

## Auction Terms and Conditions - Michigan

These Terms and Conditions generally describe the terms on which certain real properties (individually, a "Property" and collectively, the "Properties") owned by the various selling entities (each, a "Seller" and collectively, the "Sellers") are to be offered for sale at auction. The Auction will be presented by ZetaBid Operations Inc. ("ZetaBid"); DoveBid, Inc. d/b/a GoIndustry DoveBid ("GDB") will provide auction services for the Sellers. As used in these Terms and Conditions, "Auctioneer" shall mean ZetaBid and GDB, collectively.

The Sellers of the Properties have retained Auctioneer to offer such Properties for sale at the Auction on the Terms and Conditions set forth below. By participating in this Auction, you consent to be bound by these Terms and Conditions as well as by any additional terms that may be imposed by the Seller or announced prior to or at the Auction by Auctioneer. Prospective purchasers who register in accordance with these Terms and Conditions will be deemed "Bidders" at the Auction. All high Bidders (each a "High Bidder") will be required to execute a Purchase Agreement for that particular Property on a form that will be provided by the Seller and any required Seller Addenda to the Purchase Agreement (collectively, the "Purchase Agreement"), a copy of which is available for inspection on [www.zetabid.com](http://www.zetabid.com), at the conclusion of the Auction for such Property. Please note that the Purchase Agreement only constitutes an offer to purchase the subject Property and does not become a binding contract unless and until it has been accepted by the Seller. If an offer is later accepted by the Seller, the High Bidder shall become the "Winning Bidder." As between Seller and Winning Bidder, to the extent of any conflict or inconsistency between the Purchase Agreement and these Terms and Conditions, the Purchase Agreement will control.

THIS IS A "RESERVE" AUCTION (AS DEFINED BELOW) AND ALL HIGH BIDDERS MUST HAVE THEIR BID CONFIRMED BY THE SELLER IN ORDER TO BE ACCEPTED. NO OFFER MADE AT THE EVENT SHALL BE DEEMED ACCEPTED UNTIL AND UNLESS SELLER HAS COMMUNICATED ITS ACCEPTANCE TO THE HIGH BIDDER BY EXECUTING A PURCHASE AGREEMENT, IN WHICH CASE A BINDING CONTRACT WILL BE CREATED.

### **1. REGISTRATION**

You must register in order to bid at the Auction; however there is no fee to register. In order to register for the Auction, please go to [www.zetabid.com](http://www.zetabid.com) and fill out the on-line Registration Form. You may also mail or fax your Registration Form to 310-376-4206 or to ZetaBid Registration, 2601 Pacific Coast Highway, Third Floor, Hermosa Beach, CA 90254. Your completed Registration Form must be received no later than two (2) business days prior to Auction day or you will be required to register at the Auction Event. Prospective purchasers who register on Auction day will be required to complete the Registration Form at that time. We highly recommend that you register well in advance of Auction day to enhance your chances of being notified of any pertinent

changes that may take place prior to Auction day. Notwithstanding the foregoing, Auctioneer disclaims any obligation to notify you of any such changes or to provide you with any information, and therefore strongly recommends that you check the website regularly to obtain such information with respect to all Properties that you are interested in purchasing.

Upon arriving at the Auction, you will be required to confirm your registration and to meet the minimum requirements set forth herein, including, but not limited to, verification that you have in your possession a Cashier's Check (made payable to you) of no less than Five Thousand Dollars (\$5,000.00) for each Property you desire to purchase. NO CASH or CREDIT CARDS! Upon confirmation of your registration, you will be given a bidder card with which to bid at the Auction.

VIP Investor Program. If you wish to bid on multiple properties at the Auction Event it is recommended that you register as a VIP Investor. VIP investors who have provided proof of funds in advance of the Auction Event will be allowed to sit in the VIP contracts area near the stage, are entitled to expedited VIP auction check-in, and may bid on and purchase multiple Properties. Unless you are a VIP investor, you will not be allowed to bid on any additional properties after you become a High Bidder on a Property until you have executed the Purchase Agreement and have paid the earnest money deposit for that Property. To register as a VIP Investor you must first register as a Bidder and then contact the VIP coordinator directly at 310-376-5125. Buyers of multiple properties will not be granted a financing contingency.

## **2. DUE DILIGENCE**

Inspection. Each Property may be scheduled to have one or more open houses (except for occupied Properties) pursuant to the schedule posted at [www.zetabid.com](http://www.zetabid.com). Open house events are hosted solely by third party brokers acting on behalf of Sellers and Auctioneer has no responsibility for such open houses, including but not limited to cancellations or changes in times, all of which are the sole responsibility of the third party brokers. Additionally, the listing broker may be available to show Property by appointment. All Bidders (whether pre-registered or registering on Auction day) must fully complete their Property due diligence prior to the Auction. High Bidders shall represent, covenant, and warrant that they are offering to purchase the Property relying solely on their independent inspection of the Property in its existing "AS-IS, WHERE IS, WITH ALL FAULTS" condition. Neither Sellers nor Auctioneer shall be liable for any allowance, adjustment or revision whatsoever, including but not limited to those based upon any defect in the Property, the improvements, or the building systems, appliances or other contents, or the failure of the Property to conform to any specific standards. Any and all descriptions provided by Auctioneer regarding any Property, including but not limited to lot size, building dimensions, floor plans, square footage and/or number of bedrooms/bathrooms, are approximations only provided as an accommodation to Bidders, and are based on information provided by Seller which may not be accurate. A Property's actual characteristics including lot size, building dimensions, floor plans,

square footage and/or number of bedrooms/bathrooms may vary and Auctioneer is not responsible for the accuracy or completeness of any such Property descriptions.

