accept liability for failing to execute an online bid or for errors or omissions in connection with this activity.

12.11. **Disclaimer of Warranty and Release.** Each Registered Bidder acknowledges and agrees that online bidding is at such Registered Bidder's sole risk, responsibility and obligation. Neither Auctioneer nor the Seller represent or warrant that the website will be uninterrupted, error free or virus free; nor do they make any representation or warranty as to the results that may be obtained from the use of the website, or as to the accuracy, completeness, reliability, security, or currency of the website.

13. **Absentee Bids; Execution of Absentee Bids.** Absentee bids may be accepted in Auctioneer's sole and absolute discretion. The execution of an Absentee Bid will typically be commenced at a percentage of the maximum amount of the Absentee Bid as determined by Auctioneer in Auctioneer's sole and absolute discretion, and will be advanced competitively until the Fall of the Hammer or until maximum amount of the Absentee Bid is reached, whichever occurs first. Auctioneer will make all reasonable efforts to execute Absentee Bids, but active bidding by Bidders in attendance at the Auction may render the execution of an Absentee Bid impracticable. Neither Auctioneer nor Seller will have any liability to an Absentee Bidder for the failure to execute an Absentee Bid. Each Absentee Bidder acknowledges and agrees that Property may be sold to another Bidder for the maximum amount of the Absentee Bid based on a bidding sequence that causes another Bidder to reach the such amount first. If the execution of an Absentee Bid at its maximum amount would require Auctioneer to accept a bid that is less than a full bidding increment, Auctioneer has the sole and absolute discretion to accept or reject such bid. An Absentee Bidder may authorize Auctioneer to advance the bid by one or more bidding increments after the maximum amount of the Absentee Bid is, or would be, reached.

14. **Bid Increments.** Bid increments are established and controlled by Auctioneer, and may be adjusted or modified in Auctioneer's sole and absolute discretion.

