



New York State
DEPARTMENT OF STATE
Division of Licensing Services
P.O. Box 22001
Albany, NY 12201-2001

Customer Service: (518) 474-4429
www.dos.state.ny.us

New York State Disclosure Form for Buyer and Seller

THIS IS NOT A CONTRACT

New York State law requires real estate licensees who are acting as agents of buyers or sellers of property to advise the potential buyers or sellers with whom they work of the nature of their agency relationship and the rights and obligations it creates. This disclosure will help you to make informed choices about your relationship with the real estate broker and its sales agents.

Throughout the transaction you may receive more than one disclosure form. The law may require each agent assisting in the transaction to present you with this disclosure form. A real estate agent is a person qualified to advise about real estate.

If you need legal, tax or other advice, consult with a professional in that field.

Disclosure Regarding Real Estate Agency Relationships

Seller's Agent

A seller's agent is an agent who is engaged by a seller to represent the seller's interests. The seller's agent does this by securing a buyer for the seller's home at a price and on terms acceptable to the seller. A seller's agent has, with-out limitation, the following fiduciary duties to the seller: reasonable care, undivided loyalty, confidentiality, full disclosure, obedience and duty to account. A seller's agent does not represent the interests of the buyer. The obligations of a seller's agent are also subject to any specific provisions set forth in an agreement between the agent and the seller. In dealings with the buyer, a seller's agent should (a) exercise reasonable skill and care in performance of the agent's duties; (b) deal honestly, fairly and in good faith; and (c) disclose all facts known to the agent materially affecting the value or desirability of property, except as otherwise provided by law.

Buyer's Agent

A buyer's agent is an agent who is engaged by a buyer to represent the buyer's interests. The buyer's

agent does this by negotiating the purchase of a home at a price and on terms acceptable to the buyer. A buyer's agent has, without limitation, the following fiduciary duties to the buyer: reasonable care, undivided loyalty, confidentiality, full disclosure, obedience and duty to account. A buyer's agent does not represent the interest of the seller. The obligations of a buyer's agent are also subject to any specific provisions set forth in an agreement between the agent and the buyer. In dealings with the seller, a buyer's agent should (a) exercise reasonable skill and care in performance of the agent's duties; (b) deal honestly, fairly and in good faith; and (c) disclose all facts known to the agent materially affecting the buyer's ability and/or willingness to perform a contract to acquire seller's property that are not inconsistent with the agent's fiduciary duties to the buyer.

Broker's Agents

A broker's agent is an agent that cooperates or is engaged by a listing agent or a buyer's agent (but does not work for the same firm as the listing agent or buyer's agent) to assist the listing agent or buyer's agent in locating a property to sell or buy, respectively, for the listing agent's seller or the buyer agent's buyer. The broker's agent does not have a direct relationship with the buyer or seller and the buyer or seller can not provide instructions or direction directly to the broker's agent. The buyer and the seller therefore do not have vicarious liability for the acts of the broker's agent. The listing agent or buyer's agent do provide direction and instruction to the broker's agent and therefore the listing agent or buyer's agent will have liability for the acts of the broker's agent.

Dual Agent

A real estate broker may represent both the buyer and seller if both the buyer and seller give their informed consent in writing. In such a dual agency situation, the agent will not be able to provide the full range of fiduciary duties to the buyer and seller. The obligations of an agent are also subject to any specific provisions set forth in an agreement between the

agent, and the buyer and seller. An agent acting as a dual agent must explain carefully to both the buyer and seller that the agent is acting for the other party as well. The agent should also explain the possible effects of dual representation, including that by consenting to the dual agency relationship the buyer and seller are giving up their right to undivided loyalty. A buyer or seller should carefully consider the possible consequences of a dual agency relationship before agreeing to such representation. A seller or buyer may provide advance informed consent to dual agency by indicating the same on this form.

works under the supervision of the real estate broker. With the informed consent of the buyer and the seller in writing, the designated sales agent for the buyer will function as the buyer's agent representing the interests of and advocating on behalf of the buyer and the designated sales agent for the seller will function as the seller's agent representing the interests of and advocating on behalf of the seller in the negotiations between the buyer and seller. A designated sales agent cannot provide the full range of fiduciary duties to the buyer or seller. The designated sales agent must explain that like the dual agent under whose supervision they function, they cannot provide undivided loyalty. A buyer or seller should carefully consider the possible consequences of a dual agency relationship with designated sales agents before agreeing to such representation. A seller or buyer may provide advance informed consent to dual agency with designated sales agents by indicating the same on this form.