YOU SHOULD PERSONALLY INSPECT ALL PROPERTIES YOU ARE INTERESTED IN PURCHASING AND SATISFY YOURSELF REGARDING ITS PHYSICAL CONDITION AND OTHER CHARACTERISTICS. EACH BIDDER ASSUMES ALL RISKS ASSOCIATED WITH ANY SUCH INSPECTION. YOUR INSPECTION SHOULD INCLUDE ANY INVESTIGATION YOU FEEL IS NECESSARY OR USEFUL, INCLUDING A THOROUGH PHYSICAL INSPECTION OF THE PROPERTY AND REVIEW OF THE DOCUMENTS WHICH HAVE BEEN MADE AVAILABLE ON-LINE AT THE AUCTION WEBSITE (WWW.ZETABID.COM), AT THE PROPERTY SITE ON THE OPEN HOUSE DATES AND/OR AT THE AUCTION EVENT. EACH PROPERTY IS BEING OFFERED FOR SALE "AS IS, WHERE IS, AND WITH ALL FAULTS", WITH NO GUARANTEE OR WARRANTY BY ANY PARTY WHATSOEVER, AND IN ACCORDANCE WITH THE CONDITIONS HEREINAFTER DESCRIBED AND AS FURTHER DESCRIBED IN THE PURCHASE AGREEMENT (SEE BELOW FOR MORE DETAILS). YOU MAY WISH TO CONSULT WITH A LICENSED REAL ESTATE BROKER OR CONTRACTOR PRIOR TO MAKING ANY BID. ALL SALES ARE SUBJECT TO THESE TERMS AND CONDITIONS AND THOSE CONTAINED IN THE PURCHASE AGREEMENT. IN THE EVENT THAT YOUR OFFER IS ACCEPTED BY THE SELLER, YOUR OBLIGATION TO PURCHASE THE PROPERTY WILL NOT BE CONTINGENT UPON INSPECTION OF THE PROPERTY AFTER THE AUCTION UNLESS OTHERWISE SPECIFICALLY PERMITTED UNDER THE PURCHASE AGREEMENT. PLEASE BID ACCORDINGLY.

Occupied Properties. Some of the Properties being offered for sale in the Auction may be occupied and unavailable for inspection prior to the Auction. Please do not disturb the current tenants. As with all other Properties, occupied Properties will be offered at Auction for sale on an "AS-IS, WHERE IS, AND WITH ALL FAULTS" basis (see below for more details). The only permitted contingency for the sale of occupied Properties shall be a seven (7) calendar day inspection period which shall begin upon delivery to the Winning Bidder of a "Notification to the Buyer of Vacancy." Winning Bidder will then have seven (7) calendar days to perform a physical inspection of the Property and shall have the right to cancel the transaction by delivering written notice of cancellation to Seller as set forth in the Purchase Agreement.

Upon delivering such notice of cancellation, Winning Bidder will have no further right to purchase the Property, and Winning Bidder's only remedy shall be the return of all funds deposited in escrow, and Auctioneer shall have no further obligation to Winning Bidder. Failure to inspect the Property and/or to provide written notice of cancellation as set forth in the Purchase Agreement shall be deemed approval of the physical condition of the Property for all purposes and the waiver of any right to cancel based on any inspection rights and/or the condition of the Property.

Inspection Indemnity. In connection with any due diligence, inspection, visit and/or investigation of the Property by prospective purchasers, Bidders and/or Winning Bidders or any person/entity on their behalf (the "Inspectors"), the Bidders shall (1) ensure that the Inspectors keep the Property free and clear of liens, (2) ensure that the Inspectors repair all damage arising from such inspection, and (3) indemnify, defend and hold Seller and Auctioneer harmless from all liability, claims, demands, damages and/or costs directly or indirectly arising therefrom. Inspectors shall carry, or require anyone acting on Inspector's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller and Auctioneer from liability for any injuries to persons or property occurring during any inspection prior to close of the transaction.

Documents. Prospective Bidders are strongly advised to visit regularly the Auction website at [www.zetabid.com](http://www.zetabid.com) in order to thoroughly review with your attorney (a) the Purchase Agreement, (b) all disclosure documentation (if any) (c) other pertinent information (if any) and (d) any changes made prior to the Auction Event.

Exclusion/Disclaimer of Warranty. Auctioneer makes no representation or warranty as to the accuracy or completeness of any information regarding the Property, including but not limited to information contained on-line at the Auction website, in any Auction advertising, in the Auction brochure or in the Property Information Packages available at the Property and/or the Auction Event.

By registering as a Bidder and bidding at the Auction, each Bidder shall be deemed to represent, warrant and agree with respect to each Property it bids upon that (a) such Bidder has inspected the Property and is familiar and satisfied with the physical condition thereof and has conducted such investigation of the Property as the Bidder has determined appropriate, (b) neither Auctioneer nor Seller, nor any affiliate, agent, officer, employee or representative of either of them, has made any verbal or written representation, warranty, promise or guarantee whatsoever to the Bidder, expressed or implied, and in particular, that no such representations, warranties, guarantees, or promises have been made with respect to the physical condition, operation, or any other matter or thing affecting or related to the Property and/or the offering or sale of the Property, (c) Bidder has not relied upon any representation, warranty, guarantee or promise or upon any statement made or any information provided concerning the Property, including but not limited to information made available on-line at the Auction website, in Auction Advertising, in the Auction brochure, or in Property Information Packages provided or made available by Auctioneer or by Seller, or their respective agents, employees or representatives, (d) Bidder has made its bid after having relied solely on its own independent investigation, inspection, analysis, appraisal and evaluation of the Property and the facts and circumstances related thereto, (e) Bidder shall not misrepresent its ability to close the transaction pursuant to the terms and conditions of sale, (f) Bidder has the capacity to close the transaction, and (g) Bidder has actual authority to enter a bid and to enter into an agreement to purchase the Property.