15. **Winning Bid; Buyer.** Pursuant to these Bidder Terms and Conditions, the Bidder making the Winning Bid for each parcel of Real Property will be the Buyer of such Real Property.
16. **Bidder's Inspection.** By bidding, each Bidder acknowledges and agrees that such Bidder has had a full and fair opportunity to inspect the Property prior to bidding, and is relying solely on, or has waived, such Bidder's inspection and investigation (i) in determining whether to bid, (ii) in determining the amount of a bid, and (iii) in bidding at the Auction.
17. **Breaks and Recesses.** Auctioneer may take breaks or recesses during the bidding on the Real Property, and such breaks or recesses will not terminate the bidding unless expressly stated. Auctioneer may suspend bidding on the Real Property without declaring a No Sale of the Real Property. A No Sale of the Real Property will only occur if Auctioneer declares a No Sale in those terms, or if the Auction concludes in its entirety without the Real Property having been sold. If announced by Auctioneer, the Auction may continue for a stated period of days, during which period Auctioneer may receive bids in person, telephonically, electronically, or by other means.
18. **Separately Deeded Parcels.** If the Real Property consists of two or more separately deeded parcels, Auctioneer may, in Auctioneer's discretion, put the parcels up for bid individually, as an entire group, and by various combinations, and the bids received by each method will be held until it is determined which method yields the highest aggregate Purchase Price. Bidding may be conducted in multiple rounds, and in a round robin fashion, and methods or combinations may be eliminated until the final method or grouping yielding the highest aggregate Purchase Price is determined.
19. **Conduct of the Auction.** Auctioneer will regulate all matters relating to the conduct of the Auction and Auctioneer's decision will be final and binding. Auctioneer will have control over bidding at the Auction, and Auctioneer will resolve any and all disputes. If (i) a bid is made while the hammer is falling in acceptance of a prior bid, or (ii) promptly after the Fall of the Hammer or other termination of the bidding Auctioneer is made aware of a bid that was unnoticed prior to the Fall of the Hammer or other termination of the bidding, and it is demonstrated to Auctioneer's satisfaction that such bid was, in fact, timely made, Auctioneer may, in Auctioneer's sole and absolute discretion, reopen the bidding (but will not be required to). Any contract formed with the Fall of the Hammer will be subject to the conditions set forth in this Section.
20. **Access to Auction Site.** Participants (and their employees, agents, representatives, and independent contractors) assume all risks associated with their presence at the Auction Site or their access to the online bidding platform utilized by Auctioneer. Any person may be denied access to the Auction, the Auction Site, and the online bidding platform utilized by Auctioneer, and may be removed at Auctioneer's discretion.
21. **Buyer's Premium.** All Property offered at the Auction is subject to a Buyer's Premium, which will be paid by the Buyer to Auctioneer for Auctioneer's own account. The Buyer's Premium will be calculated as a percentage of the Hammer Price, and will be added to the Hammer Price to determine the final Purchase Price. The Buyer's Premium for the Real Property will be amount equal to ten percent (10%) of the Hammer Price for each parcel of Real Property Struck Off at the Auction. Buyer understands that the Buyer's Premium paid on Auction day is a non-refundable fee and that if Buyer fails to close on property they forfeit their fee. Each Bidder acknowledge and agrees that is such Bidder is the Winning Bidder, and fails to meet such Bidder's obligations under these Bidder Terms and Conditions, the Title Company is authorized to release the Buyer's Premium to United Country Central Texas Auction and Realty.
22. **Property Sold "AS IS", "WHERE IS", and "WITH ALL FAULTS".** THE REAL PROPERTY (TOGETHER WITH ANY PERSONAL PROPERTY CONVEYING WITH THE REAL PROPERTY) IS BEING OFFERED AND SOLD IN ITS AS IS/WHERE IS CONDITION AT THE TIME OF THE AUCTION, WITH ALL FAULTS, INCLUDING ANY HIDDEN DEFECTS OF ANY NATURE. NEITHER AUCTIONEER NOR SELLER MAKES ANY REPRESENTATIONS, WARRANTIES, OR GUARANTEES WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE NATURE, VALUE, SOURCE, AUTHENTICITY, FITNESS, MERCHANTABILITY, AND/OR ANY OTHER ASPECT OR CHARACTERISTICS OF SUCH PROPERTY. NO STATEMENT ANYWHERE, WHETHER EXPRESS OR IMPLIED, INCLUDING VERBAL STATEMENTS MADE BY AUCTIONEER, WILL BE DEEMED A WARRANTY OR REPRESENTATION BY AUCTIONEER OR SELLER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THERE ARE NO WARRANTIES OF TITLE, NON-INFRINGEMENT, AUTHENTICITY, ORIGIN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. EACH BIDDER ACKNOWLEDGES AND AGREES THAT SUCH BIDDER CANNOT RELY, AND HAS NOT RELIED, ON ANY REPRESENTATION, WARRANTY, OR GUARANTY MADE BY THE SELLER OR ANYONE ACTING AS AGENT OF THE SELLER, ORALLY OR IN WRITING, ABOUT THE PROPERTY, OR ANY OF IT. BY BIDDING, EACH BIDDER ACKNOWLEDGES AND AGREES THAT SUCH BIDDER HAS HAD A FULL AND FAIR OPPORTUNITY TO INSPECT THE PROPERTY PRIOR TO THE AUCTION, AND IS RELYING SOLELY ON, OR HAS WAIVED, SUCH BIDDER'S INSPECTION AND INVESTIGATION (i) IN DETERMINING WHETHER TO BID, (ii) IN DETERMINING THE AMOUNT OF A BID, AND (iii) IN BIDDING. EACH BIDDER, FURTHER, ACKNOWLEDGES AND AGREES THAT NO INSPECTIONS OF THE PROPERTY CONDUCTED AFTER THE AUCTION CAN OR WILL SERVE AS A CONTINGENCY OR A CONDITION FOR THE PURCHASE OF THE PROPERTY.
23. **Announcements.** Subject to the limitations set forth in these Bidder Terms and Conditions, all terms and conditions and other announcements made by Auctioneer on the day of the Auction are binding and take precedence over any advertisements or listings.

