

# Harcourts Auctions

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## AUCTION TERMS AND CONDITIONS

FOR THE AUCTION TAKING PLACE ON

ADDRESS

### 1 CAUTION TO BIDDERS.

INITIAL

As a bidder, one who is making bids (“Bidder”), you agree to the instructions, terms and conditions of this Auction as stated in these terms and conditions (“Auction Terms and Conditions” or “Terms and Conditions”). **The successful bidder (the “Buyer”) is legally obligated to complete the purchase. Failure to complete a purchase constitutes a breach of contract and will result in loss of deposit and a bar from future sales. Buyer may also be subject to monetary damages and any other remedies permitted by law. Therefore, when you make a bid, you must be prepared to complete the purchase without any cancellation under any circumstances.**

### 2 READ THESE TERMS OF SALE CAREFULLY

Harcourts NV1 (Harcourts NV1, and its employees, agents and representatives referred to collectively as “**Auction Company**”) and Auction Company may appoint an “Auctioneer” to act on its behalf with respect to any aspects of the auction process. For purposes of this document and any related documents, Auction Company and Auctioneer shall be used interchangeably.

By participating in the auction, you agree to these Terms and Conditions and make representations as set forth below. These Terms and Conditions are legally binding and if you breach, any of them Harcourts NV1 (Harcourts NV1, and its employees, agents and representatives referred to collectively as “**Auction Company**”) or the seller of the Property (as defined in registration documents) at the auction sale (“**Seller**”) may seek monetary and equitable legal. Note that the Terms and Conditions set forth below include an agreement by which you release Seller and Auctioneer of all liability arising from any properties purchased at this Auction.

### 3 TERMS OF SALE (“TERMS”):

- A. Bidder Registration.** All Bidders must be registered. Auctioneer may register a person as a Bidder only if the person has shown a valid government-issued photo identification card to Auction Company, executed the signature page to these Terms and Conditions, and completed the Bidder’s Registration form to the satisfaction of Auction Company. Upon satisfying the Bidder’s Registration requirements set forth in this paragraph and on that document, Bidders shall be issued an auction paddle with which to place bids, which must be returned to Auctioneer upon completion of the auction sale.
- B. Agreement to Close upon Successful Bid.** Buyer is agreeing to close on the Property upon a successful bid. If Buyer is not certain that they want to purchase the Property, Buyer should not bid on the Property. If Buyer wishes to inspect the Property prior to purchase and has not done so, Buyer should not bid on the property. Successful bidders must have adequate financial resources to fulfill bid commitments. If Buyer successfully bids on the Property, Buyer shall enter into a contract with the Seller to purchase the Property for the bid amount, immediately after being declared the successful bidder by the Auctioneer. This is binding and obligates Buyer to purchase the Property notwithstanding any other presumptions, documents, representations, or anything contrary.
- C. Purchase and Sale Agreement.** The successful bidder for each property shall execute a Residential Offer and Acceptance Agreement and Joint Escrow Instructions (the “Agreement”) for the Property immediately after being declared the successful bidder by Auctioneer. Copies of this Agreement are available for review prior to the Auction at the Auction information office or by calling Auctioneer. On the day of auction sale, no modification to the Agreement will be accepted.
- D. Deposit.** The Buyer purchasing a Property will be required to deliver a deposit equal to \_\_\_\_\_ (the “Deposit”) which must be a Cashier’s Check and be delivered immediately upon consummation of the sale to \_\_\_\_\_ [Escrow Company]. In an event Buyer does not wish to bring a Cashiers Check to the Auction, Buyer agrees to make the required deposit by wire transfer to \_\_\_\_\_ no later than 24hours prior to the Auction and must provide proof of receipt from \_\_\_\_\_.
- E. No Refund on Deposit.** If the bid is accepted, the Deposit will not be refunded under any circumstances. Additionally, Deposit shall be retained by the Seller or Auctioneer upon Buyer’s failure to complete the Agreement and close the sale and Seller shall be entitled to proceed pursuant to the options set forth in paragraph (g) below.
- F. Failure to Deliver Deposit Due to Insufficient Funds.** If Buyer has provided a payment of Deposit which have been returned for any reason including but not limited to being declared non-sufficient funds “NSF,” being drawn on a closed account, being fraudulent, or having a stop order placed upon it, Buyer shall not be eligible to participate in any future auctions. Buyer may also be responsible for any costs or auction fees associated with failing to deliver the Deposit due with sufficient funds.
- G. Failure to Pay Deposit or Refusal to Execute the Agreement.** If Buyer fails to pay the Deposit or refuses to execute the Agreement, at Seller’s option:
- i. The result of the auction sale shall be treated as invalid and the Property may at such time be resubmitted to auction at the expense of the Buyer for reasonable auction expenses, **OR**
  - ii. The Seller may affirm the Agreement and pursue legal and equitable relief against the Buyer as they deem appropriate.