Upon registering as a Bidder and bidding at the Auction, each Bidder shall also be deemed to represent, warrant and agree that (x) any information provided or to be provided by or on behalf of the Sellers with respect to the Properties including, without limitation, all information contained on-line at the Auction website, in Auction advertising, in the Auction brochure and in the Property Information Packages being made available to Bidder by Sellers and Auctioneer, was obtained from Seller and/or Seller's agents, and Auctioneer has not made any independent investigation or verification of such information, and makes no representations as to the accuracy or completeness of such information, (y) without limiting the generality of the foregoing, neither Auctioneer nor Sellers shall be under any obligation to disclose to any Bidder, and shall have no liability for its failure to disclose to any Bidder, any information known to them relating to any Property except as may be required by law, and (z) Sellers and Auctioneer are not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Properties, or the operation thereof, made or furnished by any real estate broker, agent, employee, or other person.

WITHOUT LIMITING ANY OTHER PROVISION OF THESE TERMS AND CONDITIONS OR THE PURCHASE AGREEMENT, ALL BIDDERS ACKNOWLEDGE AND AGREE THAT THEY ARE BIDDING FOR AND, IF THE WINNING BIDDER CONFIRMED BY THE SELLER, WILL ACQUIRE THE PROPERTY, INCLUDING THE IMPROVEMENTS CONSTRUCTED ON THE PROPERTY AND ALL APPLIANCES AND BUILDING SYSTEMS, IN ITS STATE AND CONDITION AS OF AUCTION DAY, WITH ALL DEFECTS, BOTH PATENT AND LATENT, INCLUDING THOSE LATENT DEFECTS KNOWN TO THE SELLER AND DISCLOSED BY THE SELLER TO THE BIDDERS, AND WITH ALL FAULTS, WHETHER KNOWN OR UNKNOWN, PRESENTLY EXISTING OR THAT MAY HEREAFTER ARISE. ALL PROSPECTIVE BIDDERS ACKNOWLEDGE AND AGREE THAT AUCTIONEER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATION, WARRANTY, PROMISE, COVENANT, AGREEMENT OR GUARANTY 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 THE PROPERTY, INCLUDING WITHOUT LIMITATION: (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY; (B) THE INCOME TO BE DERIVED FROM THE PROPERTY; (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL PURPOSES, ACTIVITIES AND USES WHICH BIDDER 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; (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY; (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY; (H) THE EXISTENCE OF ANY VIEW FROM THE PROPERTY OR THAT ANY EXISTING VIEW WILL NOT BE OBSTRUCTED IN THE FUTURE; (I) ANY OTHER MATTER WITH

RESPECT TO THE PROPERTY, (J) THE STRUCTURAL INTEGRITY OF ANY IMPROVEMENTS ON THE PROPERTY, (K) THE CONFORMITY OF THE IMPROVEMENTS TO ANY PLANS OR SPECIFICATIONS FOR THE PROPERTY THAT MAY BE PROVIDED TO BIDDER, (L) THE CONFORMITY OF THE PROPERTY TO APPLICABLE ZONING OR BUILDING CODE REQUIREMENTS, (M) THE EXISTENCE OF SOIL INSTABILITY, PAST SOIL REPAIRS, SUSCEPTIBILITY TO LANDSLIDES, SUFFICIENCY OF UNDER-SHORING, SUFFICIENCY OF DRAINAGE, OR ANY OTHER MATTER AFFECTING THE STABILITY OR INTEGRITY OF THE LAND OR ANY BUILDINGS OR IMPROVEMENTS SITUATED THEREON, (N) WHETHER THE PROPERTY IS LOCATED IN A CRITICAL DUNES AREA, OR A SPECIAL FLOOD HAZARD ZONE OR INCLUDES WETLANDS OR (O) THE PRESENCE OF TERMITES OR OTHER PESTS AND ANY DAMAGE TO THE PROPERTY AND/OR ITS IMPROVEMENTS THAT MAY HAVE OCCURRED AS A RESULT. BIDDER ACKNOWLEDGES THAT THE PROPERTY AND ITS IMPROVEMENTS MAY NOT BE IN COMPLIANCE WITH APPLICABLE ZONING, BUILDING, HEALTH OR OTHER LAWS OR CODES, AND NEITHER SELLER, AUCTIONEER NOR ANY OF THEIR RESPECTIVE REPRESENTATIVES OR AGENTS HAS OCCUPIED THE PROPERTY AND THAT THE PROPERTY MAY NOT BE IN HABITABLE CONDITION. ALL PROSPECTIVE BIDDERS FURTHER ACKNOWLEDGE AND AGREE THAT, WITHOUT LIMITATION, SELLER AND AUCTIONEER HAVE NOT MADE, DO NOT MAKE, AND SPECIFICALLY DISCLAIM ANY REPRESENTATIONS REGARDING COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OR WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS OR THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTIES, OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, AND REGULATIONS PROMULGATED THEREUNDER. EACH PROSPECTIVE BIDDER AND ANYONE CLAIMING BY, THROUGH OR UNDER THE SAME HEREBY FULLY AND IRREVOCABLY RELEASE SELLERS AND AUCTIONEER, AND THEIR RESPECTIVE AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND AGENTS, FROM ANY AND ALL CLAIMS THAT HE/SHE/IT OR THEY MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST SELLERS AND/OR AUCTIONEER, AND/OR THEIR RESPECTIVE AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND AGENTS, FOR ANY COST, LOSS, LIABILITY, DAMAGE, EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION ARISING FROM OR RELATING TO THE CONDUCT OF THE AUCTION AND/OR THE CONDITION OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY CONSTRUCTION DEFECTS, ERRORS, OMISSIONS OR OTHER CONDITIONS, INCLUDING BUT NOT LIMITED TO ENVIRONMENTAL MATTERS, AFFECTING THE PROPERTY, OR ANY PORTION THEREOF. THIS RELEASE INCLUDES CLAIMS OF WHICH PROSPECTIVE BIDDER IS PRESENTLY UNAWARE OR DOES NOT PRESENTLY SUSPECT TO EXIST IN HIS/HER/ITS FAVOR WHICH, IF KNOWN BY PROSPECTIVE BIDDER, WOULD MATERIALLY AFFECT PROSPECTIVE BIDDER'S

