

## Auction Terms and Conditions 2020

### ONLINE AUCTION

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"). The Auction is presented by Zetabid, Inc. on their auction platform Zetabid.com (the "Website") (collectively referred to as "Zetabid.") As used in these Terms and Conditions, "Auctioneer" shall mean Zetabid. Prospective purchasers who register in accordance with these Terms and Conditions will be deemed "Bidders" at the Auction. As used herein, the terms "Zetabid", "Auctioneer", "Seller" and "Bidder" shall also refer to their respective principals, agents and affiliates. All Properties are listed by a real estate broker licensed in the state where the Property is located ("Listing Broker") whose name and license number is listed on the respective property page for the Auction on the Website (the "Property Page").

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 and on the individual Property Page. By participating in this Auction, you consent to be bound by these Terms and Conditions, those listed on the Property Page as well as by any additional terms that may be imposed by the Seller or announced prior to or at the Auction by Auctioneer. 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 (collectively, the "Purchase Agreement"), a copy of which will be available for inspection on the respective Property Page. The executed Purchase Agreement must include the specific sales terms that will be included on the Property Page. 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.

UNLESS OTHERWISE STATED ON THE PROPERTY PAGE, 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 OR BID MADE AT THE AUCTION EVENT SHALL BE DEEMED ACCEPTED UNTIL AND UNLESS SELLER HAS COMMUNICATED ITS ACCEPTANCE TO THE HIGH BIDDER BY EXECUTING A PURCHASE AGREEMENT (PURSUANT TO STATE REAL ESTATE LAW), IN WHICH CASE A BINDING CONTRACT WILL BE CREATED.

ALL OFFERS ARE SUBJECT TO INCLUSION OF A BUYER'S PREMIUM AS DEFINED IN SECTION 4.

## **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 the specific property page at [www.zetabid.com](http://www.zetabid.com) and click the Register to Bid button to fill out the on-line Registration Form. 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. 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. By registering, Bidder authorizes Auctioneer and/or listing broker to contact Bidder and opts into said communication whether by phone, fax or email.

Where noted on the Property Page, additional steps may be required to bid beyond general registration. The first may be the requirement to place a bid deposit ("Bid Deposit") either via a credit card hold or via wire to an independent escrow firm along with a Deposit Agreement to be provided when initial registration is complete. The second requirement may be Bidder providing a proof of funds demonstrating its ability to purchase the asset. Auctioneer and/or Seller may set a Bidder's maximum bid limit based on Auctioneer's and/or Sellers sole discretion. Bidder will be notified of the approved bid limit. For properties eligible for financing, Bidders will be required to show a pre-approval letter from a direct lender for the amount Bidder intends to finance AND proof of funds for down payment. Auctioneer or Seller may approve or deny a bid permission amount in its sole discretion. Auctioneer or Seller may apply different criteria to different bidders at its sole discretion (examples being prior history or reputation of Bidders).

## **2. DUE DILIGENCE**

See Property Page for inspection contingency information. Inspection contingencies are typically provided in the purchase contract (unlike a regular sale), but you should view the property before bidding. Inspection periods are stated on the auction detail page.

If no inspection contingency exists, Bidders must complete their due diligence and conduct any required investigations or reviews prior to bidding.

High Bidders shall represent, covenant, and warrant that they are offering to purchase the Property, relying solely on their independent due diligence, in its existing "AS-IS, WHERE IS, WITH ALL FAULTS" condition. Auctioneer shall NOT 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.

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 are liable for repair of all damage arising from such inspection, and (3) indemnify, defend and hold 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 Property Page on the Website in order to thoroughly review with your attorney (a) the form Purchase Agreement, (b) all disclosure documentation (if any) (c) other pertinent information including sales terms (if any) and (d) any changes made to (a), (b) or (c) prior to the Auction Event. All bids must be based on the terms set forth in such documents and each Winning Bidder shall accept all such terms.

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 on the Website and/or the Property Page, 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 and warrant (a) Bidder shall not misrepresent its ability to close the transaction pursuant to the terms and conditions of sale, (b) Bidder has the capacity to close the transaction, and (c) Bidder has actual authority to enter a bid and to enter into an agreement to purchase the Property.

WITHOUT LIMITING ANY OTHER PROVISION OF THESE TERMS AND CONDITIONS OR THE PURCHASE AGREEMENT, SUBJECT TO ANY RIGHT TO TERMINATE THE PURCHASE AGREEMENT BASED ON ITS TERMS AND CONDITIONS, 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 (EXCEPT AS NOTED AS EXCLUSIONS) 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.

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 an 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 Title Commitment for the Property and other standard title policy exclusions.

