

ONLINE REAL ESTATE AUCTION TERMS AND CONDITIONS

The Seller has engaged Twin Creeks Realty, LLC (“Twin Creeks”) to auction off the Property (defined hereinbelow) to a Winning Bidder.

The Property is offered for Auction by Twin Creeks pursuant to the Online Real Estate Auction Terms and Conditions set forth herein (the “Terms”). The Auction(s) occurs online only. Please read and review these Terms thoroughly prior to bidding on the Property. If you have not read and reviewed the Terms or do not completely and unconditionally accept the Terms – **DO NOT BID. By bidding on the Property at Auction, you have accepted in their entirety these Terms and any auction specific terms posted on each auction description and/or terms emailed to you and/or terms posted on www.twin-creeksfruston.com/auction-listings.**

A bidder wishing to participate will review the Terms prior to bidding. If the bidder will be using a licensed real estate agent where a commission co-op has been listed and offered; for that agent to be eligible to claim the co-op, that agent must make contact initially to Twin Creeks on behalf of the bidder before bidder makes contact to any representative of Twin Creeks, or registers for any type of bidding through Twin Creeks’ website, whichever occurs first.

If the Bidder agrees with and accepts these Terms, the bidder can register at www.twin-creeksfruston.com/auction-listings, and then click the “VIEW AUCTION” button. Bidder agrees to keep its username and password confidential as bidder is responsible for any and all activity involving his or her account. When using the website, you must obey any and all local state and federal laws. Violations will result in termination of website usage privileges. Upon registration and approval by the Auctioneer, when the auction begins, the bidder will submit a bid in appropriate increments as described on the auction platform online.

These Terms set forth the requirements by which prospective bidders may qualify for and participate in the Auction, thereby competing to make the highest or otherwise best offer for the Property. Any and all inspections, investigations, inquiries, and due diligence of the Property that a bidder deems necessary must be done at the bidder’s expense prior to start of the auction. The Property is a potentially dangerous place. Every person enters the Property at his or her own risk. Bidders will advise their agents and employees of any activity that will be or have been conducted on the premises. This acknowledged risk extends into all activities involved in the inspection of the Property and preparation of the Property for closing, including disconnection of utilities. Persons attending the Property during preview, sale or inspection, assume all risks of injury, damage, or loss of property, and specifically release Twin Creeks, and the seller and their agents from liability.

The identity of a bidder must be verified. All bidders must provide a valid credit and/or debit card to register. Bidders may be asked to provide a funding letter from a banking institution so that Twin Creeks can verify a bidder has the financial capability without contingencies to perform the sale on the Property in the event the bidder is declared the Winning Bidder. The funding letter must include the bidder’s bank name, personal banker’s full name, email address and contact phone number. Twin Creeks reserves the right to deny registration if it cannot validate the financial ability of the bidder to complete the sale. Alternate proof of a prospective bidder’s financial ability to perform may include, but not be limited to, current financial statements, references with contact information for verification of debt and equity financing sources, and evidence of the potential bidder’s internal resources and proof of unconditional debt funding commitments from a recognized banking institution or alternative lending source.

Bidders may only bid on behalf of themselves unless otherwise authorized by Twin Creeks. Twin Creeks may verify bidder's identification at any point during the auction process. Bidding rights are provisional, and if complete verification is not possible, Twin Creeks has the sole discretion in deciding whether to reject a bidder's registration for any reason. If that registration is rejected, the bidder's bidding activity will be terminated.

By participating in an auction, a bidder hereby represents, warrants and covenants that (a) the bidder shall not misrepresent an ability to close the transaction pursuant to the Terms; and (b) the bidder has the capacity and legal authority to close the transaction, and that any bid made constitutes an irrevocable offer to buy the Property for the full amount of the bid plus buyer's premium.

The Winning Bidder is bound financially to perform at the close of the auction. Financing or funding for the property is non-contingent. All bidders are to be prepared to pay for any bid placed by them at any time during the auction process.