RELEASE OF SELLERS AND AUCTIONEER. EACH PROSPECTIVE BIDDER SHOULD CONSIDER THESE MATTERS WHEN REGISTERING AS A BIDDER AND BEFORE PLACING BIDS.

Property Conveyance. All Properties are to be conveyed by Seller to the Winning Bidder, if confirmed by Seller, at closing, and each such Winning Bidder will receive at closing a owner's policy of title insurance insuring Winning Bidder for the amount of the purchase price, subject to current taxes and assessments, easements, rights of way and other conditions of record, and any exceptions listed in the Preliminary Title Report for the Property and other standard title policy exclusions.

### **3. PRE-AUCTION OFFERS AND PROXY OFFERS**

Pre-Auction Offers. Properties offered for sale at a scheduled auction also may be available for pre-auction offers at the published listing price posted on [www.zetabid.com](http://www.zetabid.com). You may submit an offer through your agent (send to [auctionoffers@zetabid.com](mailto:auctionoffers@zetabid.com)) or click on the "Bid On This Property Now" button to start the process. Offers always remain subject to Seller confirmation and require full compliance with all other terms and conditions applicable to offers hereunder, including but not limited to items 1 through 6 below that are required for a Valid Proxy Offer. The pre-auction offer period concludes eight (8) days prior to the first day of the Auction Event at which the Property is to be offered for sale at auction, and thereafter offers may only be made in accordance with the auction event bidding methods contained in Section 4 or by Proxy Offer (see below paragraph).

Proxy Offers. If you cannot attend the auction or the live webcast to bid, you or your agent may submit a valid offer to be considered as a proxy offer which will be entered on your behalf at the Auction Event. All proxy offers will be deemed to **include** the 5% buyer's premium described in Section 4 of these Terms and Conditions. Thus, the actual bid entered by the Auctioneer on behalf of the Proxy Bidder at the Auction Event will be equal to the total amount of the proxy offer **less** that portion of the proxy offer constituting the 5% buyer's premium. To determine the amount of the Auction Event bid, the Auctioneer will divide the proxy offer by 1.05.

For example, if Proxy Bidder submits a proxy offer of \$100,000, the Auctioneer will submit a bid at the Auction Event in the amount of \$95,238 (\$100,000 divided by 1.05). The \$100,000 shall thus be allocated as \$95,238 as the offer price for the Property, plus the 5% buyer's premium of \$4,762.

A Valid Proxy Offer shall consist of:

1) A **fully completed and executed purchase offer** (made, without contingencies, on the Standard form of Residential Purchase and Sale Agreement and Joint Escrow Instructions for the Auction, which may be viewed at [www.zetabid.com](http://www.zetabid.com) on the detail page for the subject Property); the offer form must be completed by (a) including the total amount you are willing to offer, including the 5% buyer's premium,

and (b) providing for an earnest money deposit equal to 5% of the total proxy offer, and (c) providing a Seller's Acceptance Date which, shall be no earlier than 10 days after the Auction date.

2) A five percent earnest money deposit payable by a personal check made payable to escrow agent. If the offer is not accepted, all funds deposited shall be returned as soon as commercially practicable following the Seller's rejection of the offer, or Seller's failure to accept by Seller's Acceptance Date.

3) Lender pre-approval letter confirming your approval for financing at a purchase price equal or greater than your offer price. Lender approval letter must be from a direct lender dated within 30 days of offer date. Prequalification letters from a loan broker are not acceptable. There is no financing contingency for any transaction except those being financed by a designated auction lender.

4) On your offer form, you will be required to waive any appraisal or physical inspection rights and all other contingencies (except in the case of occupied properties as described above in Section 2).

5) Bidder must be registered for the Auction and must have agreed in writing to these Terms and Conditions.

6) Bidder also agrees to execute and deliver such other documents and to take such other action as may be necessary to carry out the intent of the Purchase Agreement.

If your offer is deemed not to be a Valid Proxy Offer or is otherwise rejected for failure to comply with the applicable requirements, you will be notified to resubmit your offer or your deposit money will be returned.