Dual Agent with Designated Sales Agents

If the buyer and seller provide their informed consent in writing, the principals and the real estate broker who represents both parties as a dual agent may designate a sales agent to represent the buyer and another sales agent to represent the seller to negotiate the purchase and sale of real estate. A sales agent

This form was provided to me by Giacomo Sinisgalli (print name of licensee) of RealEstateAuction.com (print name of company, firm or brokerage), a licensed real estate broker acting in the interest of the:

- () Seller as a (check relationship below)
- () Seller's agent
- () Broker's agent
- () Dual agent
- () Dual agent with designated sales agent
- () Buyer as a (check relationship below)
- () Buyer's agent
- () Broker's agent

For advance informed consent to either dual agency or dual agency with designated sales agents complete section below:

- () Advance informed consent dual agency
- () Advance informed consent to dual agency with designated sales agents

If dual agent with designated sales agents is indicated above: _____ is appointed to represent the buyer; and _____ is appointed to represent the seller in this transaction.

(I) (We) _____ acknowledge receipt of a copy of this disclosure form: signature of { } Buyer(s) and/or { } Seller(s):

Date: _____

Date: _____

RealEstateAuction.com

The Fastest Way to Buy and Sell Real Estate!

ONLINE BIDDER REGISTRATION FORM

INSTRUCTIONS: To register for this auction you must complete, sign and return this form along with a photocopy of your driver's license. If you are signing this form electronically, it will be returned to us automatically. You may also print it and return it to us via regular mail, email: bid@realestateauction.com or fax: 1-844-724-2123.

First Name: _____ Last Name: _____

Drivers License ID #: _____ Drivers License State: _____

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: _____ Cell Phone: _____

E-mail Address: _____ How did you hear about us? _____

ACKNOWLEDGEMENT

By registering to bid on this auction and signing below I acknowledge that the documents listed below have been made available to me for review with my attorney prior to placing my bid. I understand that if my bid is accepted, the auctioneer will send me an auction bid agreement along with the auction purchase and sale contract, which I must sign and return along with the required deposit in the form of a certified bank check or my bid will be rejected.

1. New York State Agency Disclosure
2. Real Estate Auction Terms & Conditions
3. Auction Purchase and Sale Contract
4. Lead Based Paint Disclosure (*If applicable*)
5. Property Condition Disclosure (*If applicable*)

PRE-AUCTION BID

This property may be sold before auction. Pre-auction bids are strongly encouraged and if accepted by the seller the auction for this property will be canceled. Please leave the bid amount blank if you prefer to submit your bid online when the online auction starts.

Property Address: 136 Main St. Ravena, NY 12143

I hereby submit a pre-auction bid in the amount of \$ _____ for the property listed above.

I have read and agree to the auction terms and conditions for this property and I am aware that a buyer's premium in the amount of _____ % or \$ _____, whichever is greater, will be added to my bid amount.

I understand that my bid amount plus the buyer's premium equals the total amount that I am agreeing to pay for this property.

Print Name: _____

Signed: _____

Date: _____

Bidder Registrations will **NOT** be accepted without a photocopy of your driver's license.
Please email a photocopy of your driver's license to bid@realestateauction.com

RealEstateAuction.com 19 Anna Ct., Selkirk, NY 12158
Phone: 1-844-247-7653 ~ Fax: 1-844-724-2123

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The Fastest Way to Buy and Sell Real Estate!

AUCTION TERMS AND CONDITIONS: (Please Read Carefully)

PROPERTY ADDRESS: 136 Main St., Ravena, NY 12143

AUCTION TYPE: Absolute Reserve Subject to Confirmation **TAX LIENS:** Yes No

EARNEST MONEY DEPOSIT: 10 % or \$ 2,000.00 *whichever is greater.*

BUYERS PREMIUM: 10 % or \$ 2,000.00 *whichever is greater.*

By registering to participate in this auction you certify that you are 18 years of age and that you have read and agree to be bound by the following terms and conditions.