1. **THE PROPERTY:** Twin Creeks may offer property by the tract, acre, unit or by the lot. Twin Creeks also has the right to remove a property from the auction before bidding is completed. For purposes of this auction and any resulting closing, the "Property" consists of the following, which may be auctioned off by a single auction or by more than one Auction:

**Property: 410 Pinewood Lane in Ruston, La. 71270 located on .380 acres.
Parcel #26183102005**

Any and all licenses, permits, and/or contracts that can be assigned by the seller without the consent of third parties shall be assigned at closing. Any contracts requiring the consent of third parties to be assigned/assumed ("Executory Contracts") will also be assigned at closing, contingent upon the consent of those third parties; however, prior to closing, the Winning Bidder must identify any and all Executory Contracts that the Winning Bidder wishes to assume and provide for the payment of all cure amounts payable with respect to such contracts and leases.

The sale of the Property will be less and except any cash and accounts receivable collected and/or accrued prior to closing following a successful auction. Further, if the winning bid includes the seller's business accounts and financial statements, the Winning Bidder hereby agrees to bill for all goods and services rendered by the seller prior to closing and to provide seller an accounting for all cash receipts from said billings.

The sale of the Property shall be free and clear of any and all claims, liens, and other encumbrances, except permitted encumbrances identified in these Terms.

Seller and/or Twin Creeks will not make any repairs of any kind prior to the Act of Sale.

2. **AUCTION TIME AND END TIME:** Auctions are timed events and all bidding will close at a specified time. Auctions also have an auto extend feature. Any bid placed in the final minutes of an auction will cause the auction ending to be automatically extended from the time the bid was placed. Example: if an auction scheduled to close at 1:00 receives a bid at 12:59, and the extended bidding time for that auction is 5 minutes, the close time will automatically extend to 1:04. The auto extend feature remains active until no further bids are received within the specified time frame. This auction's beginning and end time are: **October 23, 2019, at 10:00 a.m. and will draw to a close on October 24, 2019, at 3:00 p.m.** Please log in prior to scheduled bid closing time to inspect any changes, corrections, or additions to the Property.

3. DEPOSIT, RESERVE PRICE, MINIMUM BIDDERS AND MINIMUM BIDS: Auctioneer may require a **\$1,000.00** hold on a bidder's debit or credit card upon registration for the Auction. The Property identified herein to be auctioned will have a minimum, reserve price that must be met in order for the auction to proceed. **Bidding to begin at the Reserve Price of \$37,500.00.** Once those conditions are satisfied, the auction outcome will be binding and enforceable.

RESERVE: This auction is with a reserve. The Reserve in this auction is \$37,500.00.

4. BUYERS PREMIUM: It is both typical and customary that the Winning Bidder (aka the buyer) pay the auctioneer's fee for auctioneer's services, usually referred to as a "buyer's premium." The amount of the buyer's premium will be an additional **5%** added to the winning bid price. Example: Bid Price \$100,000 plus a 5% buyer's premium equals a contract purchase price of \$105,000.

5. EARNEST MONEY: Winning Bidder shall supply earnest money in the amount of Ten percent (10%) of the sum of the winning bid and the Buyer's Premium (the "Earnest Money"). The Earnest Money must be in the form of a certified check, cash or wire transfer **by 12:00 p.m. NOON the following day** after the close of Auction; Buyer shall be responsible for any and all wire transfer fees. Funds will be held by Durrett Title, LLC, who will be the closing/title agent. The balance of the total amount due shall be paid at closing.

6. ACCEPTANCE OF BID PRICES: A bidder is responsible for any and all bids; however, if a bidder gives immediate notification to Twin Creeks that a mistake has been made, Twin Creeks may be able to (but is not obligated to) reverse the mistake if the mistake does not prejudice the outcome of the auction. The Winning Bidder(s) will be required to enter into a purchase agreement immediately following the close of the auction. The purchase agreement will be subject to, adopt and incorporate by reference these Terms. After an auction ends, Twin Creeks will e-mail or hand-deliver documents (including the Purchase Agreement, Agency Disclosure, Dual Agency (if applicable) and appropriate addendums) to the Winning Bidder, which documents must be executed by the Winning Bidder and returned to Twin Creeks within 24 hours of the Winning Bidder's receipt of same. A Winning Bidder that does not both (a) execute and return that documentation to Twin Creeks and (b) provide Twin Creeks with the earnest money within 24 hours will be in default of these Terms.

