



MULTI-PROPERTY AUCTION
AMENDMENT TO LISTING AGREEMENT
AND AGENCY DISCLOSURE

THIS AGREEMENT, entered into this \_\_\_ day of \_\_\_\_\_ 20 \_\_\_ by and between, United Country - US Auctions, LLC ("USA"), \_\_\_\_\_ ("Seller"), and \_\_\_\_\_ ("Listing Broker"), on that certain property described as, \_\_\_\_\_ ("Property").

AUCTION LISTING TERM. The Seller and Listing Broker agree to enter into an agreement with USA starting on the date listed above and ending on \_\_\_\_\_ (date), to conduct an auction on the described property, which is currently listed with the Listing Broker. It is understood and agreed that the terms and conditions of the active listing agreement on the property with the Brokerage listed above shall not change as a result of the execution of this Amendment, except as designated herein.

This agreement is an amendment to the original listing agreement, allowing USA the permission and authorization to conduct a Real Estate Auction on the property, as a Co-Listing Brokerage. The intent of this agreement is to enhance the exposure of the property to a large number of potential buyers in a defined period of time, and to facilitate a rapid closing by minimizing or eliminating contingencies on offers

- 1. BROKERAGE FEE. During the life of this contract should USA, the Listing Broker and/or Listing Agent, a sub-agent, or any other agent find a party who is ready, willing and able to purchase said property or any part thereof, at a price acceptable to the seller, the seller agrees to pay a total commission of \_\_\_\_\_% of such sales price. Commissions shall be divided up between the Original Listing Brokerage, and the Buyer's Brokerage. It is understood by the Seller and the Listing Broker that any unregistered buyers (either online or at the live auction) shall be represented by USA as a limited agent.
2. AUCTION BUYER'S PREMIUM FEE. Seller understands that there is a 2% auction fee that is charged to the buyers as a "Buyer's Premium Fee," and which is added to the final bid price. This fee is paid to the Seller, and Seller agrees to pay this fee to USA at closing.

The Original Listing Broker/Agent excludes the following buyers from this agreement:

Should any of these buyers purchase the property prior to the auction, the auction marketing fees will not be refunded.

- 3. PROTECTION PERIOD. As referenced in Section 9.b.iv. below, USA shall have 45 days to close escrow from the date of seller's acceptance of an offer to purchase the property. If an agreement to sell the property is entered into within 30 days after the auction date between Seller and any party to whom the property was offered or shown by USA, the Listing Company, Seller, or any other party during the term of this listing agreement, seller agrees to pay the total amount referenced in Section 2 above.
4. SELLER WARRANTIES/DISCLOSURES. The Seller warrants to USA that the individual(s) or entity(s) listed above as the "Seller" represents all of the record owners of the Property. The Seller warrants that it has marketable title and an established right to sell, lease, or exchange the Property. The Seller agrees to execute the necessary documents of conveyance. The Seller agrees to furnish buyer with good and marketable title, and to pay at Settlement, for a standard coverage owner's policy of title insurance for the buyer in the amount of the purchase price. The Seller agrees to fully inform the Seller's Agent regarding the Seller's knowledge of the condition of the Property. Upon signing of this Listing Agreement, the Seller agrees to personally complete and sign a Seller's Property Condition Disclosure form. The Seller agrees to indemnify and hold harmless the Seller's Agent individually, the Seller's Agent's Company/Brokerage, the USA Co-listing Agent individually, and USA against any claims that may arise from: (i) the Seller providing incorrect or inaccurate information regarding the Property; (ii) the Seller failing to disclose material information regarding the Property, including, but not limited to, the condition of all appliances; the condition of heating, plumbing, and electrical fixtures and equipment; sewer problems; moisture or other problems in the roof or foundation; the availability and location of utilities; and the location of property lines; and (iii) any injuries resulting from any unsafe conditions within the Property.
5. AGENCY RELATIONSHIPS. By signing this Amendment to the Listing Agreement, the Seller designates the Seller's Agent and the Principal/Branch Broker for the Company (the "Broker"), and the Co-listing Agent of USA and USA's Broker as agents for the Seller to locate a buyer for the Property. The Seller authorizes the Seller's Agent and/or Listing Broker and the Co-listing Agent of USA and USA's Broker to appoint another agent in the Company to also represent the Seller in the event the Seller's Agent or Broker will be unavailable to service the Property. As agents for the Seller, they have fiduciary duties to the Seller that include loyalty, full disclosure, confidentiality, and reasonable care. The Seller understands, however, that the Seller's Agent, the Broker, and USA may now, or in the future, be agents for a buyer who may wish to negotiate a purchase of the Property. In this case, the Seller's Agent and the Broker would be acting as Limited Agents - representing both the Seller and buyer at the same