1. Agency Disclosure: RealEstateAuction.com, hereafter referred to as Auctioneer, and all licensees employed by or associated with the Auctioneer represent the Seller in the sale of the property or properties being sold at auction.

2. Buyers Premium: A Buyer's Premium in the form of certified funds will be added to the successful bidder's highest bid price and such Buyer's Premium shall become part of the total purchase price. Payment of the Buyer's premium is the sole and absolute responsibility of the successful bidder on the property at time of the auction and is not contingent on the transfer of title to the property. The Buyer's Premium is calculated by multiplying the successful bid or subsequent alternate purchase price agreed upon by the parties, by the buyer's premium.

3. Contract of Sale: The successful bidder for each property shall be required to execute and deliver an "Auction Purchase and Sale Contract" for each property immediately after being declared the successful bidder by the auctioneer. Failure to sign and deliver the Auction Purchase and Sale Contract will be deemed as a breach of the Terms and Conditions of Auction and result in forfeiture of the Buyer's Premium and Earnest Money Deposit. A sample copy of the Auction Purchase and Sale Contract can be found under the documents tab on the details page for each specific auction property. You can also request that a copy be sent to you by email, regular mail or fax by calling 1-844-247-7653. Please review it with your attorney for approval prior to bidding.

4. Earnest Money Deposit: In addition to the Buyer's Premium the successful bidder is required to pay an Earnest Money Deposit in the form of certified funds, at the time of the auction and it shall be credited toward the purchase price. The Buyer's Premium and Earnest Money Deposit is non-refundable and will be forfeited by the Purchaser to the Seller in the event the Purchaser defaults and does not close the transaction.

5. Closing Period: Closings shall be on or before 30 days from the date of the auction, unless the Seller agrees otherwise in writing pursuant to terms outlined in the Auction Purchase and Sale Contract. Time is of the essence as to the closing date.

6. Financing: No auction bids are contingent upon financing. Buyer financing is solely the responsibility of the buyer, and at no cost to the Seller. It is recommended that buyers pre-qualify for loans, assuring that they can close in accordance with the terms in the auction purchase and sale contract.

7. Property Is Sold "As Is": All parcels, including any buildings or other improvements thereon, are offered for sale and sold "AS IS" without representation or warranty of any kind as to their condition, excepting where applicable, the HUD Lead Paint Disclosure for residential properties and any other disclosures required by law.

8. Inspections: Personal on-site inspection of each property prior to the auction is strongly recommended. Bidders are encouraged to have inspectors, architects, and/or engineers examine parcels prior to bidding. By placing a bid on the property the Bidder acknowledges that Bidder has either inspected the property or waived their right to inspect the property prior to bidding.

9. Due Diligence: Bidders are encouraged to conduct a title search and survey of the property prior to bidding. Bidders should exercise due diligence as to property usage, zoning and building code restrictions and or violations that may or may not exist as to the subject property. Property descriptions are deemed reliable but not guaranteed. Some properties may have lost their use variance, be subject to non-conforming use as a result of being vacated or violate current building codes or zoning restrictions or be scheduled for demolition.

10. Deed Transfer: All parcels sold shall be conveyed to the Purchaser by means of a Warranty Deed, with Lien Covenant unless otherwise stated in the Auction Purchase and Sale Contract. Please review the Auction Purchase and Sale Contract with your attorney prior to bidding. In no event shall RealEstateAuction.com, be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, successors or assigns, against RealEstateAuction.com, it's agents or representatives arising from this sale.

11. Absolute Sales: In the event that the high bid on a property meets or exceeds the minimum reserve price established by the Owner, the sale of such property shall be an absolute and final sale and shall bind all parties.

12. Reserve Sales: Until the seller's reserve price is met, RealEstateAuction.com may "Counter Bid" on behalf of the seller. RealEstateAuction.com bids may appear as "REABID" during the online auction. "Counter Bids" do not occur after the seller's reserve price is met. In the event that the high bid on a parcel is less than the minimum price established by the Owner, the sale shall be subject to approval by the Owner. The Owner shall have 72 hours to accept the bid or negotiate an alternate price. If the Owner does not accept the bid or negotiate an alternate price, the Purchaser's Earnest Money Deposit and Buyer's Premium shall be returned to Purchaser in full. If Owner agrees to accept the bid or agrees to an alternate purchase price, the sale shall be deemed final.

