

## TERMS AND CONDITIONS

### Online Real Estate Auction

Please review this document carefully. In order to register and receive access to the interactive online bidding platform, a Bidder must accept and acknowledge these Terms and Conditions.

#### 1. AUCTION REGISTRATION:

Registration is required to become a qualified and eligible bidder ("Bidder") for the Auction. In order to become fully registered and eligible to bid, a prospective Bidder must:

- (a) Complete the bidder registration located on the website at [www.svnauctionworks.com](http://www.svnauctionworks.com);
- (b) Submit proof of funds to AuctionWorks ("Auctioneer");
- (c) Deposit with Auctioneer certified funds in the amount of \$5,000. Prospective bidders may choose to mail or deliver a \$5,000 cashier's check made payable to AuctionWorks or submit the funds through wire transfer. If you are not deemed the Winning Bidder, your certified funds will be refunded to you within two (2) business days after the close of the auction event; and
- (d) Fully accept and agree to these Auction Terms and Conditions.

The identity of all bidders will be verified. Bidding rights are provisional, and if complete verification is not possible, the seller will reject the bidder's registration.

#### 2. WINNING BID, TOTAL PURCHASE PRICE, EARNEST MONEY DEPOSIT, and PURCHASE AGREEMENT:

- (a) Within 48 hours of the close of the auction event, the Winning Bidder for the property will be required to execute, as Buyer ("Buyer"), the Real Estate Purchase Agreement and applicable Addendums, if any, ("Agreement") with no exceptions, and tender the earnest money deposit. No modifications to the form of the Agreement will be accepted. Failure to execute the Agreement in the form presented or to tender the earnest money deposit within 48 hours from the close of the auction event may result, at the Seller's option, in a voiding of the sale and resulting in the sale of the property to the next high bidder, or placement of the property back in the Auction. Winning Bidders not executing and returning their Agreement with earnest money deposit within 48 hours of receipt may be considered in default and subject to a \$1,000 Administrative Fee. All Administrative Fees are non-refundable. The required earnest money deposit shall be held in a trust account with the Seller's designated closing agent pursuant to the terms of the Agreement.
- (b) The Earnest Money Deposit shall be equal to 5% of the Total Purchase Price and is NON-REFUNDABLE.
- (c) The amount of (i) the Winning Bid AND (ii) 5% of the Winning Bid ("Buyer's Premium"), added together, will be the **Total Purchase Price** ("Total Purchase Price") for the Property to be purchased by the Buyer under the Agreement.

#### 3. CLOSING AND PAYMENT OF TOTAL PURCHASE PRICE:

- (a) The Closing date ("Closing") will be on or before September 26, 2014, unless extended by Seller.
- (b) The Total Purchase Price will be due and payable by Buyer at Closing with Cashier's Check from an F.D.I.C. insured institution in U.S. Funds (payable to the Seller) or by Wire Transfer of immediate funds, pursuant to instructions from the Settlement Agent. Buyer shall receive credit for the Earnest Money Deposit which shall be released from escrow and applied by the Settlement Agent towards the Total Purchase Price at Closing.
- (c) Time shall be of the essence as to all of Buyer's obligations. Any buyer not closing within the contractual time period to close may forfeit his / her earnest money. Please review the Seller's Sample Real Estate Purchase Agreement to determine closing requirements.
- (d) It is understood and agreed, when represented, that title to the property shall be insurable after closing and will be conveyed to the Buyer by Special Warranty Deed (the "Deed"). The acceptance of the Deed by Buyer shall constitute and be deemed and considered full compliance by the Seller of all the terms and conditions of the Agreement on the part of the Seller to be performed. It is further expressly agreed that none of the provisions of the Agreement shall survive the delivery and acceptance of the Deed, except insofar as may therein otherwise be expressly and specifically provided.
- (e) Buyer agrees that the Property is subject to all laws, ordinances, codes, rules and regulations of applicable governmental authorities pertaining to the ownership, use and occupancy of the Property including, but not limited to, zoning, land use, building codes, and agrees to take title subject to such matters, and the following permitted exceptions: (i) all covenants, restrictions, easements and agreements of record now on the Real Property; (ii) the state of facts which would be shown by a current survey or inspection of the Real Property; (iii) any matter created by or through Buyer; (iv) any title matters which Buyer has accepted or is deemed to have accepted as set forth in the Agreement; (v) such other items that will not make the Real Property unusable or unmarketable for the purposes for which it is currently used.

