

# PREMIERE ESTATES

GLOBAL • BESPOKE • MARKETING

**403 Broadway, Costa Mesa Ca**

**AUCTION DATE**

June 16<sup>th</sup>, 2020

## SEALED BID AUCTION AGREEMENT

Please complete this Sealed Bid Form & return to  
Premiere Estates Auction Company prior to or by the bid deadline:  
**June 16th, 2020 by 12PM PT**

Mail to: 438 Pacific Coast Highway, Hermosa Beach, CA 90254.

You may also email to: [RDoherty@PremiereEstates.com](mailto:RDoherty@PremiereEstates.com)

For more details please call

Premiere Estates Auction Company at 310-698-3625 x 104

**BID AMOUNT** \$ \_\_\_\_\_

**5% Buyer's Premium** \$ \_\_\_\_\_

**Total Purchase Price** \$ \_\_\_\_\_

**REGISTRATION DEPOSIT** \$10,000 made payable to Ticor Title and  
Escrow Company Inc.

**10% DEPOSIT** *To be provided upon  
acceptance offer – including registration deposit* \$ \_\_\_\_\_

Registration Deposit provided to  
Premiere Estates

\_\_\_\_\_ Cashier's Check \_\_\_\_\_ Wire Transfer

BUYERS AGENT NAME & LICENSE #

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*Agent Signature*

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Buyer Information:

DATE \_\_\_\_\_

BUYER NAME \_\_\_\_\_

BUYER SIGNATURE \_\_\_\_\_

BUYER ADDRESS \_\_\_\_\_

BUYER PHONE # \_\_\_\_\_

BUYER EMAIL ADDRESS \_\_\_\_\_

The following sets forth the Sealed Bid Terms and Conditions which govern the auction ("Auction") conducted by Premiere Estates Auction Company ("PEAC") and Gordon Orsborn – Pacific Sotheby's International Real Estate ("Broker") with respect to real property ("Property") being sold by Seller. The prospective bidders of the Property participating in this auction ("Bidders") agree to register for such auction and to be bound by the Terms and Conditions as provided herein. These Terms and Conditions are incorporated into the respective Purchase Contract ("Purchase Agreement") which successful bidders ("Winning Bidder") will be required to execute in order to complete the transaction.

The Auction will be conducted by PEAC and Broker on behalf of said Seller.

#### 1. HOW TO BID:

PEAC WorldBid Auction Platform:

Overview of Sales Process:

This is a Sealed bid auction. The submission of your binding, sealed bid which is due any time prior to or on June 16th, 2020 by Noon PT.

Bids will only be accepted from bidders who have delivered to PEAC the items listed below.

(1) A fully completed and signed copy of the Sealed Bid Form (this document);

(2) A cashier's check in the amount of \$10,000 ("Registration Deposit") drawn on a US based bank made payable to Ticor Title and Escrow Company Inc. ("Escrow Agent" and "Escrow Holder"). You may also wire your \$10,000 registration deposit. Please call Premiere Estates for wiring instructions.

Upon Sellers acceptance of the offer, the Winning Bidder ("Buyer") will be required to sign the Purchase Contract and Escrow Instructions and other documentation concerning the Property.

The Buyer executed Auction Purchase contract must be received by PEAC within 4 hours of Seller's acceptance. The Winning Bidder must wire transfer a 10% deposit within 24 hours after the offer has been accepted by the Seller to Central Escrow Group Inc. ("Escrow Agent" and "Escrow Holder").

The Purchase Contract further provides that all deposits made by the Buyer, including the Registration Deposit, the Initial Deposit, and, if applicable, the extension fee, shall be released by the Escrow Holder in accordance with the Purchase Contract. The Buyer will be required to pay customary buyer's closing costs, including, but not limited to, document preparation fees, recording fees, tax pro-rations, title fees and escrow fees. Possession of the Property will be given to Buyer one (1) business day after the closing date.

PEAC will return to the unsuccessful bidders their Registration Deposits within 48 hours after the conclusion of the Auction.

