

# TERMS OF AUCTION

AUCTION DATE: June 12, 2019

DESCRIPTION: 1010 & 1040 Morton Avenue, Martinsville, Indiana 46151

THIS PROPERTY is being offered upon the following terms and conditions:

1. The Property is being offered subject to confirmation or consent by the Seller. In addition to qualified registered bidders, the following parties retain the right to bid at the auction: any third party with a security interest in the Property; the Auction Company for proxy bidders; the Auction Company on behalf of the Seller; and the Auction Company for its own account.
2. The purchase price ("Purchase Price") of the Property will be calculated as follows: the bid price plus a Buyer's Premium of ten percent (10%) of the bid price.
3. Upon conclusion of the auction, the high bidder (the "Bidder") will be required to remit a cashier's check payable to the Auction Company as a non-refundable minimum earnest money deposit of twenty-five thousand dollars (\$25,000). Within three (3) business days after the auction, the Bidder will be required to wire transfer, if applicable, an additional non-refundable earnest money deposit in an amount necessary to bring the total earnest money deposit to ten percent (10%) of the bid price. The earnest money deposit(s) will be refunded only if the Seller is unable to deliver clean title.
4. Auction Company will present this Contract to the Seller within twenty-four (24) hours after the auction. Seller shall have the option to accept or reject the Contract for two (2) business days after presentation. Bidder or his Agent shall be notified by Auction Company as to Contract acceptance. If accepted, Bidder shall have thirty (30) days after the auction to close on the Property. Seller shall determine the time and place of closing. If the Bidder is not ready to close within thirty (30) days of the auction, any extension, if granted by Seller, shall be conditioned on all prorations and adjustments being determined as of thirty (30) days of the date of the auction and the payment of an additional non-refundable deposit.
5. This sale is not contingent upon the ability of the Bidder to secure financing, sell another property or any contingencies whatsoever.
6. Bidder expressly warrants the purchase is being made in AS IS CONDITION and solely based upon Bidder's examination of the Property, and without any expressed or implied warranties of the Auction Company or Seller. The Property is sold and the Bidder agrees to accept the Property in its present condition, **AS IS, with all faults, in all respects, subject to utility easements, zoning ordinances, and any other restrictions of record.** Seller is not responsible for any removal of trash, scrap, furniture, fixtures, chemicals or any other personal property and may become property of the Bidder. Bidder acknowledges the opportunity was afforded for physical, environmental, lead, radon or other inspections prior to execution of the auction and hereby waives any further right to additional inspections. No warranties as to physical condition, environmental condition, habitability, suitability to particular purpose, tenancies, or compliance with any laws, codes or ordinances, including those relating to water supplies and septic systems ("Deficiencies") are made by the Seller, unless specifically stated herein
7. Any inspections previously made by Bidder or his/her/their representatives were done at Bidder's expense and for his/her/their information only. Cost and responsibility for curing Deficiencies, if any, is the Bidder's, and the correction and cure of any Deficiencies shall not be a condition of this sale or in any way affect Bidder's obligations under this Contract.
8. The Property taxes will be prorated between the Seller and the Bidder to the date of closing. Bidder should not rely solely on past property taxes as a guide to future property assessments and taxes as Indiana property tax laws have been subject to significant change in the recent past. Utilities, rents and any other matters appropriate for prorating and adjustment shall be prorated between the Seller and the Bidder to the date of closing. Any

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Buyer Initials

installments for local improvements not due and payable at the time of closing shall be paid for by the Bidder as they thereafter become due. Closing fees will be shared equally between Seller and Bidder except for those fees specific to Seller or Bidder, i.e. recording fees.

9. The Property is being sold to the rights of any tenants.
10. If prior to Closing Date condemnation proceedings are commenced against any portion of the Property, Purchaser shall have the right to appear and defend in such condemnation proceedings, and any award in condemnation become the property of Purchaser and the purchase price shall not be reduced.
11. Risk of loss by damage or destruction to the Property prior to the closing shall be borne by Seller. In the event any such damage or destruction is not fully repaired prior to closing, Purchaser, at its option, may either (a) terminate this Agreement, or (b) elect to close the transaction, in which event Seller's right to all insurance proceeds (if any) resulting from such damage or destruction shall be assigned in writing by Seller to Purchaser.
12. The Seller shall be required at his own expense to furnish to the Bidder prior to the date of closing, a preliminary binder of title insurance by a recognized title company, showing insurable title to the Property. At the time of closing herein, the Seller shall tender to the Bidder an insurable deed to the Property free and clear of all liens and encumbrances except for easements, restrictions and covenants of record together with an owner's policy of title insurance. The title company will be selected by the Seller and shall act as closing agent with respect to the closing of this sale.
13. The Auction Company was retained by the Seller and has functioned throughout the transaction as an agent for the seller exclusively. I.C. 25-34.1-10-9.5 provides that the Licensee (Auction Company) has an agency relationship with, and represents the interests of the Seller as Seller's agent to sell the Property. Auction Company owes duties of trust, loyalty, confidentiality, accounting and disclosure to the Seller. However, Auction Company must deal honestly with bidders and disclose certain information to the bidders about the Property. All representations made by Auction Company about the Property are made as the agent of the Seller.
14. If the Bidder fails to comply with the sale terms, any and all Deposits made on account hereof shall be forfeited. The Seller shall be entitled to pursue all other available legal and equitable remedies against Bidder, including but not limited to holding Bidder liable for any deficiency resulting from a subsequent resale.
15. In the event of any litigation arising out of this sale or any breach thereof, the successful party in any litigation shall be entitled to attorney fees and all costs of litigation.
16. Bidder acknowledges that the auction and auction site may pose obvious, hidden, and unknown dangers, defects, and other perils. Bidder agrees to assume the risk of all injury, loss, and/or death from any cause whatsoever, and to indemnify Auction Company and Seller and hold them harmless for any injury, death, or other damage to person or property while attending the auction or at the auction site.
17. The sale will be governed by, and construed in accordance with, the laws of State of Indiana.
18. By accepting these terms, Bidder agrees these terms will supersede all prior discussions, negotiations and agreements, whether oral or written. Bidder agrees his/her actions shall be binding and obligatory upon the undersigned, their separate heirs, administrators, executors, assigns and successors in interest of the undersigned. Bidder may not assign the rights afforded the Bidder to any other party without the Seller's consent.
19. No amendment, alterations or withdrawal of this Contract shall be valid or binding unless made in writing and signed by both Seller and Bidder.
20. If I am the successful bidder, I agree to immediately execute a Purchase Agreement in accordance with these terms at the end of the auction.

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Buyer Initials

TO BE COMPLETED BY BIDDER(S):

I, \_\_\_\_\_, acknowledge that I have received, understand, and agree to be bound by the Terms of Sale for Real Property to be sold at auction.

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BIDDER'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
BIDDER'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED

\_\_\_\_\_  
PRINTED

\_\_\_\_\_  
COMPANY NAME, IF APPLICABLE

\_\_\_\_\_  
POSITION WITH COMPANY

\_\_\_\_\_  
STREET ADDRESS

\_\_\_\_\_  
CITY, STATE, AND ZIP CODE

\_\_\_\_\_  
PHONE NUMBER

\_\_\_\_\_  
CELL PHONE NUMBER

\_\_\_\_\_  
E-MAIL ADDRESS

\_\_\_\_\_  
DRIVER'S LICENSE NO. / EXPIRATION

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Buyer Initials