

Terms and Conditions

BIDDER'S TERMS

THESE TERMS AND CONDITIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY AND ARE NOT BINDING. IN THE EVENT OF A CONFLICT BETWEEN THESE TERMS AND THE BIDDER AGREEMENT, THE BIDDER AGREEMENT SHALL CONTROL.

1. **No Reliance.** Bidder is not relying on any warranty, guaranty, or representation made by Premier or National concerning the nature, square footage, condition, value, or quality of any property including but not limited to the water, soil, geology, and suitability of any property for any purpose.
2. **Date of Auction Subject to Change.** The date of the auction may be changed at National's discretion. National reserves the right to change the date of the auction from the date listed in the Bidder Agreement. If the changed date is within 60 days of the originally scheduled date, then all of the terms and conditions of the Bidder Agreement shall apply to the new date of the Auction. If the new date of the Auction is more than 60 days later, then Bidder shall have the right to cancel the Bidder Agreement within 10 days of receiving notice of the change of the date. Upon cancellation, National, Premier, and Bidder will be released from all obligations under the Bidder Agreement and the Bidder Deposit will be refunded to Bidder.
3. **Bidder Broker Registration.** Bidder and Bidder's broker or Bidder's agent on behalf of Bidder's broker must execute a Buyer - Broker Participation Agreement in order for Bidder to bid at the Auction.
4. **Bids on Behalf of Seller.** Except where prohibited by law, the Auctioneer may open bidding on any Property by placing a bid on behalf of the seller and may further bid on behalf of the seller, up to the amount of the Reserve Price, by placing successive or consecutive bids for a property, or by placing bids in response to other bidders.
5. **Relationship Between Bidder, Premier and National.** Bidder understands that the Bidder Agreement is a separate contract between Bidder, Premier and National. The Bidder Agreement does not modify any other agreements that Bidder has entered into with any real estate broker or real estate agent.
 - A. **National's Role.** National is an auction company that undertakes to promote real estate auctions. National conducts real estate auctions in Arizona in conjunction with Premier. National will plan and promote the auction including marketing and advertising the auction, preparing the auction venue, hiring auctioneers and developing auction materials.
 - B. **Premier's Role.** Premier is an Arizona licensed real estate broker. Premier does not represent Bidder or any seller unless otherwise agreed to in a separate agreement. Premier undertakes the real estate activities related to the auction.
 - C. **Premier May Represent Both Seller and Bidder (Limited Representation).** In certain cases, Premier may directly or indirectly represent Bidder and a seller under separate agreements with each. Premier, as a broker, can legally represent both Bidder and a seller in a transaction, but only with the knowledge and informed consent of both Bidder and the seller. In these situations, Premier will seek authorization from both Bidder and the seller under a separate agreement.
6. **Obligations of Bidder**
 - A. **Contract Price.** A "Winning Bid" is the highest bid accepted by the auctioneer for a property that is greater than or equal to the seller's reserve price. The person placing the Winning Bid is the "Winning Bidder". If Bidder is the Winning Bidder, then Bidder agrees to purchase the property at the Winning Bid price plus the Buyer's Premium (as defined in paragraph 4.B below) (together the "Contract Price").
 - B. **Buyer's Premium.** The "Buyer's Premium" is a commission that is paid by the Winning Bidder to Premier at the close of escrow if the Property becomes subject to a Purchase Agreement between the Winning Bidder and a seller. The Buyer's Premium shall be 10% of the Winning Bid. The Buyer's Premium shall be distributed between the seller's broker, the Winning Bidder's broker, and Premier as agreed to by them. The Buyer's Premium will be listed on the settlement statement as payable to Premier, the seller's broker and the Winning Bidder's broker, as applicable.
 - C. **Duty to Inspect.** Bidder understands that there will be no inspection contingency in the Residential Real Estate Purchase Contract, or any other appropriate purchase contract resulting from a Winning Bid at the Auction ("Purchase Agreement"). Therefore Bidder must satisfy itself as to the condition of any property and its suitability for any purpose prior to bidding at the auction. It is Bidder's sole responsibility to inspect the property and Bidder shall not rely upon any representation of National or Premier in so doing.
 - D. **Bidder Deposit.** Bidder must place a deposit of \$3,000 in "Good Funds" payable to a licensed escrow agent designated by Premier (the "Bidder Deposit"). The Bidder Deposit must be placed to bid at the auction. "Good Funds" means a cashier's check, certified check, wire transfer or other form of payment acceptable to Premier.