Prospective bidders may review the Property Information online at [www.PremiereEstates.com](http://www.PremiereEstates.com) or at the Broker's website. PEAC encourages all bidders to inspect the Property and review the Property Information including the Purchase Contract. PEAC requires all bidders to acknowledge that they have reviewed the Property Information prior to the Auction. Neither PEAC, Broker nor the Seller shall be liable for the accuracy, errors, or omissions of any and all documents provided. Prospective bidders should independently verify any information being materially relied upon in making their decision to purchase.

Neither Seller, Broker, nor PEAC shall be liable for any relief, including damages, rescission, reformation, allowance or adjustment based on the failure of the Property to conform to any specific standard or expectation.

PEAC and Broker are acting exclusively for the Seller of the Property. You acknowledge and understand that PEAC is not acting on your behalf in this transaction.

PEAC, Broker and the Seller reserve the right to deny any person participation in the Auction, to postpone or cancel the Auction and to change any terms of the Auction or particular conditions of sale. The Seller reserves the right to sell the Property prior to the Auction if a bid is submitted prior to the auction date.

All Property Information on the PEAC website shall be deemed to be a part of this Terms and Conditions. However, only the Purchase Contract signed by Buyer and Seller shall set forth Seller's obligations to the Winning Bidder/Buyer and with respect to the Property; therefore, in the event of any inconsistency between any terms of the Purchase Contract and anything contained in the Bidder Registration Form, Terms and Conditions or any Property Information on the PEAC and Broker website or as otherwise furnished by PEAC and Broker, the terms of the Purchase Contract shall control.

## 2. PROPERTY TOURS AND INSPECTIONS

The Property can be shown by appointment prior to the date of the Auction for prospective Bidders to view and inspect the Property. The prospective Bidder must inspect the Property prior to the Auction. Each prospective Bidder is also encouraged to utilize the services of their own real estate broker/agent and contractors in connection with their evaluation of the Property and its condition.

In order to schedule a time to see the Property or perform an inspection, the prospective Bidder should visit our website at [www.PremiereEstates.com](http://www.PremiereEstates.com), or Gordon Orsborn, the listing agent. Property specific documentation will be available on the PEAC website or contact Gordon Orsborn or Robert Doherty and we will be glad to email the documentation. Such documents should be reviewed prior to the Auction.

A Bidder who executes a Purchase Contract for the Property (hereinafter referred to as a "Buyer") will represent and warrant therein that (1) it has had adequate time, access and opportunity to inspect the Property prior to its execution of the Purchase Contract; (2) it is not relying upon any representations by the Seller, its employees or agents concerning the Property; (3) it is aware that the condition of the Property is not known to the Seller and the Seller has not inspected it; (4) it has made all inspections it deemed necessary concerning the Property or has elected to make no inspections or only a partial inspection of the Property; (5) it has reviewed the preliminary title report for the Property and had an opportunity to review all matters identified in such report; (6) it is satisfied with the Property and the condition of all improvements thereon including their structural integrity and insurability; (7) it is aware of and has reviewed all conditions covenants and restrictions and any homeowner association documents applicable to the Property, if any; (8) it is aware of all laws, ordinances, including zoning and building codes, and environmental conditions and restrictions applicable to the Property and its use; (9) it is aware of all hazards that may exist with respect to the Property and accepts the location of the Property and is aware of all flood zones and fire hazards relevant to the Property and any effect they may have as to the insurability or the cost of insurance for the Property; it is acquiring the Property "AS-IS" and accepts the Property and the improvements thereon in their present condition, and that it has elected to proceed

with the purchase transaction regardless of whether it has actually inspected the Property and notwithstanding any information that the Buyer may have learned about the Property and its condition.