7. CLOSING: The Winning Bidder shall sign a Purchase Agreement for The Property by 6:00 p.m. after completion of the auction. Failure to do so shall be a default. All online only auctions are not contingent on or subject to financing, appraisal, survey or inspections of any kind. Transfer of title will be by Act of Cash Sale with warranty of title customarily used in the State of Louisiana. Title will transfer to the Winning Bidder free and clear as determined by title company at closing. Closing date will be no more than **ten (10) days** after a winning bid and a signed purchase agreement signed by the seller and the Winning Bidder. Cash, Cashier's Check or other certified funds are the only accepted forms of payment.

8. DEFAULT: Should the Winning Bidder (whether original or back-up Winning Bidder (see paragraph 9 below) default in the performance of these Terms and does not commence and diligently pursue satisfactory remedial action within 24 hours after Twin Creeks' written notice of such default to said Winning Bidder, Twin Creeks shall be entitled to the Earnest Money paid by the Winning Bidder as liquidated damages. In the event the defaulted Winning Bidder has failed to pay the Earnest Money to Twin Creeks, Twin Creeks shall be entitled to two times (2x) the Earnest Money, as well as attorney's fees, court costs and interest thereon at the rate of 18% per annum until paid in full. Twin Creeks' rights against the original Winning Bidder and one or more back-up Winning Bidders give rise to separate causes of action; in

other words, the remedies available to Twin Creeks can be enforced against the Winning Bidder and all back-up Winning Bidders.

9. BACK-UP BIDDER: If the Winning Bidder is in default of these Terms and/or fails to close on the Property, Twin Creeks shall give written notice to the next highest bidder that (a) said bidder's bid has been accepted, (b) said bidder is the new Winning Bidder effective immediately and (c) said bidder is bound to perform as the Winning Bidder pursuant to these Terms. If the back-up Winning Bidder is in default of these Terms and/or fails to close on the Property, the next highest bidder shall be the new Winning Bidder, and that process shall continue until a new Winning Bidder successfully closes on the Property.

10. AGENCY: Twin Creeks is a real estate brokerage company with licensed real estate agents under Broker David Alan Smith in the State of Louisiana, as well as licensed Auctioneer David Alan Smith, #2031. In the event that the Property should fall into any category of dual representation (same agent and/or party representing more than one party in the same transaction), then all parties are to be advised of the concept of dual agency, and all parties must be informed of consent. To be fully informed of consent for dual agency, and for what you are granting consent, go to www.lrec.gov, Forms, Mandatory Forms, Disclosure and Consent to Dual Agency Form.

11. DISCLAIMER; ABSENCE OF WARRANTIES: The Property is being sold on an "AS IS, WHERE IS" basis, with all faults, and without representations or warranties of any kind, either expressed or implied, concerning the Property. All sketches and dimensions of the Property on the website or on the internet are approximate. The information contained in the Terms or related materials is subject to verification by all parties relying on it. No liability for its accuracy, errors, or omissions is assumed by the seller, seller's Agent or Twin Creeks. Conduct of the auction and increments of bidding are at the direction and discretion of Twin Creeks. All decisions of Twin Creeks are final and binding.

Winning Bidder is allowed to take reasonable preventative measures to stop any further deterioration of the property between the date of auction and the Act of Sale. Winning Bidder should inform Auctioneer of any steps to be taken prior to altering property in any way.