13. Subject to Confirmation: In the event that a property is being sold "Subject to Confirmation," the sale shall be subject to approval by the Owner and/or other third party having a lien and/or ownership interest in the property. The Owner and/or other third party shall have 30 days to accept the bid or negotiate an alternate price. If the Owner and or/other third party does not accept the bid or negotiate an alternate price, the Purchaser's Earnest Money Deposit and Buyer's Premium shall be returned to Purchaser in full. If Owner or other third party agrees to accept the bid or agrees to an alternate purchase price, the sale shall be deemed final.

14. Internet Bids: The Auctioneer reserves the right to accept "Internet Bids" during or before a live auction event, whereby potential bidders unable to attend the live auction may place a bid via the Internet for a specific property. Internet bids will be announced as the opening bid at the start of the live auction or as an Internet Bid during the live auction.

15. Offline Bids: The Auctioneer reserves the right to accept "Offline Bids" during an online auction event, whereby potential bidders unable to attend the online auction may place a bid offline via phone, fax, mail or email for a specific property. Offline bids may be recorded as "Offline Bid" or "REABID" during the online auction.

16. Bid by Mail: The Auctioneer reserves the right to accept bids by mail during a live or online auction. Once a bid is received by mail it will be announced as a "BID BY MAIL" during live auctions and may be recorded as "Offline Bid" or "REABID" during online auctions. The successful bidder will be notified via mail and/or telephone at the end of the auction. Bids submitted by mail are subject to the same approvals as all other bidders at the online or live auction.

17. Bidding: Each bid is, by law, an irrevocable offer to purchase and each higher bid shall cancel an earlier bid. Once the highest bid is determined, the Auctioneer will close the bidding and at that time the highest bid shall be declared the "Winning Bid" and be deemed the "Purchase Price" subject to the terms and conditions of the auction. Auctioneer reserves the right to begin each auction with a starting bid, which will be announced before the start of the auction or listed online as the starting bid and/or current bid.

18. Winning Bids: The successful bidder for each property shall be required to execute and deliver an "Auction Bid Agreement" along with the required Buyer's Premium and Earnest Money Deposit immediately after being declared the successful bidder by the Auctioneer for live auctions and within 24 hrs. for online auctions.

19. Breach of Auction Terms and Conditions: Failure to execute and deliver the Auction Bid Agreement along with the required Buyer's Premium and Earnest Money Deposit will be deemed as a breach of the Auction Terms and Conditions and could result in but not limited to (a) forfeiture of Buyer's Premium and Earnest Money Deposit, which will become immediately due and payable as liquidated damages, (b) forfeiture of any deposits made by check or credit card tendered as part of the bidding approval process, to be applied first as a credit towards the amount of any Buyer's Premium due, or (c) court-ordered "specific performance" of the contract.

20. Delinquent Taxes: In the event that a property is being sold "subject to existing liens and/or delinquent taxes," the Buyer shall assume responsibility for all current and delinquent taxes. The Buyer shall also be responsible for contacting the proper vendors, lien holders and/or taxing authorities to verify exact delinquent amounts.

21. Marketing: All informational tools, including but not limited to slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, videos, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. RealEstateAuction.com, its agents and representatives make no warranty expressed or implied in connection with this sale.

22. Personal Property: No personal property is included in the sale of any of the properties. The removal or disposition of any personal property located on or in any parcel after the property is declared sold shall be the sole responsibility of the successful purchaser following the closing of sale.

23. Auctioneer's Decision Final: The Auctioneer's decision regarding any bidding disputes is final, and the auctioneer reserves the right to reject any bid that is not an appreciable advancement over the preceding bid. Auctioneer reserves the right to extend the auction bidding period, declare the property sold prior to the end of the auction bidding period, cancel the auction before and/or during the auction bidding period, or alter the terms and conditions from that previously published at any time before and/or during the auction bidding period. All announcements made at the time of the auction take precedence over all other advertising or previous publications.

24. Evictions: Properties are sold subject to the existing rights of all tenants. Summary proceedings or other legal actions relative to any third parties in possession of the premises, if necessary, are solely the responsibility of the successful bidder.