The Seller, Broker and PEAC and all parties acting on their behalf shall not be liable for any losses, damages, expenses, injuries or claims of any kind or character, including attorneys' fees, to the Buyer and any other person or entity claiming rights on behalf of or based on their relationship with the Buyer, arising from, caused by or relating to the Property or information related to the foregoing that have been set forth, omitted or inaccurately stated by or on behalf of the Seller or on any online website display or marketing materials for the Property, including but not limited to the Property information and the information on the PEAC website, or on any multiple listing service brochures, materials or information notwithstanding the fault of any Indemnities including, without limitation, the active or passive negligence of the Seller or any other Indemnities.

The prospective Bidder must complete their inspection of the Property before the date of the Auction for the Property.

The condition and inspection of the Property are not a contingency of the sale.

The Buyer will indemnify and hold the Seller, Broker and PEAC, its employees, agents, officers, directors and employees harmless from any claims, costs liabilities and expenses arising from or pertaining to any inspections of the Property by the Buyer and anyone acting on its behalf before the Auction. The Buyer shall not damage the Property, shall repair any damage that occurs and shall keep it lien free from any actions it takes or which are taken on its behalf to inspect the Property. The Buyer or any of its representatives making such inspections on its behalf shall carry, and provide evidence thereof to the Seller or Seller's agent if requested, worker's compensation and public liability insurance with such limits as required by the Sellers that protects the Seller from any damages to persons or property arising from such inspections.

A Buyer who executes a Purchase Contract for the Property will have no right to rescind or cancel the Purchase Contract or the Escrow for the purchase based on facts or conditions thereafter discovered the Property. The Buyer will also be agreeing that the Seller will not be required to make any repairs or improvements to the Property.

ACCEPTANCE OF PROPERTY AS-IS; NO RELIANCE ON INFORMATION PROVIDED BY SELLER, BROKER OR PEAC

The Buyer of the Property will agree that they are purchasing such Property "AS-IS, WITH ALL FAULTS" and that they are not relying upon any representations or warranties of the Seller, Broker, PEAC or any other parties acting on their behalf concerning the condition of the Property and any matters related thereto. Specifically, the Purchase Contract will include terms on the foregoing issues substantially as follows:

BUYER'S ACCEPTANCE OF PROPERTY AS-IS REGARDLESS OF CONDITION.

The Buyer agrees that it is purchasing the Property as-is with all faults regardless of any matters it has discovered or failed to discover from any inspection it may have made of the Property or which have been disclosed or not disclosed to the Buyer from any source. The Buyer accepts the Property and all structures and improvements thereon as-is regardless of their condition or any latent or patent defects which may

exist or subsequently arise, occur or be discovered with respect to the property, structures or improvements. The Buyer accepts the Property with any environmental defects or hazards or conditions that may exist, arise or be discovered with respect to the Property or the region or vicinity where the Property is located.

#### NO SELLER'S REPRESENTATIONS ABOUT PROPERTY; FURTHER ACCEPTANCE OF CONDITION OF PROPERTY.

The Seller, its employees and agents have made no representations or warranties, oral or written concerning the Property, any structures or improvements thereon, and the Buyer accepts the condition thereof in all respects, including, but not limited to: the condition of the Property, the condition of any structures or improvements thereon, or their specifications such as square footage, their state of repair, the materials used in their construction, the conformity of the Property or any structures or improvements thereon to any plans or specifications or code requirements, their habitability, compliance with zoning laws, building codes, health codes, or safety codes, and their compliance with the Americans with disabilities act, or other applicable laws, their prior uses or potential uses, their fitness for a particular purpose or their occupancy status or any claims related thereto, the value of the Property, any income that may be earned from the Property, existing or future views from the Property, potential improvements to the Property or expected planned changes in the surrounding area, the status or nature of any public utilities or services serving or available to the Property, or the type of sewage and water systems for the Property, drainage, soil conditions or stability or landslide risks or history thereof, any risks or responsibilities regarding floods or any flood hazard zone in which the Property is located, seismic conditions or seismic risks or prior seismic events pertaining to the Property, fire hazards or prior fire events (all of the foregoing referred to hereinafter as Property conditions); and, the Buyer assumes the risk of all of the foregoing Property conditions.