#### 4. BUYER'S NOTE:

- (a) The sale of the Property is an "All Cash" transaction and shall not be subject to any financing, other contingencies, or post Auction due diligence. Buyer will be solely responsible for making Buyer's own financial arrangements.
- (b) The Seller, Broker, Auctioneer and their representatives, attorneys, agents, and sub-agents, assume no liability for errors or omissions in this or any other property listing or advertising or promotional / publicity statements and material. The Seller, Broker, Auctioneer and their representatives, attorneys, agents and sub-agents, make no guarantee as to the accuracy of the information herein contained or in any other property listing or advertising or promotional / publicity statements and material. Neither Seller, nor Broker nor Auctioneer has any obligation to update this information. Neither Seller, nor Broker, nor Auctioneer nor their Agents and Sub-Agents, have any liability

whatsoever for any oral or written representations, warranties, or agreements relating to the Property (*including information appearing in advertisements or announcements / updates prior to the time of the Auction*) except as is expressly set forth in the Agreement.

(c) The Property is sold in its "AS IS" condition with all faults and limitations and no warranties expressed or implied. All Bidders are encouraged to inspect the Property prior to placing any bid and the Winning Bidder, as Buyer, acknowledges that he/she/it has had a reasonable opportunity to inspect and examine the condition of the Property and make inquiries of applicable governmental authorities pertaining to Buyer's proposed use of the Property prior to the Auction as Buyer has deemed necessary or desirable.

(d) Competitive bidding is an essential element of an Auction sale, and such a sale should be conducted fairly and openly with full and free opportunity for competition among bidders. Any conduct, artifice, agreement, or combination the purpose and effect of which is to stifle fair competition and chill the bidding, is against public policy and will cause the sale to be set aside. Collusion / Bid Rigging are a Federal Felony punishable by imprisonment and fine. Seller will report all illegal conduct to the F.B.I. and cooperate with any prosecution.

(e) The Seller in its absolute sole discretion reserves the right to amend, negotiate, modify, or add any terms and conditions to these Terms and Conditions and to announce such amendments, modifications, or additional terms and conditions on, during or before the Auction.

(f) Back-up bids will be recorded and received. Should the Property not close with the original winning bidder (Buyer), the Seller in its sole discretion will have the option to pursue back-up bids.

(g) Review of the Agreement (Sample Real Estate Purchase Agreement and applicable Addendums) before making any bids is strongly recommended. No modification to the form of the Agreement will be accepted, at Seller's sole discretion.

(h) The Property may be withdrawn at any time without notice and is subject to additional deletions and / or prior sales. All Pre Auction offers are encouraged and will be considered.

(i) The purchase is not contingent on obtaining financing or qualification.

#### **5. ANNOUNCEMENTS:**

All announcements and updates prior to the Auction will take precedence over all previously printed material and any other oral statements made. As a bidder it is your responsibility to know and understand all announcements / updates before the auction begins. In the event of a dispute over any matter, the Seller shall make the sole and final decision and will have the right either to accept or reject the final bid or reopen the bidding. Bidding increments and order of sale shall be at the sole discretion of the Seller.

#### **6. ONLINE BIDDING:**

The Auction is being conducted solely by Online Internet bidding via the Worldwide Web. All Interested bidders must obtain, fully complete and accept the proper forms as indicated in item 1 (a) and (b) above in order to receive your secure password and user ID with instructions allowing access to the online bidding platform.

#### **7. DEFAULT:**

If the Buyer fails to comply with any of these Terms and Conditions, or if the Closing shall not occur on or before May 8, 2014 because of the fault of Buyer, the Seller may retain the earnest money deposit and any required deposit(s) under the Agreement as liquidated damages and not as a penalty. By retaining the deposits, Seller does not waive any right or remedies it may have because of the Buyer's default. It is intended hereby that all of the rights and remedies of Seller available either pursuant to the terms of this Agreement, or under the law or otherwise, are cumulative and not exclusive of any other such right or remedy.

#### **8. REPRESENTATIONS:**

All information was derived from sources believed to be correct, but is not guaranteed. Bidders shall rely entirely on their own information, judgment, and inspection of the Property and records. Neither Seller, Broker, Auctioneer its Agents nor Sub-Agents makes any representation or warranties as to the accuracy or completeness of any information provided. All sizes, dimensions, drawings are approximations only.