25. Broker Participation: Buyer broker participation is invited. Broker commissions vary and are paid based on the fee schedule published on the individual property detail page. Commissions are only paid to properly licensed real estate brokers and agents who have registered as a Buyer Broker in accordance with auction rules and regulations no later than 24 hours prior to bidding at the auction. No exceptions will be made. Buyer Brokers can register by executing and delivering a "Broker Participation Form" and returning it to us via fax, mail or email. A copy of the Broker Participation Form can be printed from the documents tab for each auction property. You can also request that a copy be sent to you by email, regular mail or fax by calling 1-844-247-7653.

26. Governing Law: These Terms and Conditions shall be interpreted, construed, governed by and enforced in accordance with the laws of the State of New York. Under no circumstances shall the laws of any other state be applied, even where such a result would be indicated by choice of law rules. By participating in this auction, and submitting a bid to purchase this property, you hereby irrevocably consent to the personal and exclusive jurisdiction and venue of federal and state courts in Albany County, New York regarding any and all disputes relating to the purchase of this property and terms and conditions of this auction.

I have read and agree to the "Terms and Conditions" of this auction:

Print Name: _____

Signature: _____ **Date:** _____

RealEstateAuction.com 19 Anna Ct., Selkirk, NY 12158
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AUCTION PURCHASE AND SALE CONTRACT

**THIS IS A LEGALLY BINDING CONTRACT.
YOU ARE ADVISED TO CONSULT AN ATTORNEY BEFORE SIGNING.**

CONTRACT OF SALE made as of the ____ day of _____, 20__ between _____
residing/doing business at _____, hereinafter called
"Seller", who agrees to sell and _____
residing/doing business at _____,
hereinafter called "Purchaser", who agrees to buy the Property located at _____
in the Town/City/Village of _____, County of _____, State of New York, including all buildings
and improvements thereon ("Property").

PURCHASE PRICE \$ _____ (_____ Dollars)

The Purchaser shall pay the purchase price as follows:

- A. \$ _____ Earnest Money Deposit with this Contract and held pursuant to paragraph 13 herein.
- B. \$ _____ Balance Due at Closing in cash, certified check, bank draft or attorney escrow account check.

1. AUCTION SALE. The Parties acknowledge, understand, and agree that the Property is sold at auction "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS" without warranty or guarantee of any kind, except as provided for in this Agreement as it relates to insurable and marketable title. **This Contract is not contingent upon any financing or inspection contingency.**

2. PURCHASER'S INSPECTION OF PROPERTY AND PROPERTY CONDITION. Prior to the auction and/or entering into this Contract, the Purchaser has inspected, or had the opportunity to inspect, the Property, including the structural premises, contents, and title, and is thoroughly acquainted with their condition, and further has conducted, or had the opportunity to conduct, Purchaser's own due diligence and investigations. If Purchaser has not so inspected or completed his/her due diligence, (s)he hereby certifies that (s)he has had the opportunity to do so and has willfully waived such right of inspection and due diligence. The Purchaser agrees to purchase the Property "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS" with said fixtures and personal property, as applicable, in the present condition subject to reasonable use, wear, tear, and natural deterioration between now and Closing. The Purchaser agrees that neither the Seller nor Seller's agents, servants, officers or employees or the Seller's broker, have made any representations, warranties or statements of fact concerning the Property. Purchaser has received (or, to the extent not received, Purchaser irrevocably waives) all disclosure documents required to be provided by or on behalf of Seller or Seller's representatives. Reports furnished by or on behalf of Seller shall be for informational purposes only and are not made part of this Contract unless required under applicable law.

3. PROPERTY SOLD "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS" Purchaser is acquiring the Property "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS" with respect to the physical attributes of the Property in its present state and condition, with all defects and faults, whether known or unknown, presently existing or that may hereafter arise including, without limitation: (a) The value, any appraised 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 compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (d) The habitability, marketability, tenantability or fitness for a particular purpose of the Property; (e) All personal property in the Property not belonging to tenants/occupants, if any, or abandoned by the Seller (removal of such personal property shall be the responsibility of the Purchaser). Purchaser shall hold harmless, indemnify and defend Seller and Seller's representatives and agents from any claim arising from or relating to the Property. Upon Closing and transfer of title, Purchaser hereby fully and irrevocably releases Seller and its representatives and agents from any and all claims of any kind whatsoever, whether known or unknown, arising from or relating to the Property. Seller makes no warranties or representations as to whether or not any leases of the Property are in force; whether or not anyone