- H. Property Purchased “AS IS” and Buyer’s Release of Seller and Auctioneer’s Liability.** Buyer accepts the Property in “AS IS” condition at time of closing, including any hidden defects known, unknown, or even those that should have been known. All properties will be conveyed by general warranty deed or quitclaim deed, unless otherwise stated. BUYER AND ANYONE CLAIMING BY, THROUGH OR UNDER BUYER FULLY AND COMPLETELY RELEASE SELLER AND AUCTIONEER AND THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES AND AGENTS FROM ANY AND ALL CLAIMS THAT BUYER MAY NOW HAVE OR ACQUIRE IN THE FUTURE AGAINST SELLER FOR ANY COST, LOSS, LIABILITY, DAMAGE, EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION ARISING FROM OR RELATED TO ANY CONSTRUCTION DEFECTS, ERRORS, OMISSIONS OR OTHER CONDITIONS, INCLUDING ENVIRONMENTAL MATTERS, AFFECTING THE PROPERTY, OR ANY PORTION OF THE PROPERTY. THIS RELEASE INCLUDES CLAIMS OF WHICH BUYER IS PRESENTLY UNAWARE OR WHICH BUYER DOES NOT PRESENTLY SUSPECT TO EXIST WHICH, IF KNOWN BY BUYER, WOULD MATERIALLY AFFECT BUYER’S RELEASE OF SELLER, BROKER AND AUCTIONEER. Buyer understands and agrees that the purchase price has been adjusted by prior negotiation to reflect that the Property is sold by Seller and purchased by Buyer subject to the foregoing.
- I. Furnishings.** The Property(ies) are being sold unfurnished unless otherwise negotiated with Seller or Auctioneer.
- J. No Contingencies.** Buyer acknowledges that this transaction is not subject to any financing contingency or any other contingency, including but not limited to an inspection contingency. By participating in the auction Buyer represents to Auctioneer and Seller that Buyer possesses adequate financing and has done sufficient due diligence to bid on the Property and pay the amount bid and complete the sale. Further, by participating in the auction, Buyer acknowledges that Auctioneer and Seller are relying on Buyer’s representation whether verbal or in any writing of sufficient funding. Buyer acknowledges that as a result of Buyer’s participation in the Auction, Auctioneer and Seller will be injured if Buyer lacks sufficient financing or if Buyer has failed to adequately inspect the condition of the Property and its value, resulting in Auctioneer and Seller’s losses of resources used to market the property and conduct the auction. In accordance with this paragraph, Buyer acknowledges that no contingency provisions relating to Buyer’s ability to obtain financing and or relating to building or pest inspections exist in the Agreement.
- K. Closing and Title.** All properties, including the Property, must close on or before \_\_\_\_\_[number of days] after the auction. All prospective Bidders should consider engaging counsel of their own choosing to examine the commitment for title insurance and all matters referred to in that commitment as affecting the state of title of properties on which they intend to bid. Seller and Auctioneer make no warranties or representations with respect to the state of title on any of the properties, the title company, or of the correctness or completeness of the information contained in the commitment for title insurance. Unless otherwise stated, Seller shall pay all current taxes, fees or other encumbrances on or assessed against the Property up to the date of closing. \_\_\_\_\_ shall act as the closing agent for this transaction. Seller shall provide the buyer with title insurance.
- L. Buyer is Guest of Auctioneer.** Any person attending the auction is a guest of Auctioneer and is subject to removal by Auctioneer at its discretion.
- M. Property Available at Auction.** Auctioneer reserves the right to add or delete any property from this auction or to alter the order of sale from that published in catalogues, the internet, or elsewhere.
- N. Property Information Furnished by Seller or Auctioneer.** The information regarding the Property set forth in any advertising, websites, catalogues or anywhere, has not been independently verified by Seller or Auctioneer. The accuracy of this information is not warranted in any way, including but not limited to information furnished to Buyer concerning utilities, lease information, zoning, acreage of parcel, square footage of improvements and all photographs. Buyer agrees they are not relying on the information provided by Seller or Auctioneer in deciding whether to bid on the Property and have conducted their own due diligence investigation prior to the auction. No obligation exists on the part of Seller or Auctioneer to update this information. Any announcements made at the auction take precedence over all other communications to Buyer from Seller or Auctioneer and shall have a legally binding effect. Seller and Auctioneer shall not be liable for any oral or written representation, warrants or agreements, relating to the Property (including information appearing in the auction brochure or announcements made at the time of the auction) except those of Seller as specifically set forth in the Agreement. Buyer is solely responsible for verification of any legal description of Property. Seller and Auctioneer make no warranty expressed or implied as to the accuracy of the legal description of any property.

- P. With Reserve Auction.** All properties are being auctioned with a confidential seller reserve. All properties subject to a confidential seller reserve price are not sold until Seller approves the bid. There is no minimum starting bid required on any property. If the Buyer's bid is accepted as the winning bid, Buyer has entered into an enforceable and binding agreement and Buyer must, pursuant to these Terms and Conditions and all other related documents Buyer has signed pursuant to this Auction, which are incorporated into this Agreement by reference, pay the applicable Deposit immediately after the Auction has ended.
- O. Agency Disclosure.** Auctioneer and all licensees employed by or associated with Auctioneer represent the Seller in the sale of the Property or any properties.
- Q. Severability.** The invalidity of any portion of these Terms and Conditions shall not be deemed to affect the validity of any other provision. If any provision of these Terms and Conditions is held to be invalid, the Parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both Parties subsequent to the invalidity and deletion of the invalid provision.
- R. Choice of Law and Attorney's Fees.** Any actions or proceedings to enforce or interpret the terms and conditions of these agreements shall be governed by and interpreted under the provisions of Nevada law. Any lawsuits or other actions arising out of the terms and conditions of this agreement, shall be brought in the Second Judicial District Court of the State of Nevada, in and for the County of Washoe. The parties hereto voluntarily and expressly waive trial by jury and the prevailing party in any action brought hereunder shall be entitled to its attorney's fees and costs.

**/// END ///**

## SIGNATURE PAGE TO AUCTION TERMS AND CONDITIONS

DATE OF AUCTION

LOCATION

DATE OF EXECUTION

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IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year written above on this page.

BIDDER / BUYER

SELLER

HARCOURTS NV1  
AS AUCTIONEER

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PRINTED NAME

PRINTED NAME

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