Please note that each Seller has the right to remove its Property or Properties from the Auction Event at any time, either before or after bidding has been completed. In the event a Property is removed after bidding has been completed, the Winning Bidder's sole remedy shall be the refund of all sums actually paid as Earnest Money Deposit and/or the Total Purchase Price actually paid. Neither Seller nor Auctioneer shall have any further obligation whatsoever to any Bidder in respect of any Properties withdrawn by any Seller as described in this section.

#### **4. BIDDING AT THE AUCTION**

Reserve Price. ALL PROPERTIES HAVE A RESERVE PRICE, meaning the Seller of each Property has established an unpublished, minimum selling price. By participating in the Auction, you agree and acknowledge that the "starting bid" or the "listing price" may not be the Reserve Price. In order to become the Winning Bidder for a Property, a Bidder must meet or exceed the Reserve Price and have the highest bid and the Seller must confirm that bid by executing the Purchase Agreement. The Auctioneer reserves

the right to place bids on behalf of the Seller. If no Bidders meet the Reserve Price, the Seller is under no obligation to entertain any offer for the Property; however, each Seller has the right to entertain and accept an offer from a High Bidder whose bid is lower than the Reserve Price. Auctioneer reserves the right to reject any bid that is only a minimal increase over the preceding bid, that is not commensurate with the value of the item being offered or that Auctioneer believes was made illegally or in bad faith. In the event of a dispute among bidders, Auctioneer may, in its sole discretion, either accept what it deems to be the final bid or solicit further bids on the Property in dispute. In the event of any dispute concerning the high bid price for a Property, the record kept by Auctioneer shall control. The Seller may withdraw a Property at any time prior to the completion of the sale.

Subject to Confirmation. All High Bidders acknowledge and agree that High Bidder's right to purchase a Property is subject to, and contingent upon, the Seller approving the purchase, which shall typically be given or denied in Seller's sole and absolute discretion within ten (10) days following the High Bidder's execution and delivery of the Purchase Agreement. Auctioneer shall have no liability to any Bidder if the Seller has not responded within such ten day period. Until the Purchase Agreement is mutually accepted, no party shall be bound to purchase or sell the Property. High Bidder will receive a refund of monies deposited in the event Seller or Buyer chooses to cancel the transaction prior to mutual acceptance. Sales at auction are never final until Seller's acceptance of the contract is communicated to Buyer in writing.

No Agency. Auctioneer is not acting as an agent for any Bidder in any capacity.

**Notice: The amount or rate of real estate commissions is not fixed by law. They are set by each broker individually and may be negotiable between the seller and broker.**

Buyer's Premium. The total purchase price will include a buyer's premium equal to five percent (5%) of the highest amount bid by the High Bidder. Therefore, the actual total purchase price on the Auction day (and at the closing), if accepted by Seller, shall be equal to the highest amount bid by the High Bidder plus five percent (5%) ("Total Purchase Price"). The Total Purchase Price does not include other amounts payable by the Buyer in connection with closing, such as escrow/closing fees, property taxes, insurance, and costs of obtaining financing. **FOR CERTAIN SELLERS, THERE IS A MINIMUM BUYER'S PREMIUM OF \$2,500.00.**

The buyer's premium is not a real estate commission; it is the fee that Auctioneer charges to Bidders for bringing the Property to auction. Any applicable real estate commissions will be determined separately in escrow. The Auctioneer is not involved in any way in connection with the closing of any real property transaction and all such functions will be handled exclusively by third party real estate brokerage professionals and/or escrow agencies.

## Methods of Bidding.

### Onsite.

The bidder card given to you at the outset of the Auction upon qualifying as a Bidder shall be used by you during the Auction to bid on Properties. Before a Bidder can offer to purchase a particular Property at the Auction, the Bidder must be recognized and announced by the Auctioneer as the High Bidder. High Bidder shall immediately thereafter sign the High Bidder Confirmation Form and will be escorted to the contract writing area. If a High Bidder refuses to execute the High Bidder Confirmation Form and/or to enter the contract writing area within ten (10) minutes of Auctioneer's announcement of the high bid, then Auctioneer or Seller can declare the High Bidder to be in default. In such event, the High Bidder's bid shall be deemed revoked, and Auctioneer and Seller shall have no liability or obligation to that Bidder. Furthermore, Auctioneer reserves the right to immediately put the Property back up for sale at the Auction. In the contract writing area, High Bidder will be presented with the completed Purchase Agreement, which will include the Total Purchase Price, and other applicable closing documents. High Bidder must agree to be bound by all terms, provisions and conditions of the Purchase Agreement and the related conveyance and loan documents, if any, for each particular Property. As between Winning Bidder and Seller after Seller's acceptance of a High Bidder's offer, the Purchase Agreement supersedes any and all other documents or information (including without limitation these Terms and Conditions) and serves as the governing document for the sale of each Property. If you are an investor and wish to continue to bid on other properties before entering the contract area please register as a VIP investor (see below). No Winning Bidder may continue to bid on subsequent properties without first executing the purchase contract and delivering the earnest money deposit unless pre-registered as a VIP investor.

### Online.

Webcast bidding instructions will be provided upon registration and will provide detailed explanations on how to bid at the webcast. When you register to bid online at the webcast, a \$2,500.00 credit card authorization will be taken in lieu of the \$5,000.00 cashier's check typically presented onsite at the Auction Event. If you are not the High Bidder, the \$2,500.00 credit card authorization shall be released as soon as reasonably possible by the Auctioneer. If you are the High Bidder you will be expected to confirm by email the High Bidder Confirmation Form within ten (10) minutes of Auctioneer's announcement of the high bid or Auctioneer or Seller can declare the High Bidder to be in default. In such event, the High Bidder's bid shall be deemed revoked and Auctioneer and Seller shall have no liability or obligation to that Bidder. Furthermore, Auctioneer reserves the right to immediately put the Property back up for sale at the Auction.