time. A Limited Agent has fiduciary duties to both the Seller and the buyer. However, those duties are "limited" because the agent cannot provide to parties undivided loyalty, full confidentiality and full disclosure of all information known to the agent. For this reason, the Limited Agent is bound by a further duty of neutrality. Being neutral, the Limited Agent may not disclose to either party information likely to weaken the bargaining position of the other – for example, the highest price the buyer will offer, or the lowest price the Seller will accept. **THE SELLER IS ADVISED THAT NEITHER THE SELLER NOR THE BUYER IS REQUIRED TO ACCEPT A LIMITED AGENCY SITUATION IN THE COMPANY, AND EACH PARTY IS ENTITLED TO BE REPRESENTED BY ITS OWN AGENT.** If Limited Agency is agreed to below; (a) the Seller authorizes the Seller's Agent, the Broker, and USA to represent both the Buyer and the Seller as Limited Agents when the Seller's Agent, the Broker, and USA also represent the Buyer of the Property that the Seller owns; (b) the Seller further agrees that when another agent in the Company represents the Buyer, that agent will exclusively represent the Buyer, the Seller's Agent will exclusively represent the Seller, and the Broker will act as a Limited Broker. **IN EITHER EVENT, IF LIMITED AGENCY IS AGREED TO BELOW, THE BUYER AND THE SELLER WILL BE REQUIRED TO SIGN A SEPARATE LIMITED AGENCY CONSENT AGREEMENT AT THE TIME THE LIMITED AGENCY SITUATION ARISES. INITIAL APPLICABLE BOX:**

[            ] I AGREE TO LIMITED AGENCY; OR [            ] I DO NOT AGREE TO LIMITED AGENCY.

6. **PROFESSIONAL ADVICE.** The Company, the Seller's Agent, and USA are trained in the marketing of real estate. Neither the Company nor its agents are trained or licensed to provide the Seller or any prospective buyer with legal or tax advice, or with technical advice regarding the physical condition of the Property. **SELLER IS ADVISED NOT TO RELY ON THE COMPANY, OR ON ANY AGENTS OF THE COMPANY, FOR A DETERMINATION REGARDING THE PHYSICAL OR LEGAL CONDITION OF THE PROPERTY.** If the Seller desires advice regarding: (i) past or present compliance with zoning and building code requirements; (ii) legal or tax matters; (iii) the physical condition of the Property; (iv) this Listing Agreement; or (v) any transaction for the acquisition of the Property, the Seller's Agent, the Company, and USA **STRONGLY RECOMMEND THAT THE SELLER OBTAIN SUCH INDEPENDENT ADVICE. IF THE SELLER FAILS TO DO SO, THE SELLER IS ACTING CONTRARY TO THE ADVICE OF THE COMPANY AND USA.**
7. **DISPUTE RESOLUTION.** The parties agree that any dispute, arising prior to or after a closing, related to this Listing Agreement shall first be submitted to mediation through a mediation provider mutually agreed upon by the Seller and the Company. If the parties cannot agree upon a mediation provider, the dispute shall be submitted to the American Arbitration Association. Each party agrees to bear its own costs of mediation. If mediation fails, the other remedies available under this Listing Agreement shall apply.
8. **ATTORNEY FEES.** Except as provided in Section 6, in case of the employment of an attorney in any matter arising out of this Listing Agreement, the prevailing party shall be entitled to receive from the other party all reasonable costs and attorney fees, whether the matter is resolved through court action or otherwise. If, through no fault of the Company, any litigation arises out of the Seller's employment of the Company under this Listing Agreement (whether before or after a closing), the Seller agrees to indemnify USA, the Company and the Seller's Agent from all costs and attorney fees incurred by USA, the Company and/or the Seller's Agent in pursuing and/or defending such action.
9. **REAL ESTATE AUCTION.** Seller agrees to have USA conduct a real estate auction for the said property in an attempt to obtain the highest price with the most favorable terms that the public is willing to offer for the property under the advertised terms and conditions of the sale. It is understood that the final bid price is subject to the acceptance of the seller(s), within 5 days after the auction. In the case of a short sale, the lender will have 45 days from the offer date to approve the short sale.
- a. **AUCTION DATE.** USA shall conduct the auction of the said property on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, at \_\_\_\_\_ (a.m., p.m.). Location and closing of the auction shall take place on-line, on conference call, by Proxibid™ and on-site when appropriate. USA reserves the right to move the time and date of the auction and/or postpone the auction as necessary, however, seller and original listing agent will be consulted prior to such decision.
- b. **AUCTION TERMS AND CONDITIONS.** The terms and conditions of the auction are as follows:
- i. USA will offer the property as represented by the seller(s) on all listing forms and disclosures.
  - ii. Seller(s) agree to provide preliminary title report prior to the auction and a paid policy of title insurance to the purchaser in the amount of the purchase price at the close of escrow.
  - iii. The successful bidder upon entering into a Real Estate Purchase Contract will be required to submit a minimum deposit of \_\_\_\_\_ which will be applied towards the purchase price at closing. This shall represent their earnest money deposit on the property.
  - iv. The balance of the purchase price will be due and payable by buyer at the close of escrow which shall be no later than 45 days after seller(s)/lender(s) accepts the offer.
  - v. All normal closing costs will be paid by the respective parties. Taxes and rents and any assessments will be prorated between the buyer and seller at close of escrow.
- c. **SELLER AUTHORIZATIONS.** Seller authorizes and agrees to the following:
- i. Sellers property will be placed on the USA online auction system(s), allowing buyers to bid online. Sellers agree to allow the online bidding price to start with a nominal starting price of \$ \_\_\_\_\_, which shall be posted on the USA online site and other sites.