Purchaser's Initials: _____ Seller's Initials: _____

else has a right of possession; whether or not any rent concessions were given to any tenant; whether or not any other contracts were made with the tenants; whether or not any rent charged violates any applicable rent control ordinance, statute, or law; whether or not any other violations of any applicable ordinance, statute or law exist; and whether or not Seller or any tenant is in default under any lease. Notwithstanding the fact that the Property may be occupied, Purchaser acknowledges that the occupancy status shall not provide grounds for Purchaser's failure to consummate the transaction or an excuse for performance required by Purchaser pursuant to this Contract. Purchaser is purchasing the Property "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS" regardless of occupancy status. Purchaser further acknowledges and understands that Purchaser is solely responsible for the undertaking, processing or completion of any eviction proceedings, including, but not limited to, unlawful detainer or other legal proceedings, including the cost and expense associated therewith in order to secure the right of possession. Purchaser shall not be entitled to any extension of the Closing date as a result of the occupancy status of the Property nor shall Purchaser be entitled to any concessions, discounts, fees or other expenses as a result of the occupancy status of the Property. This section shall survive the close of escrow or the earlier termination of the Contract.

4. CLOSING DATE AND PLACE. Closing will take place at the office of Seller's attorney or by mail on _____, *time being of the essence.*

5. TIME IS OF THE ESSENCE. Except as otherwise provided for in this Contract, time is of the essence for the performance of each and every covenant and condition under this Contract.

6. CLOSING DELIVERIES (BY MAIL). (A) *Seller's Deliveries.* On or before the law date Closing, Seller shall deliver the following to Purchaser's attorneys, in escrow: (i) The transfer deed warranting against title defects arising by, through or under Seller by Bargain and Sale Deed signed by Seller and acknowledged in accordance with the laws of the state of New York, together with an executed TP-584, RP-5217, and, where applicable, IT-2663. (ii) A Non-Foreign Transferor Declaration signed by Seller or evidence reasonably acceptable to Purchaser that Seller is exempt from the withholding requirements of the Foreign Investment in Real Property Tax Act (FIRPTA), Internal Revenue Code Section 1445 or documents required by the IRS for the Purchaser to complete and pay any applicable FIRPTA withholding tax. (iii) Any and all other instruments reasonably necessary to close the transaction. (iv) At Closing, Seller shall relinquish possession of the Property to Purchaser and promptly provide Purchaser with all keys, codes, and other means of access to the Property in Seller's possession, if any. (B) *Purchaser's Deliveries.* On or before the law date Closing, Purchaser shall deliver to the Seller's attorneys an amount in certified and immediately available "good funds" equal to the Purchase Price less the Earnest Money Deposit referred to on page one of this Contract and Seller's share of Closing costs, prorations, and Closing expenses, as ascertained and verified by the Purchaser as agreed to by Seller's counsel.

7. REAL ESTATE BROKER, BUYER'S PREMIUM AND COOPERATING BROKER COMPENSATION.

(A) *REAL ESTATE BROKER.* The Purchaser and Seller agree that RealEstateAuction.com and _____ brought about the sale. (B) *BUYER'S PREMIUM.* The Purchaser and Seller agree that the Buyer's Premium paid by Purchaser at time of auction is not a part of the Earnest Money Deposit relative to the sale of the Property and is not a credit to the Purchaser as part of the purchase price or to the Seller as part of the commission. (C) *COOPERATING BROKER COMPENSATION.* The Cooperating Broker shall be paid _____ % of the purchase price or \$ _____ no later than closing. The amount paid shall be credited to the Purchaser as part of the purchase price and to the Seller as part of the commission due the listing broker. The Cooperating Broker shall apply this amount against its commission under any agency agreement with Purchaser. Nothing herein shall be deemed to have altered the agency relationships disclosed.

8. SUBJECT TO PROVISIONS. The Property is to be transferred subject to: (a) Laws and governmental regulations that affect the use and maintenance of the Property; (b) Any state of facts which an accurate survey or inspection of the Property may disclose; (c) Easements, restrictions, and covenants of record, provided they do not render title unmarketable.