24. **Description of Property.** Unless otherwise expressly stated otherwise in writing, any description of Property is based solely on visual impression, and is given solely for identification purposes, and does not create any warranty, expressed or implied, or representation by Auctioneer.
25. **Realty Purchase and Sale Agreement.** The Realty Purchase and Sale Agreement will be executed at the close of bidding by the Winning Bidder. In auctions With Reserve and in Absolute Auctions, Seller will execute the Realty Purchase and Sale Agreement at or before the conclusion of the bidding. The Realty Purchase and Sale Agreement is available for review prior to the Real Property being offered, and is incorporated in and made a part of these Bidder terms and Conditions.
26. **Realty Deposit.** The Winning Bidder will make a Deposit an amount equal to ten percent (10%) of the Purchase Price. The Deposit may be paid, in cash or its equivalent, by certified funds, by credit card (if service made available by Auctioneer), or by personal or company check (if previously approved by Auctioneer).
27. **No Buyer Contingencies.** There will be no Buyer conditions or contingencies to the sale of the Real Property except that Seller must deliver good and marketable title.
28. **Taxes.** All taxes will be allocated as follows:
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-
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29. **Settlement Fees and Expenses, Etc.** Buyer will pay any and all settlement fees, recording fees, title searches, title insurance charges, and survey costs.
30. **Apportionment.** Taxes and all other periodic realty costs, if any, will be apportioned *pro rata* as of the Closing Date. Seller will pay for all days up to and including the Closing Date, and Purchaser will pay for all days following the Closing Date.
31. **Realty Closing.** The Realty Closing will occur at a mutually agreed time and place within forty-five (45) days after the Auction, unless extended with the written consent of Seller and Auctioneer.
32. **Zoning; Land Use.** NEITHER AUCTIONEER NOR SELLER MAKES ANY REPRESENTATIONS OR WARRANTIES AS TO THE ZONING OF THE REAL PROPERTY OR ANY OTHER LAND USE RESTRICTIONS AFFECTING THE REAL PROPERTY. IT IS THE RESPONSIBILITY OF EACH BIDDER TO MAKE SUCH INQUIRIES AND INVESTIGATIONS AS MAY BE NECESSARY TO CONFIRM THE APPLICABLE ZONING AND LAND USE RESTRICTIONS AFFECTING THE REAL PROPERTY. THE PURCHASE OF THE REAL PROPERTY BY THE BUYER IS NOT CONTINGENT IN ANY WAY ON ZONING OR LAND USE RESTRICTIONS, OR ON WHETHER THE BUYER MAY PUT THE REAL PROPERTY TO ANY DESIRED USE. EACH BIDDER ACKNOWLEDGES AND AGREES THAT SUCH BIDDER IS NOT RELYING ON ANY REPRESENTATIONS BY SELLER OR AUCTIONEER CONCERNING ZONING OR OTHER LAND USE RESTRICTIONS AFFECTING THE REAL PROPERTY.
33. **Breach.**
- 33.1. **Seller's Breach.** If Seller breaches any of Seller's obligations with respect to the Purchase and Sale of the Real Property, Buyer's sole and exclusive remedy will be return of the Realty Deposit and any other monies actually paid by the Buyer. Under no circumstances will Auctioneer or Seller be liable for incidental or consequential damages, including, without being limited to lost profits or reduced productivity. Specific performance is not available as a remedy to Buyer.
- 33.2. **Buyer's Breach.** If Buyer breaches any of Buyer's obligations, Buyer will forfeit the Deposit and any other monies actually paid to Seller or Auctioneer, and will pay all of Seller's and Auctioneer's costs and expenses (including reasonable attorneys' fees and costs of litigation). If the Real Property is subsequently offered for sale (at auction or otherwise), Buyer will be responsible for any and all costs and expenses incurred with respect there to, including, without being limited to, advertising and labor. Buyer will also be responsible for any shortfall between the Purchase Price established at the Auction and any subsequent lower purchase price for which the Real Property may be sold.
34. **Risk of Loss.** The risk of loss or damage to the Real Property is assumed by the Seller until Settlement, except for in the event of loss or damage to the Real Property exceeding ten percent (10%) of the bid price, then Seller may elect to either repair the damages, provide credit at Settlement, or terminate the Purchase and Sale Agreement.
35. **Time is Of the Essence.** Time is of the Essence with respect to the purchase and sale of the Real Property.
36. **Broker Participation.** A two percent (2%) buyer's broker commission will be paid to any properly licensed real estate broker who signs in and represents a winning buyer, which successfully closes on the property. All commissions (including Buyer's Broker Fees) shall be paid out of Closing. To qualify for a Buyer's Broker Commission, the real estate broker must be a licensed real estate broker who is not prohibited by law from being paid such commission and has completed the required Buyer's Broker Incentive Program form provided by the auction company. The Buyer's Broker

Incentive Program form MUST be turned in to Auctioneer by _____. Buyer's Broker may obtain our form by calling 254-718-5120 or emailing _____.

37. **Bidding by or on Behalf of a Seller.** With the exception of any Property expressly offered at Absolute Auction, or unless expressly stated otherwise, bids may be placed by Seller or on Seller's behalf.

38. **All Sales Final.** ALL SALES ARE FINAL.

39. **Returned Checks.** Any checks that are returned unpaid will be subject to a returned check fee in the amount of \$ _____. In addition to the foregoing, Auctioneer will be entitled to recover, from the issuer of a returned check, all costs and expenses, including attorneys' fees, for the collection of payment made in the form of a check that has been returned unpaid.