- E. **Refund of Bidder Deposit.** If Bidder is not a Winning Bidder, the escrow agent will promptly refund the Bidder Deposit.
- F. **Contract Deposit.** If Bidder is a Winning Bidder, then Bidder must place a deposit equal to 3% of the Contract Price (the "Contract Deposit") with an escrow agent by 5 p.m. on the day of the auction. The Bidder Deposit will be applied towards the Contract Deposit.
- G. **Failure to Post Contract Deposit.** If Bidder fails to timely post the Contract Deposit, then the Winning Bid will be invalid and the Bidder Deposit will be forfeited.
- H. **Form of Residential Purchase Agreement.** If the Bidder is a Winning Bidder on a residential property, then Bidder and the seller shall execute a Purchase Agreement substantially similar to the Residential Resale Real Estate Purchase Contract in common use in the state of Arizona unless otherwise agreed by Bidder and the seller.
 - (1) The close of escrow shall be 30 days from the date of execution of the Purchase Agreement unless otherwise agreed by Bidder and the seller.
 - (2) The Purchase Agreement shall not provide an inspection contingency.
 - (3) In the event that a financing contingency is included in the Purchase Agreement, such financing contingency shall provide that in the event that despite the diligent and good faith efforts of Bidder, Bidder is unable to obtain financing without conditions by the close of escrow date: (i) the Purchase Agreement is cancelled and (ii) the Bidder is relieved of all obligations under the Purchase Agreement, and (iii) the Bidder shall be entitled to a return of earnest monies including the Bidder Deposit, the Contract Deposit and any other funds placed in escrow.
 - (4) In order for the Purchase Agreement to include a financing contingency, Bidder must provide Premier with a financing approval letter acceptable to Premier. If Bidder does not provide a financing approval letter or such letter is not acceptable to Premier, then Bidder will provide any necessary information to Premier's designated lender solely for the purpose of determining the reasonable likelihood that Bidder has the capability to consummate a transaction. Any financing approval letter shall be based on true and accurate information. Bidder represents that there have been no material changes in Bidder's financial condition or capability to purchase a property since Bidder furnished the information that is the basis of the financing approval.
- I. **Failure to Complete.** If consummation of a sale is prevented by default of Bidder, or with consent of Bidder, then Bidder shall forfeit any Bidder Deposit, Contract Deposit, or other funds placed in escrow. Such forfeited escrow funds will be paid to Bidder's broker, the seller, the seller's broker, and Premier as agreed between them.

7. Powers and Obligations of Premier

- A. **Supervision of Auction.** Premier will supervise the conduct of the Auction and be the final authority in all matters related to the conduct of the Auction.
- B. **Responsibility for Negotiations.** If Bidder is a Winning Bidder, Premier will work with the seller and the seller's broker or listing agent, Bidder and the Bidder's broker or agent to facilitate the completion of a Purchase Agreement between the seller and Bidder. If Bidder is not a Winning Bidder, Premier is not responsible for assisting Bidder and a seller in negotiating or entering into a Purchase Agreement, entering into escrow, or consummating the purchase of a property, unless otherwise agreed to in writing.
- C. **No Requirement to Use a Particular Lender.** If Bidder intends to finance the purchase of a property, then Bidder may obtain financing from any lender of its choosing so long as such financing meets the requirements set forth in the Purchase Agreement between Bidder and the seller.