If you are an Online Bidder and are announced by Auctioneer as the High Bidder, you will be transferred via telephone immediately to the onsite closing staff for instructions on contracts and financing. Contracts will be sent via overnight mail with prepaid return envelopes for immediate return within 48 hours of the auction or your offer will be deemed withdrawn.

Auctioneer encourages online bidding for those who absolutely cannot attend in person, but is in no way responsible for technical issues which could impede your ability to bid on any properties. AUCTIONEER DOES NOT WARRANT THAT THE WEBSITE OR ITS WEBCAST SERVICES, INCLUDING WITHOUT LIMITATION ANY THIRD-PARTY SOFTWARE, PRODUCTS OR OTHER MATERIALS USED IN CONNECTION WITH THE WEBSITE, WILL BE TIMELY, SECURE, UNINTERRUPTED OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. Attending in person is the best way to participate in an auction.

Proxy.

The procedure for bidding by Proxy Offer is described in Section 3 above.

Payment of Deposit and Remaining Balance. Upon executing the Purchase Agreement, as its initial Earnest Money Deposit, High Bidder shall be required to pay the greater of (a) five percent (5%) of the Total Purchase Price or (b) Five Thousand Dollars (\$5,000.00). The first Five Thousand Dollars (\$5,000.00) of the Earnest Money Deposit must be paid by Cashier's Check (made payable to you) NO CASH or CREDIT CARDS. High Bidders must have in their possession a Cashier's Check (made payable to you), in the amount of Five Thousand Dollars (\$5,000.00) for each Property they intend to purchase (i.e., multiple buyers require multiple Cashier's Checks). Any Earnest Money Deposit owed above the initial Five Thousand Dollars (\$5,000.00) may be paid by personal check or corporate check. All monies will be immediately deposited with an escrow agent or closing attorney at the Auction. High Bidders who submit their offers online will be required to make all such payments to the escrow agent within forty-eight (48) hours following the conclusion of the Auction Event. The balance of the Total Purchase Price, along with all other costs and/or fees, must be paid as required in the Purchase Agreement.

Closing. All sales shall close through the designated escrow company no later than thirty (30) days from Seller acceptance (or, in the case of an Occupied Property only, no later than thirty (30) days after the expiration of the Bidder's inspection period following Seller's Notification to Buyer of Vacancy), unless extended (see Extensions below) and/or unless otherwise specifically designated in the description of an individual Property. Actual scheduled closing dates will be set by the escrow company or closing attorney, but will generally be no later than thirty (30) days after the date of the Auction. Winning Bidders shall be required to pay customary and normal closing costs, including, but not limited to, closing/escrow fees, recording fees, pro-rations of property taxes and assessments, lender's title insurance premium and fees, loan fees, document

preparation fees, all documentary transfer taxes customarily paid by buyers, and Homeowner's Association fees and assessments, if applicable.

Cancellation/Damages. If Winning Bidder fails to comply with any of the foregoing, or subsequently defaults under the Purchase Agreement after it has been accepted by Seller, the sale may be canceled by the Seller and the Buyer shall be liable for damages as set forth in the Purchase Agreement.

Extensions. In certain cases, the Seller may grant extensions of the closing date pursuant to the Purchase Agreement or as otherwise negotiated between Seller and Buyer.

Vesting. High Bidders that intend to take title in the name of an entity (not an individual person) must provide, at the Auction, the following entity formation documents (this is not an all-inclusive list and escrow/title agent or closing attorney may require additional documentation prior to closing).

1. For Corporations provide:
  - a. Articles of Incorporation;
  - b. By-laws; and
  - c. Resolution authorizing the Corporation to purchase the Property and the party signing the Purchase Agreement to act on behalf of Corporation in this transaction.
  
2. For Limited Liability Companies ("LLC") provide:
  - a. Articles of Organization;
  - b. Operating Agreement; and
  - c. Resolution authorizing the LLC to purchase the Property and the party signing Purchase Agreement to act on behalf of LLC in this transaction.
  
3. For Trusts, provide Declaration of Trust and evidence that party signing contract is Trustee of the Trust and is authorized to sign on behalf of the Trust.
  
4. For Partnerships, provide Partnership Agreement evidencing the authority of party signing contract to sign on behalf of the Partnership.

NOTE: Practices that eliminate competition, such as collusive bidding, may result in criminal, civil, and/or administrative action against the participants.

## **5. FINANCING YOUR PURCHASE**

Third party designated auction lenders will be available at the Auction to provide financing, subject to credit approval, satisfaction of the lender's requirements and execution of all documentation acceptable to High Bidder and the lender. Third party designated auction lenders will be available as an accommodation only; the fact that such third party designated auction lenders are available at the Auction Event does not

constitute an endorsement by Auctioneer of such lenders, their services or their products. Such lenders may not be willing to provide financing on all Properties due to a particular Property's physical condition or for any other reason. Potential financing information will be made available on-line or by calling those designated lenders. We highly recommend that you prequalify for any necessary financing to expedite the closing process. FOR CERTAIN SELLERS ONLY, High Bidders who apply, but do not qualify, for financing through such designated third party lenders (subject to the specifics of the financing contingency contract language included in the Purchase Agreement and Addendum) will receive a refund of their Earnest Money Deposit and the sale will be immediately cancelled and Seller will have no further obligation to High Bidder. All loans financed by designated third party lenders shall be secured by a first priority mortgage on the Property. Lenders may charge loan origination fees and other fees and costs for which you will be responsible. Availability of loan programs on selected Properties may be limited and may require a greater down payment. We encourage you to contact the Auction designated lenders for pre-qualification procedures and/or current rates or fees. You are not required to fund your loan with an auction designated lender. Please review the exact contract language in the Purchase Agreement and Addendum for conditions and restrictions.