#### 3. PRELIMINARY TITLE REPORT

The Preliminary Title Report is available from the Listing Agent. The Buyer's review and approval, during the escrow period, of the preliminary title report and other matters of record, not of record or which might be revealed by a survey or inspection of the Property will not be a contingency or condition for the completion of the purchase of the Property after the Buyer's execution of the Purchase Contract.

#### 4. AUCTION DEFINITIONS AND PROCEDURES

Bidders should be familiar with the basic procedures and terminology of the PEAC Auction process. This begins with an understanding of the relevant terms used.

Reserve Price - The Seller has the option to sell the Property at any price. The Seller of the Property has established a minimum price that it will accept for the Property. This is referred to as the Reserve Price. If the Reserve Price is not reached, the Seller is not required to sell the Property to the highest bidder (however, the Seller may choose to accept the Winning Bid). The reserve price is the listing price in the MLS.

#### BIDDER'S INITIALS 5 PEAC TERMS & CONDITIONS

Previous Value - "Previous Value" refers to the higher of the appraised value of the Property in connection with the most recent mortgage on the Property, the most recent sales price, the most recent asking price, the assessed value or the most recent broker price opinion for the Property.

Winning Bidder - The Winning Bidder is the person bidding on the Property who has been recognized by PEAC as the highest bid for that Property under auction guidelines. The Winning Bidder must immediately complete the Purchase Contract and return to PEAC within 4 hours after being notified by PEAC of the acceptance of his offer.

#### 5. EXECUTION OF PURCHASE CONTRACT AND OPENING ESCROW

The Purchase Contract and Escrow Instructions must be executed by the Buyer immediately after becoming the Winning Bidder. The Winning Bidder's initial deposit must be wired to Escrow within 24 hours after being declared the Buyer. The form of the Purchase Contract is on the PEAC website [www.PremiereEstates.com](http://www.PremiereEstates.com), and the Buyer is expected to have reviewed and become familiar with this agreement before attending the auction and bidding on the Property. The Seller has two business days to review and execute the Purchase Contract. The Purchase Contract shall govern the relationship of the Buyer and the Seller from the point of its execution by the Buyer and the Seller through the Close of Escrow for transaction. In the event of a conflict between the Terms and Conditions of the auction as set forth herein and the provisions of the Purchase Contract, the Purchase Contract provisions shall prevail.

#### 6. PAYMENT OF BIDDER'S REGISTRATION DEPOSIT, INITIAL DEPOSIT AND BALANCE OF PURCHASE PRICE

Your Registration Deposit is due on or before June 16th no later than noon PT. If you are the Winning Bidder, your Initial Deposit must be wired to escrow within 24 hours after notification of becoming the Winning Bidder. The Initial Deposit shall be a total of Ten percent (10%), including the (the \$10,000 Registration Deposit) of the Total Contract Price. The Buyer shall pay the balance of the Total Contract Price as well any additional costs and/or fees at the Close of Escrow in accordance with the terms of the Purchase Contract.

#### 7. CLOSING OF ESCROW FOR THE PURCHASE; EXTENSIONS

The escrow for the purchase transaction will be scheduled to close no later than thirty (30) days after the opening of escrow ("the Close of Escrow"), which in most cases, will occur at the same time as the Purchase Contract is executed, unless escrow is extended or cancelled in accordance with the provisions of the Purchase Contract. The Buyer agree to pay all closing costs and other expenses as normally allocated to purchasers of real property in the area in which the Property is located and shall be obligated to pay the entire escrow fee.

#### 8. BUYER'S LIABILITY FOR LIQUIDATED DAMAGES

In the event that the Buyer fails to complete the Purchase Contract as required under the terms thereof then it will be required to pay the Seller liquidated damages which will be ten percent (10%) of the total purchase price for the Property. The parties will be deemed to be mutually released from any further obligations regarding the completion of the purchase transaction. However, the foregoing shall not limit Buyer's obligations to pay to Seller all attorneys' fees and costs of Seller's to enforce the provisions of this agreement and/or buyer's indemnity obligations under this agreement. The retention of the initial deposit as liquidated damages is not intended to be a forfeiture or penalty, but is intended to constitute liquidated damages to Seller.