44. **No Stop Payment Orders or Credit Card Charge-Backs.** Each Bidder agrees that such Bidder will not, under any circumstances, (i) issue a stop payment order with respect to any checks issued at or in connection with the Auction, or (ii) initiate a credit card charge-back with respect to any purchases at the Auction. Each Bidder further agrees that if, in violation of these Terms and Conditions, a stop payment order is issued or a credit card charge-back is initiated, these Bidder Terms and Conditions will be conclusive evidence of the Bidder's (i) waiver of any rights to issue a stop payment order or to initiate a credit card charge-back, and (ii) agreement not to issue a stop payment order or to initiate a credit card charge-back; and each Bidder acknowledges and agrees that on Auctioneer's presentation of these Bidder Terms and Conditions to the bank, credit card company, or other financial institution against which a check was drawn or that issued the credit card on which charges were made, such bank, credit card company, or other financial institution will reverse any stop-payment order and/or deny any credit card charge-back, and will re-credit all amounts to or for the account of Auctioneer. If, in violation of these Bidder Terms and Conditions, a Bidder issues a stop payment order or initiates a credit card charge-back, such Bidder, even if successful, will remain liable for all purchases made at the Auction, and will be responsible for all costs and expenses, including attorneys' fees, incurred by or on behalf of Auctioneer and/or Seller in challenging the stop payment order or credit card charge-back and in collecting payment. Each Bidder acknowledges and agrees that the covenant not to issue a stop payment order or to initiate a credit card charge-back is a condition to the issuance of a Bidder Number to such Bidder, and is being made as an inducement for Auctioneer to accept such Bidder's Bidder Registration and to issue a Bidder Number. Each Bidder acknowledges and agrees that Auctioneer is relying on the covenant not to issue a stop payment order or to initiate a credit card charge-back in accepting such Bidder's Bidder Registration and in issuing a Bidder Number.

41. **Buyer's Remedies; Bidders/Buyers Not Entitled to Incidental or Consequential Damages.** To the extent that any Bidder or Buyer may be entitled to damages or remedies, the sole and exclusive remedy available to Bidders and Buyers is a return of the Purchase Price actually paid. Under no circumstances will Auctioneer or the Seller be liable for incidental or consequential damages, including, without being limited to lost profits or reduced productivity. Each Bidder acknowledges and agrees that no Bidder or Buyer is entitled to specific performance or other equitable relief.

42. **Seller's Remedies.** If any Buyer breached such Buyer's obligations under these Terms and Conditions or under a sale contract with the Seller of Property Struck Off at the Auction, such property may be resold and the breaching buyer will be responsible for any and all damages, including any deficiency or reduction in the Purchase Price, along with incidental damages.

43. **Indemnification.** Each Bidder agrees to indemnify and hold Auctioneer and Seller harmless from any current or future claim regarding the Auction or the Property, including, without being limited to, fitness, use, damage, safety, or injuries to persons or property.

44. **Private Sale.** No Participant or Registered Bidder may offer to enter into a Private Sale for the purchase of any of the Property prior to or during the Auction. If any of the Property is not Struck Off at the Auction and Seller enters into an agreement to sell any of the Real Property within ninety (90) days after the Auction, Auctioneer will be entitled to receive an amount equal to Auctioneer's full Commission and Buyer's Premium.

45. **Bid Pooling.** Bid pooling occurs when Bidders collude to regulate, and artificially suppress, bidding in an effort to reduce the Hammer Price. Bid pooling is a felony. Anyone participating in bid pooling will be referred for prosecution.

46. **Theft.** Theft is a serious offense, and, if discovered, will be prosecuted to the fullest extent of the law. Instances of theft will result in immediate termination of bidding and removal privileges.

47. **Governing Law; Jurisdiction; Venue.** These Bidder Terms and Conditions will be governed by and construed in accordance with the laws of the State of Texas, including its statutes of limitations, but without regard to its rules governing conflict of laws. All claims, disputes, and other matters between the parties will be brought in the state or federal courts sitting in and for Bell County, Texas, which courts will have exclusive jurisdiction, and will be the exclusive venue, for any and all such claims, disputes, and other matters. By submitting a Bidder Registration and accepting a Bidder Number each Registered Bidder irrevocably and unconditionally (i) agrees that any claim, suit or cause of action relating to these Bidder Terms and Conditions, or the transactions contemplated hereby, will be brought in the state or federal courts sitting in and for

Bell County, Texas; (ii) consents to the jurisdiction of such courts for any such claim, suit or cause of action; (iii) waives any objection that such party may have to the laying of venue of any such claim, suit or cause of action in such courts; and (iv) waives any objection to the bringing of such claim, suit or cause of action in such courts on the grounds of *forum non conveniens*.

48. **Attorneys' Fees.** If any Participant breaches such Participant's obligations under these Bidder Terms and Conditions, Auctioneer and/or Seller will be entitled to recover all costs and expenses, including attorneys' fees incurred in enforcing their respective rights hereunder.