If a High Bidder desires to use other third-party financing (financing other than through designated lenders present at the Auction Event), then the sale will not be contingent upon financing, nor will the closing be extended for that purpose. High Bidders choosing to use such third-party financing must present at the Auction a written, unconditional lending commitment from their lender of choice, in the minimum of the full amount they intend to finance. High Bidders who do not wish to apply for financing through Auction designated lenders, must still fill out an authorization with such designated lender to confirm the credit status of such High Bidder. All High Bidders are deemed to irrevocably consent to and authorize the lender and their agents, and/or any other third party to the purchase transaction, to obtain any type of credit report of Buyer's history at the Auction or at any time prior to the closing of the transaction.

High Bidders intending to use cash to complete their purchase must provide Seller, on the Auction day, with proof of sufficient funds to cover the entire transaction (i.e. bank statement and/or investment statement for stocks/bonds).

If you are bidding online, your credit information will be taken over the telephone by the designated lender immediately after you speak with the contracts team.

## **6. BROKER PARTICIPATION**

We invite broker participation. A two percent (2%) commission, based on the winning bid price, will be paid by Seller (or listing broker) to brokers representing a Winning Bidder and licensed in the state in which the Property is located, who have completed all of the following steps, and whose client(s) successfully purchase the Property and close the transaction.

To qualify for a commission when representing a Bidder at the Auction Event, a broker must:

1. Be named as the Bidder's broker when they register either online or onsite;
2. Inspect the Property with your client;
3. Be present at the Auction (or have your designated representative present) with your client. Broker and/or its representative must accompany and remain with their client throughout the entire bidding and purchase process.

To qualify for a commission when representing an online Bidder via webcast, you must:

1. Be named as Bidder's broker on the registration form; and
2. Inspect the Property with your client.

To qualify for a commission when representing a Proxy Bidder you must:

1. Submit the valid offer along with your name and firm referenced as the Bidder's broker on the Purchase Agreement and provide the standard Michigan Disclosure Regarding Real Estate Relationships signed by buyer; and
2. Inspect the Property with your client.

You must bring a copy of your valid real estate license from the jurisdiction where the Property is located. Commissions will be paid upon closing.

There are no exceptions to the above broker participation rules.

Commissions shall not be paid on the amount of the buyer's premium and are based solely on the winning bid price.

Commissions shall not be paid to any broker acting as a principal in a transaction.

## **7. ARBITRATION OF DISPUTES**

**BY BIDDING AT THE AUCTION, WHETHER IN PERSON, ON-LINE, OR BY PROXY, EACH BIDDER ACKNOWLEDGES AND AGREES IRREVOCABLY THAT ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS AND/OR THE AUCTION, WITH THE EXCEPTION OF THOSE CONTROVERSIES OR CLAIMS SPECIFICALLY EXCLUDED BELOW, SHALL BE SETTLED BY BINDING ARBITRATION HELD IN LOS ANGELES COUNTY,**

CALIFORNIA BEFORE A RETIRED JUDGE OR JUSTICE IN ACCORDANCE WITH THE AMERICAN ARBITRATION ASSOCIATION (“AAA”) COMMERCIAL ARBITRATION RULES (“AAA RULES”), AND, WHERE APPROPRIATE, THE AAA’S SUPPLEMENTARY PROCEDURES FOR CONSUMER RELATED DISPUTES (“AAA CONSUMER RULES”). IF AUCTIONEER AND BIDDER ARE UNABLE TO AGREE ON A RETIRED JUDGE OR JUSTICE, EACH PARTY WILL NAME A RETIRED JUDGE OR JUSTICE AND THE TWO NAMED PERSONS WILL SELECT A NEUTRAL JUDGE OR JUSTICE WHO WILL ACT AS THE SOLE ARBITRATOR. THE PREVAILING PARTY IN ANY ARBITRATION OR OTHER COURT PROCEEDING SHALL BE AWARDED ITS REASONABLE COSTS AND ATTORNEYS’ FEES INCURRED IN CONNECTION WITH THE DISPUTE. THE ARBITRATION AWARD SHALL BE FINAL AND BINDING ON THE PARTIES, AND JUDGMENT ON THE AWARD MAY BE ENTERED BY ANY COURT OF COMPETENT JURISDICTION. THE DETERMINATION OF WHETHER A DISPUTE IS SUBJECT TO ARBITRATION SHALL BE GOVERNED BY THE FEDERAL ARBITRATION ACT AND DETERMINED BY A COURT RATHER THAN AN ARBITRATOR. YOUR ARBITRATION FEES AND YOUR SHARE OF ARBITRATOR COMPENSATION SHALL BE GOVERNED BY THE AAA RULES AND, WHERE APPROPRIATE, LIMITED BY THE AAA CONSUMER RULES.