## 9. VESTING

The Buyers may take title in any manner which they determine. At the time of execution of the Purchase Contract, the Buyer will designate the manner with which it intends to take title. If title is not being taken by the Buyer individually, then the Buyer shall provide to escrow those organizational and authorizing documents requested by Escrow to verify the existence and authority of the entity which is taking title. The Seller will execute such deed as it determines in its sole discretion to transfer title to the Buyer at the Close of Escrow.

For purchases where the Buyer will take title other than as an individual, the documents which need to be provided at the time that escrow is opened include, but not are not limited to: Articles of Incorporation, Articles of Organization for Limited Liability Companies, Certificates of Partnership for Limited or General Partnerships, and Certifications or Declarations of Trust, depending upon the particular entity taking title. The Seller is under no obligation to clear any liens or exceptions affecting title to the Property or otherwise make the title to the Property marketable or insurable. If for any reason the Seller is not able to deliver free title subject to the exceptions permitted in the Purchase Contract, then either party may cancel the purchase transaction.

## 10. FINANCING

The Buyer is required to obtain his/her/its own financing. The sale is not contingent upon the Buyers obtaining such financing. If the Buyer fails to qualify for his/her/its financing, and subsequently fails to close the sale by the closing date specified in the Purchase Contract, as the same may be extended, all of such deposits of the Buyer shall be retained by the Seller as liquidated damages under the Purchase Contract.

If a Buyer intends to use cash to complete their purchase transaction, the Buyer must provide satisfactory proof to both PEAC and the Seller upon the opening of escrow of their ability to produce sufficient funds to complete the transaction through payment of cash by the close of escrow. This may be established through bank statements or copies of other financial deposits.

## 11. BROKER PARTICIPATION

The Seller will pay a two and one half (2.5%) commission at closing, based on the final bid price, to the qualified Real Estate Broker/Agent representing Winning Bidders and who properly registered their clients for the Auction and participated in the Auction with their clients. Each Broker must register and execute with Client by filling out the Broker/Agent Registration form provided by PEAC; available at [www.PremiereEstates.com](http://www.PremiereEstates.com).

In order to receive the full 2.5% commission, the Broker Registration Form must be submitted before the deadline of June 15th Noon PT and the transaction closes. Participating Brokers are responsible for inspecting the Property being purchased by their client in advance of the Auction, and must accompany their client through the entire process of executing the Purchase Contract and opening escrow. If the participating Broker does not sign the Purchase Contract then it shall not be entitled to a commission from the Seller.



## 12. AGENCY DISCLOSURE

PEAC discloses that it represents the Seller only as the auction company as more particularly set forth on the disclosure form or format required by the state in which the Auction is being conducted. PEAC is not acting as an agent for the Buyer or as a dual agent for the Seller.

## 13. ADDITIONAL AUCTION INFORMATION

The Seller will represent that it is in compliance with the Federal Foreign Investment in Real Property Act, commonly known as FIRPTA, that it is exempt from withholding as it is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate; and, it will provide an affidavit to that effect prior to the Close of Escrow.

The property may be withdrawn from the Auction at any time at the sole discretion of the Seller.

All persons participating in the Auction are consenting to the dissemination of any information concerning or pertaining to Property, bids, purchases or other activities or functions.

In the unlikely event that the Seller does not honor any bid or fails to convey title in accordance with the Winning Bid or Purchase Contract entered into with respect to the Property, PEAC will not be held responsible or liable in any way. As more specifically discussed above, prospective Bidders are not considered eligible bidders in the Auction until PEAC receives this Sealed Bid registration form and registration funds.

The Seller may postpone or cancel the auction or withdraw the Property at any time, or revise the terms of an auction or conditions of a sale prior to the auction date.