#### **9. OFFICE OF FOREIGN ASSETS CONTROL (OFAC) COMPLIANCE:**

All bidders are subject to providing appropriate government identification that includes full legal name and date of birth. In addition, all bidders are subject to being required to disclose their place of birth. By providing this information bidders agree to allow Seller to perform a search of the Specially Designated Nationals List, Blocked Persons List and Sanctioned Country List provided by the United States Office of Foreign Assets Control. Seller reserves the right to reject any bidder from registration after this search has been completed. By registering all bidders agree to abide by all of these Terms and Conditions.

#### **10. BROKER PARTICIPATION:**

Two and one half percent (2.5%) of the Winning Bid amount will be paid to a qualified Licensed Real Estate Broker ("Broker") whose registered Buyer's offer is accepted by the Seller and closes on the Property, provided the Broker is not prohibited by law from being paid such commission. To qualify for a commission, the Broker must register their prospect at [www.svnauctionworks.com](http://www.svnauctionworks.com). This registration must be received by the close of business one day prior to the Auction. Commissions will be paid only after closing and Seller receipt of proceeds. Brokers are not required to attend the closing. If a cooperating Broker has not met all of these requirements, no commission will be paid to the cooperating Broker, even if the cooperating Broker's prospect purchases the Property. No oral registrations will be accepted. Under no circumstances whatsoever will any commission be paid if the sale does not close for any reason.

#### **11. RESERVE AUCTION SUBJECT TO SELLER CONFIRMATION:**

This is a reserve auction, subject to seller confirmation. The suggested opening bid is \$2,395,000. The seller has set an unpublished reserved price that is higher than the suggested opening bid. At the close of the auction event, the winning bid will be presented to Seller for confirmation. Within 48 hours, Seller will either accept, reject or counter the Winning Bid, depending on whether it meets or exceeds the seller's unpublished reserve price.

**12. BIDDING PROCESS:**

All bids are an irrevocable offer to buy and shall remain valid and enforceable until the Seller declares the property "Sold" and the auction has concluded. The bidder's number, secure password and user ID is nontransferable.

**13. BUYER EXCLUSION:**

No employee, affiliates, officers, or directors that are associated with the Seller may bid on the property in the auction or represent any Buyers at the auction.

**14. ENVIRONMENTAL DISCLAIMER:**

The Seller, Broker, Auctioneer, agents, and their agents, contractors and employees do not warrant or covenant with Buyer(s) with respect to the existence or nonexistence of any pollutants, contaminants, mold, or hazardous waste prohibited by federal, state or local law or claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration or escape of such substances at, from or into the premises. Buyer is to rely upon its' own environmental audit or examination of the premises.

**15. ACREAGE:**

All acreages are approximate. If there is a discrepancy between Seller or its representative and the actual acreage as determined by a surveyor, the price will not be adjusted. The statements, while not guaranteed, are from reliable sources. Any costs incurred in establishing boundaries shall be the responsibility of the Buyer. The sale is subject to easements, right-of-way, reservation and / or restrictions of record.

**16. ALL SALES ARE FINAL:**

By registering and bidding, the Buyer acknowledges they understand accept and agree to these Terms and Conditions. The Buyer acknowledges that they have read the Sample Real Estate Purchase Agreement and Addendum and the Terms and Conditions of the Auction Sale posted on the website and accept the Real Estate Purchase Agreement without any changes to the pre-printed text. The Buyer must sign the contract Addendum within 48 hours after the Auction concludes and deposit the required earnest money deposit as instructed. In the event a Winning Bidder fails to submit the signed Addendum and and earnest money deposit as stipulated in the Agreement, the Winning Bidder will be charged an Administrative Fee of \$1,000 on the credit card provided on the Bidder Registration Form. Additional default remedies are reserved by the Seller as provided in these Terms and Conditions. All administrative Fees are Non-Refundable.