ANY ARBITRATION SHALL BE LIMITED TO THE DISPUTE BETWEEN AUCTIONEER AND BIDDER INDIVIDUALLY. TO THE FULL EXTENT PERMITTED BY LAW, (1) NO ARBITRATION SHALL BE JOINED WITH ANY OTHER; (2) THERE IS NO RIGHT OR AUTHORITY FOR ANY DISPUTE TO BE ARBITRATED ON A CLASS-ACTION BASIS OR TO UTILIZE CLASS ACTION PROCEDURES; AND (3) THERE IS NO RIGHT OR AUTHORITY FOR ANY DISPUTE TO BE BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC OR ANY OTHER PERSONS.

THE FOLLOWING DISPUTES ARE NOT SUBJECT TO THIS BINDING ARBITRATION PROVISION: (1) ANY DISPUTES SEEKING TO ENFORCE OR PROTECT, OR CONCERNING THE VALIDITY OF, ANY OF YOUR OR AUCTIONEER’S INTELLECTUAL PROPERTY RIGHTS; (2) ANY DISPUTE RELATED, OR ARISING FROM, ALLEGATIONS OF INVASION OF PRIVACY OR UNAUTHORIZED USE; (3) ANY CLAIM FOR INJUNCTIVE RELIEF; AND (4) ANY CLAIM UNDER THE PURCHASE AGREEMENT.

WITH RESPECT TO DISCOVERY IN ANY ARBITRATION PROCEEDING, NO MORE THAN 45 CALENDAR DAYS BEFORE THE ARBITRATION, A PARTY MAY SERVE A DOCUMENT REQUEST CALLING FOR ANY DOCUMENT THAT WOULD BE DISCOVERABLE IN CIVIL LITIGATION PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE. THE PARTY SERVED WITH THIS REQUEST SHALL DELIVER THE REQUESTED DOCUMENTS AND ANY OBJECTIONS WITHIN 15 BUSINESS DAYS. THE ARBITRATOR MAY RESOLVE ANY DISPUTE OVER THE EXCHANGE OF DOCUMENTS. THEREAFTER, EACH PARTY MAY TAKE NO MORE THAN FOUR DEPOSITIONS, WHICH SHALL LAST NO MORE THAN SIX

**HOURS EACH. THE ARBITRATOR MAY RESOLVE ANY DISPUTE OVER DISCOVERY AS SUCH DISPUTE WOULD BE RESOLVED IN CIVIL LITIGATION PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE.**

**BY AGREEING TO HAVE ANY DISPUTE THAT IS SUBJECT TO THIS "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW, YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL, AS WELL AS YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, EXCEPT TO THE EXTENT THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE.**

## **8. GENERAL AUCTION INFORMATION**

Auctioneer reserves the right to deny any person admittance to or to expel anyone from the Auction site for interference with the Auction activities, nuisance, canvassing, solicitation, or any other reason. Auctioneer has the right to postpone or cancel the Auction at any time, with or without advance notice, and to change any terms of the Auction or particular conditions of the Auction upon announcement prior to or during the course of the Auction. Seller and Auctioneer have the right to withdraw any Property from the Auction at any time, with or without advance notice.

Announcements made by the Auctioneer or its announcer at the Auction shall supersede and take precedence over all prior oral or written terms and conditions – including these Terms and Conditions. The Auctioneer may rearrange the order or sequence of the Auction, modify the Auction Terms and Conditions, reject any or all bids and/or advance the bidding. In the event of a dispute among Bidders, the Auctioneer shall make the sole and final decision to either accept the high bid or to re-offer and resell the Property in dispute.

Each attendee of the Auction shall be deemed to have consented to the issuance of press releases and other public communications by Seller, Auctioneer or their agents regarding the Auction and the Properties offered or sold at the Auction.

Neither Auctioneer nor Seller shall be liable for any damages of any type or nature (whether in contract, tort or otherwise) sustained or claimed by any Bidder or any other person or entity in connection with the Auction and/or the sale of any Property. Without limiting the foregoing, in no event shall Auctioneer's liability to any Bidder for any act or omission occurring in connection with the Auction exceed the amount that such Bidder has actually paid to Auctioneer as a deposit or as payment for a particular Property.

The respective rights and obligations of the parties with respect to these Auction Terms and Conditions and the conduct of the Auction shall be governed by, interpreted and enforced under the laws of the state in which the auction is held. Upon execution of the

Purchase Agreement, all rights and remedies with respect to the Property covered by such Purchase Agreement shall be governed by such Purchase Agreement. In the event of any dispute arising between Auctioneer and any Bidder, whether or not subject to arbitration pursuant to Section 7 above, the prevailing party will be awarded its reasonable costs and attorneys' fees.

Offers made at the Auction are void where prohibited by law. Any information on any website, in any brochure, e-mail or postcard and any and all information available regarding the Properties shall not constitute an offer to sell or a solicitation of any offer to buy any of the Properties referenced herein. In addition, and without limiting the foregoing, any website, advertisement or brochure shall not constitute an offer to sell or a solicitation of any offer to buy nor shall there be any sales of any of the Properties in any state in which such offer, solicitation, or sale would be unlawful.

These Terms and Conditions, together with any additional terms and conditions specific to a particular auction (which are incorporated herein by reference and can be found through one or more links on the detail page for the auction in question), constitute the entire agreement between Auctioneer and Bidder regarding its subject matter and supersede and replace any and all prior or contemporaneous agreements between the parties regarding such subject matter. If any provision of these Terms and Conditions is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be enforced to the maximum extent permissible so as to affect the intent of these Terms, and the remainder of this Agreement shall continue in full force and effect.