9. TITLE AND DEED. A 40-year abstract of title, tax search, update of title search and any continuations thereof, survey and/or a fee title insurance policy, shall be obtained at the expense of Purchaser. Seller shall give and Purchaser

Purchaser's Initials: _____ Seller's Initials: _____

shall accept such marketable and insurable title. The Seller shall not be required to bring any action or proceeding or otherwise incur any expense to render the title to the Property marketable or insurable. If title is unmarketable or uninsurable, the Seller may, at his or her sole option, cancel this Contract (with all deposits being returned to the Purchaser) or remove said defects and an adjournment of Closing shall be given for this purpose. If the Seller does not elect to cancel the Contract on the basis of uninsurable or unmarketable title, the Purchaser may accept such title as the Seller may be able to convey, without reduction of the purchase price or any credit or allowance against the same and without any other liability on the part of the Seller. Seller shall execute, and Purchaser shall accept, a Bargain and Sale Deed (or where appropriate, a Trustees or Executor's deed) with covenant against grantor's acts and covenant by the Seller as required by Section 13 of the Lien Law, in proper statutory form for recording so as to transfer full ownership and marketable title to the Property, free of all encumbrances except as herein stated.

10. SELLER'S INABILITY TO CONVEY MARKETABLE AND INSURABLE TITLE AND THE LIMITATION OF LIABILITY. If the Seller is unable to convey marketable and insurable title to the Purchaser in accordance with this Contract, the Earnest Money Deposit and Buyer's Premium shall be refunded in full to the Purchaser without any further recourse by either Party. Upon such refund and payment, this Contract shall be considered canceled, and neither Seller nor Purchaser shall have any further rights against the other.

11. APPORTIONMENTS. The following are to be apportioned as of midnight of the day before the day of Closing and are assumed to be paid and current for the benefit of the Seller unless otherwise verified by the Purchaser, as agreed to by the Seller's counsel: (a) Taxes, user fees, water charges and sewer rents, if any, on the basis of the fiscal period for which assessed; (b) Fuel, if applicable, to be adjusted at the market price for fuel as of the date of Closing; (c) Rents and security deposits. If Closing shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the old tax rate for the preceding period applied to the latest assessed valuation. Notwithstanding any local custom and practice to the contrary, it shall be the Purchaser's obligation to obtain and verify information relative to taxes, user fees, water charges, sewer rents, and the like.

12. ALLOWANCE FOR CLOSING EXPENSES, COUNTY CLERK FEES, TAX WITHHOLDING (FIRPTA) UNPAID TAXES, JUDGEMENTS AND/OR OTHER ENCUMBRANCES. Seller has the option to credit the Purchaser as an adjustment of the purchase price with the amount of any Closing expenses, county clerk fees, unpaid taxes, assessments, water charges and sewer rents, together with any interest and penalties thereon to date of Closing, or any other lien against the Property that the Seller is obligated to pay and discharge at Closing. The Seller shall not be obligated to disburse Closing proceeds or pay any liens against the Property, other than by adjustment to the purchase price to the credit of the Purchaser.

13. DOWN PAYMENT IN ESCROW. The Earnest Money Deposit referred to on page one of this Contract shall be held in Seller's Broker's escrow account until Closing of title. Said account is maintained at Bank of America. If litigation is commenced by any party regarding any money held in escrow, Broker shall not disburse any escrow which is subject to dispute until provided for in a court order, judgment or stipulation between the parties.

14. WILLFUL DEFAULT. If Seller shall have performed or tendered performance of his or her obligations under this Contract and Purchaser shall have willfully defaulted hereunder, then, Seller, at his or her option, may: (a) Retain the down payment as liquidated and agreed upon damages, or (b) Pursue other legal remedies. This option of liquidated and agreed upon damages is not a penalty, the Purchaser understands that the Seller has bound (her)himself to the sale of the Property to the Purchaser and has removed the Property from sale at a time when other parties would have been interested in acquiring the Property. Seller, therefore, will have sustained substantial damages which are not capable of determination with precision if the Purchaser willfully defaults.

15. ATTORNEY APPROVAL. This Contract is contingent upon Purchaser and Seller obtaining approval of this Contract by their respective attorneys as to all matters contained herein without limitation. This contingency shall be deemed waived unless Purchaser's or Seller's attorney on behalf of their client notifies the other party or that party's attorney in writing by facsimile, email or certified mail of their disapproval of this Contract, no later than three (3)

Purchaser's Initials: _____ Seller's Initials: _____