**17. HOLD HARMLESS:**

Seller, Broker, and Auctioneer cannot, and will not, be held responsible for any interruption in service, errors, and / or omissions, caused by any means, therefore they cannot guarantee continual, uninterrupted or error free service as the website could be interfered with by means out of their control. Bidder acknowledges that the online auction is conducted electronically and relies on hardware and software that may malfunction without warning. The Seller may void any sale, temporarily suspend bidding and re-sell the Property that was affected by any malfunction. The decision of the Seller is final. Bidder agrees not to use any device, software or routine to interfere or attempt to interfere with the proper working of any transaction being conducted during the auction.

**ACKNOWLEDGMENT AND ACCEPTANCE:**

The Undersigned Bidder acknowledges receipt and copy of these Terms and Conditions, and having read and understood the provisions set forth therein, accepts same and agrees to be bound thereby. Facsimile and electronic signatures will be treated and considered as original.

\_\_\_\_\_  
Bidder's Signature or signed electronically

\_\_\_\_\_  
Date



## **CONTRACT FOR THE PURCHASE AND SALE OF REAL ESTATE**

The Effective Date of this Contract is the Date when fully executed by all Parties listed below:

1. I / We offer and agree to purchase \_\_\_\_\_ (“the Property”), the legal description for which is attached as Exhibit A.
2. In consideration of the Bid Price of \$ \_\_\_\_\_ plus a Buyer’s Premium of five percent (5%), which is equal to \$ \_\_\_\_\_, the Property is being sold for a Total Purchase Price equal to: \$ \_\_\_\_\_ (Bid Price plus Buyer’s Premium).
  - a. An earnest money deposit of \$ \_\_\_\_\_ (Initial Offer Deposit) payable to the escrow agent at the closing of this Property (“the Closing”) is presented by Buyer. The Initial Offer Deposit shall be applied against the Total Purchase Price at Closing. This Initial Offer Deposit must be in the form of a cashier’s check in U.S. Dollars from a U.S. Bank or via wire transfer made payable to SVN AuctionWorks (“Auctioneer”).
  - b. Buyer shall pay to escrow agent in cash the Total Purchase Price minus the amount of the Initial Offer Deposit at the time of Closing.
3. This Contract is not subject to Purchaser qualifying for or obtaining financing.
4. The Property is being sold subject to the following addendums, if any, attached as Exhibit B.
5. All improvements, liens and assessments of any kind recorded against the Property as of the date of Closing, if any, shall be paid by Seller. Real estate taxes, utilities, and rentals, if any, are to be prorated to the date of Closing. Keys, rental agreements and leases, if any, shall be transferred to Purchaser at Closing. Seller’s Closing fees are to be paid by Seller. Cost of survey, termite certificates, title insurance policy, if required or requested, and the Purchaser’s Closing fees shall be paid by Purchaser.
6. Time is of the essence. Closing is to be held on or before \_\_\_\_\_ or at a mutually agreed upon date that is no more than 30 business days from the date this Contract is executed, **TIME BEING OF THE ESSENCE**. At Closing, Purchaser must provide “good and sufficient funds”. In the event curative work in connection with the title is required, the parties herewith agree to and do extend the time for Closing to a date no more than (10) days following completion of curative work but in no event shall such extension exceed (120) days. If title shall not be insurable at the expiration of said period, Purchaser shall have the option of: (i) Accepting title as is, or (ii) Demanding a refund of the Initial Offer Deposit and this Contract shall be rendered null and void.
7. Purchaser is obligated to have immediately made the full Initial Offer Deposit as outlined above as the deposit against the Total Purchase Price of the Property. This deposit is to be non-interest bearing and shall be placed in escrow in the escrow agent’s local bank without responsibility on the part of the agent in case of failure or suspension of such bank. The Seller shall deliver to Purchaser an insurable title, and its inability to deliver such title within the time stipulated herein shall render this Contract null and void, reserving unto Purchaser the right to demand the return of the deposit from the holder thereof. In the event Seller fails to comply with this Contract for any other reason, within the time specified, the Purchaser shall have the right to demand the return of its Initial Offer Deposit in full. In the event the Purchaser fails to comply with this Contract within the time specified, the Seller shall have the right to declare the Initial Offer Deposit, ipso-facto, forfeited, without formality beyond tender of title to Purchaser, and the Seller may demand specific performance or sell the Property to a Back Up Bidder, in the order of the priority of the Back Up Bidders, as determined by the Auctioneer. In either event, Seller shall have the right to recover any costs and / or fees, including expenses and reasonable attorney’s fees, incurred as a result of this Contract or breach thereof.
8. Seller shall convey title to the aforesaid real property by Special Warranty Deed subject to any and all deed

restrictions, easements, and leases and other reservations, exceptions and matters of record.