12. MALFUNCTION, SHUTDOWN, AND LOSS OF SERVICE: The results of the auction may be rendered void by Twin Creeks if Twin Creeks' online auction site experiences malfunction, shutdown, or temporary loss of service. In such an event, Twin Creeks reserves the right to remedy the situation in whichever way best represents the seller, including the cancellation of existing bids. Twin Creeks shall not be held liable in any way for any malfunctions, shutdowns, or loss of service. Bidder acknowledges and understands that this service may or may not function correctly at the close of the auction. Under no circumstances shall bidder have any kind of claim against Twin Creeks or anyone else if Twin Creeks' online auction site fails to work correctly during the close of the auction. Twin Creeks will not be responsible for any missed bids from any source. Internet bidders who desire to make certain their bid is received should use the maximum bidding feature and leave their maximum bid 24 hours before the close of the auction.

13. INDEMNIFICATION AND ACCEPTANCE OF AUCTION TERMS BY BIDDERS: TO THE FULLEST EXTENT PERMITTED BY LAW, BIDDER AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS TWIN CREEKS; SELLER; AND ALL OF THE SHAREHOLDERS, MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, CONSULTANTS, AGENTS, INSURERS, INVITEES, AND VOLUNTEERS OF ANY OF THEM; (HEREIN REFERRED TO AS THE "PROTECTED PARTIES"), FROM AND AGAINST ALL LOSSES, LIABILITIES, CLAIMS, DEMANDS, AND

SUITS (INCLUDING CONTRACTUAL DEFENSE AND INDEMNITY CLAIMS) OF ANY KIND OR CHARACTER FOR PERSONAL ILLNESS, INJURY, OR DEATH OR LOSS, LOSS OF USE, OR DAMAGE OF PROPERTY (COLLECTIVELY "CLAIMS") ARISING IN FAVOR OF BIDDER. CLAIMS COVERED HEREUNDER SHALL INCLUDE WITHOUT LIMITATION THOSE ARISING DIRECTLY OR INDIRECTLY OUT OF, ATTRIBUTABLE TO, INCIDENT TO, OR CONNECTED WITH THE SERVICES PERFORMED BY TWIN CREEKS HEREUNDER AND/OR ANY VISIT TO THE PROPERTY BY BIDDER OR BIDDER'S AGENTS OR EMPLOYEES. BIDDER'S OBLIGATIONS HEREUNDER SHALL APPLY REGARDLESS OF WHETHER SUCH CLAIMS ARE CAUSED BY NEGLIGENCE (SOLE, JOINT, CONCURRENT, ACTIVE OR PASSIVE), STRICT LIABILITY, PRODUCTS LIABILITY, DEFECT IN THE PROPERTY OR IMPROVEMENT OR EQUIPMENT LOCATED THEREUPON, AND REGARDLESS OF WHETHER PRE-EXISTING THE ACCEPTANCE OF THESE TERMS.

14. MUTUAL WAIVER FOR CERTAIN DAMAGES: Each of bidder and Twin Creeks waive and release any claim against Twin Creeks and bidder, respectively, and neither Twin Creeks nor bidder shall be liable to bidder or Twin Creeks, respectively, for any special, indirect or consequential damages or for any punitive or exemplary damages not specifically provided for elsewhere herein and resulting from or arising out of these Terms, even if said claim arises, in whole or in part from negligence (whether sole, concurrent, active or passive) or other legal fault (including strict liability), the existence or breach of any contract or warranty, and/or any other basis.

15. CHOICE OF LAWS AND VENUE: These Terms and Conditions, and all questions with respect to the interpretation of these conditions, shall be governed by and construed in accordance with the internal laws of the State of Louisiana, without regard to conflict of laws provisions. All bidders expressly consent to personal and exclusive jurisdiction in the Third Judicial District Court in and for Lincoln Parish, State of Louisiana.

16. ADDITIONAL INFORMATION: Any legal questions should be referred to your attorney. This property will be offered, shown, and made available to all persons without regard to race, color, religion, national origin, handicap, familial status or sex. We gather aggregate information from this website which may include but is not limited to number of page visitors, most visited pages, any and all correspondence.