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

Pre-Auction Offers: Sellers of most properties also may be open for pre-auction offers as specifically noted on the Property Page. Please use the 'Pre-auction Offer' button on the website property page to submit your pre-auction offer which may be submitted by the Buyer or their Agent. Pre-auction offers always remain subject to Seller confirmation and require full compliance with all other terms and conditions including the inclusion of the Buyer Premium.

On certain assets, a 'Buy-It-Now' price may be displayed on the property detail page. A buyer may end the auction by submitting a pre-auction offer prior to the end of the auction at or above the Buy It Now price, or by submitting a pre-auction offer accepted by the Seller. If the current high bid is equal or greater to the Buy-It-Now price the auction will not end. All pre-auction offers must include proof of funds and mortgage pre-approval letter if not a cash purchase.

The pre-auction offer period concludes at the end of the Auction.

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 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 DURING THE AUCTION**

**Reserve Price:** Unless otherwise noted as "Absolute Auction" (Sold without minimum price): or "Minimum Bid Auction" (Sold without reserve subject to receipt of the Minimum Bid) 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. 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 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 Auction.

**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 be given or denied in Seller's sole and absolute discretion. Until the Purchase Agreement is mutually accepted, no party shall be bound to purchase or sell the Property.

**Breach. IF WINNING BIDDER DOES NOT EXECUTE A PURCHASE CONTRACT AT ITS WINNING BID PRICE OR BREACHES THESE AUCTION TERMS, THE BID DEPOSIT MAY BE RETAINED BY AUCTIONEER AND WINNING BID FORFITTED AND THE PROPERTY MAY BE IMMEDIATELY RESOLD TO ANOTHER BUYER. BIDDER ACKNOWLEDGES THAT THE ACTUAL DAMAGES FROM BREACH ARE DIFFICULT TO ESTIMATE AND BIDDER AGREES THAT THE FORFEIT OF THE BID DEPOSIT IS THE SOLE REMEDY OF AUCTIONEER FOR SAID DAMAGES. EARNEST MONEY DEPOSITS SHALL BE HANDLED SEPARATELY PURSUANT TO THE PURCHASE CONTRACT.**

**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 ("Buyer's Premium") equal to a percentage of the high bid amount as shown on the Property Detail page. Therefore, the actual total purchase price shall be equal to the high bid amount bid by the High Bidder plus the Buyer's Premium ("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.

**THERE IS A MINIMUM BUYER'S PREMIUM OF \$3,000 on all properties regardless of the percentage displayed.**

The actual Buyer's Premium is displayed on the Property Page. The Buyer Premium percentage will vary by Auction.

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 although all Winning Bidders consent to Auctioneer contacting closing companies to monitor the closing process and review all transaction documents.

### **Methods of Bidding:**

#### **Online:**

Once registered and confirmed by Auctioneer, simply enter your bid amount (on the auction webpage) and confirm the amounts on the bid detail page and your bid will be placed. Bid increments are set by the Auctioneer. You must bid above the current bid by a minimum of the bid increment PLUS the amount of the next lowest bid. The Buyer's Premium will be shown and added to your bid amount to illustrate the Purchase Price if Seller accepted that bid. You may add a maximum bid amount which will force other bidders to bid above your maximum bid to beat you with the system bidding on your behalf up to your maximum bid.

If you are the High Bidder, you will be contacted either in person, via telephone and/or email by the Auctioneer staff for instructions on contracts and financing. The Purchase Agreement and other contracts will be sent via email to be electronically signed via DocuSign. If not executed within 48 hours of the Auction your offer will be deemed withdrawn. Auctioneer 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 ONLINE BIDDING 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.

Payment of Deposit and Remaining Balance: Upon executing the Purchase Agreement, High Bidder shall be required to pay a sum to be set forth on the Property Page (the Earnest Money Deposit"). All monies will be immediately deposited with an escrow agent or closing attorney designated by Seller. 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 closing agent or attorney in a maximum time frame shown on the property detail page. Actual scheduled closing dates will be set by the escrow company or closing attorney, 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. Closing provisions shall be governed by the actual purchase contract. In certain states for residential transactions the Buyer may choose the title and closing agent.

## **5. BROKER PARTICIPATION**

We invite broker participation. A commission shown on the Property Page, based on the winning bid price, will be paid 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. Inspect the Property with your client.
2. Provide your license number to Auctioneer staff and Listing Broker.
3. Review (sign where required) the Purchase Agreement and with your client.

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 are paid at closing.

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

## **6. 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.**

## **7. GENERAL AUCTION INFORMATION**

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 (posted online or distributed via email) 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 as the Winning Bid or to re-offer and resell the Property in dispute.

Auctioneer shall not 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 property is located. 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. All bidding is open to the public without regard to race, age, sex, religion, national origin, handicap, marital status or sexual orientation