9. This Contract remains binding and irrevocable for two (2) business days. If the Contract is not executed by Seller within two (2) business days, the deposit shall be returned to the Purchaser and this Contract shall be null and void.
10. Seller makes no warranty as to the condition of the Property being conveyed. Purchaser has had the opportunity to examine the Property and is buying the above described Property in its "*as is-where is and with all faults and limitations*" condition with no implied or expressed warranty whatsoever, from either the Seller, the Seller's Agents or Auctioneer. This "*as is-where is and with all faults and limitations*" condition applies to all furniture, fixtures and equipment, (if any), inspections and all improvements of all property being conveyed. The parties hereto agree that this Contract is subject to the following clauses, which shall be included in the Closing.

Purchaser further acknowledges that the Property hereby conveyed including the real estate, and all buildings and improvements erected thereon are conveyed by the Seller "as is" and without warranty as to physical condition, and with the exclusion of and release by Purchaser of any and all legal implied warranties and Purchaser expressly waives any and all claims against Seller for vices or defects including any environmental hazards in or on said property. Purchaser further acknowledges that they have fully inspected said property and are not relying on any representation as to its condition which has or may have been made by the Seller, Seller's Agents or Auctioneer. Purchaser further waives and releases Seller and its agents, employees, and insurers and Auctioneer from any and all claims or causes of action which have arisen or might hereafter arise, whether presently known or unknown, in retribution or for loss or damage resulting in whole or part from the condition of or defects or vices, including any environmental hazards, whether latent or patent in the Property conveyed or any part thereof, whether such conditions, vices or defects give rise to such claims or cause of action should have been known to either Purchaser or Seller. Any liability in connection with any environmental protection rule, regulation order, requirement or law, whether state, local or federal is hereby assumed by Purchaser. The Purchaser, in consideration of the Bid Price at the auction herein waives all rights they may have to rescission of the sale or diminution of the price. Purchaser expressly waives any and all rights which they have or may have against Auctioneer or the Seller, arising out of this purchase on account of any and all conditions of the all property herein purchased.

11. The Purchaser shall not assign its right in this Contract to any other party without written consent by Seller.
12. This Contract or any notice thereof shall not be registered or filed for record in any public records. The benefits and obligations of the covenants herein shall inure to and bind the respective heirs, executors, administrators, successors and assigns (where assignment is permitted) of the parties hereto.
13. If the improvements are damaged by fire or other casualty prior to closing, and cost of restoration does not exceed ten percent (10%) of the Total Purchase Price, costs of such restoration shall be an obligation of the Seller and Closing shall proceed pursuant to the terms of the Contract except the Seller may, of its own right extend the time for closing by 30 days if required to perform such repair. In the event the cost of repair or restoration shall be an amount equal to ten percent (10%) or more of the Total Purchase Price, Purchaser shall have the option of either taking the Property as is, together with any insurance proceeds payable by virtue of such loss or damage, or canceling this Contract and receiving return of all deposits made hereunder.
14. The party receiving the Initial Offer Deposit and any other deposits made hereunder agrees by acceptance thereof to hold same in escrow and to disburse it in accordance with the terms and conditions of this Contract. All parties agree that the escrow agent shall not be liable to any party or person whomsoever for miss-delivery of monies subject to this escrow to Purchaser or Seller, unless such miss-delivery shall be due to willful breach of Contract or gross negligence on the part of the escrow agent.
15. It is the intention of the parties that all questions with respect to this Contract and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Illinois.

**WITNESS:**

\_\_\_\_\_

**WITNESS:**

\_\_\_\_\_

**Cooperating Broker (Buyer's Broker):**

\_\_\_\_\_  
(Broker Name and Broker's Company)

\_\_\_\_\_  
(Cell Phone) (Work Phone) (Fax)

Executed by **PURCHASER:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

\_\_\_\_\_  
(Cell Phone) (Work Phone) (Fax)

Accepted by **SELLER:** \_\_\_\_\_

**Date:** \_\_\_\_\_

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

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

\_\_\_\_\_  
(Cell Phone) (Work Phone) (Fax)