## 14. MEDIATION/ARBITRATION

(a) Any dispute or claim in law or equity arising between the parties out of this agreement, or any resulting transaction, Bidder and Seller agree to first attempt, in good faith, to first participate in non-binding mediation with a mutually acceptable neutral. If the parties cannot agree on a mediator, Judicial Arbitration and Mediation Services ("JAMS") shall be used and JAMS shall select the neutral mediator. Any party who fails or refuses to mediate in good faith as required under this paragraph shall not be entitled to any attorney's fees award under this agreement.

(b) Any dispute or claim in law or equity arising between the parties out of this agreement or any resulting transaction shall be decided by neutral, binding arbitration as follows:

(c) For disputes in excess of \$15,000, the arbitrator shall be chosen by agreement of the parties to the dispute, and shall be a retired judge or justice, or an attorney with at least ten (10) years of real estate law and arbitration experience, unless the parties mutually agree to a different arbitrator. The arbitrator shall render an award in accordance with substantive California Law. The parties shall have the right to discovery in accordance with California rules of Civil Procedure. In all other respects, the arbitration shall be conducted in accordance with the California law. Judgment upon the award of the arbitrator(s) may be entered into any state court. All arbitration hearings conducted under the terms of this agreement shall take place and all judicial proceedings to enforce any of the provisions of this agreement or to confirm any arbitration award shall be filed in state court.

(c) The following matters are excluded from arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in the Civil Rules; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver or refusal to participate in mediation and arbitration.

(d) The parties agree that the limit of any and all damages that may be awarded to the Seller, Broker, PEAC or the Bidder in the arbitration and mediation are capped at \$15,000 inclusive of attorney's fees.

(e) NOTICE: by initialing in the space below you are agreeing to have any dispute arising out of the matters included in the "arbitration of disputes" provision decided by neutral arbitration as provided by California law and you are giving up any rights you might possess to have the dispute litigated in a court or jury trial. By initialing in the space below you are giving up your judicial rights to discovery and appeal, unless those rights are specifically included in the 'Arbitration of Disputes' provision. If you refuse to submit to arbitration after agreeing to this provision, you may be compelled to arbitrate under the authority of the California rules of civil procedure and the California civil practice and remedies code.

Your agreement to this arbitration provision is voluntary. You further agree to waive your right to a jury trial.

(f) we have read and understand the foregoing and agree to submit disputes arising out of the matters included in the "Arbitration of Disputes" provision to neutral arbitration."

(\_\_\_\_\_/\_\_\_\_\_)

Bidder

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

PEAC

BIDDER'S INITIALS FOR PEAC TERMS & CONDITIONS

BIDDER ACKNOWLEDGMENT

I/We HAVE RECEIVED, READ, UNDERSTOOD AND ACCEPTED this Sealed Bid Terms and Conditions document for the Auction and I/we have reviewed all documents for the property for which I/we bid, including Disclosures and the Purchase Contract. All such terms are incorporated herein by reference.

\_\_\_\_\_ INITIAL \_\_\_\_\_ INITIAL

I/We UNDERSTAND AND AGREE that this property is being sold "As Is" and without any warranties, express or implied, and that it is my/our sole responsibility to inspect the property and any applicable conditions prior to the auction.

\_\_\_\_\_ INITIAL \_\_\_\_\_ INITIAL

I/We HAVE AUTHORIZED my/our lender to disclose my/our pre-qualification status to the Seller, its Agents and/or Assigns.

\_\_\_\_\_ INITIAL \_\_\_\_\_ INITIAL

I/We HAVE DELIVERED to escrow a Registration Deposit in the amount of \$10,000, payable to Ticor Title and Escrow Company Inc. and sent to Premiere Estates Auction Company.

\_\_\_\_\_ INITIAL \_\_\_\_\_ INITIAL

Bidder's signature \_\_\_\_\_

Date \_\_\_\_\_

Co-Bidder's signature \_\_\_\_\_

Date \_\_\_\_\_

PEAC signature \_\_\_\_\_

Date \_\_\_\_\_

For office use only:

Date received \_\_\_\_\_ Pre-Qual \_\_\_\_\_

Cashier's Check \_\_\_\_\_