- ii. Installation of appropriate Auction Signage on the property.
- iii. List property on several internet sites, which may include the Multiple Listing Service (MLS).
- iv. Allow the use of a key box on the property.
- v. USA may hold open houses on the property on the following date(s): \_\_\_\_\_.
- vi. Seller understands that USA will be charging buyers a 2% buyer's premium.

d. **ORIGINAL LISTING AGENT/BROKER OBLIGATIONS AND RESPONSIBILITIES:** The Brokerage that presently has the property listed under contract with the seller shall:

- i. Allow USA to install an "auction" sign on the property, next to the current sign, if one exists, and allowed by local laws and/or restrictions.
- ii. Continue regular marketing efforts as agreed with the seller in the original listing agreement.
- iii. Agree to be listed on the auction advertising and marketing material, as co-listing agent, if desired.
- iv. Promote the property to all potential buyers directing them to the USA websites, to bid.
- v. Participate with USA as needed, with the offer acceptance and closing process.
- vi. Provide additional assistance as needed in selling the property during the period of the co-listing agreement.
- vii. Assist in the showings of the property, conduct open houses as needed and answer calls on the property.
- viii. Register any represented buyers as required by all agents to be eligible to receive the 3% BAC.
- ix. Provide USA with a copy of the:
  - 1. Seller's Disclosure
  - 2. Preliminary Title Report OR preferred Title Company
  - 3. Any photos and/or pertinent information regarding the property
  - 4. Agree to at least ONE of the following as pertaining to the MLS Listing:
    - a. Release the MLS listing, while retaining the original listing agreement with the seller, as referenced in section 1 of this agreement. This will enable USA to list the property on the MLS under USA, allowing the property to be uploaded to pre-paid premium websites, providing additional exposure for the property.
    - b. Keep the MLS listing posted with the original listing brokerage, with the understanding that this may not include some auto-uploading to other premium websites. The Original Listing Broker shall change the wording on the MLS to read the following under "REMARKS":

***"THIS PROPERTY IS BEING OFFERED FOR SALE AT PUBLIC AUCTION. THE CURRENT LIST PRICE IS THE CURRENT HIGH BID. FOR MORE INFORMATION ABOUT THE AUCTION PROCESS AND TO SUBMIT A BID, PLEASE REFER TO THE AGENT REMARKS."***

Under "AGENT REMARKS" on the MLS listing, the original listing brokerage shall enter: "Information about the auction process and this property can be found on the auction website, [www.usauctionsonline.com](http://www.usauctionsonline.com), or you can call 877-922-9720. Offers may be submitted prior to the auction closing date by calling the office number.

e. **AUCTION COMPANY OBLIGATIONS AND RESPONSIBILITIES:** As co-listing Broker, USA shall:

- i. Market the property at Auction as required in this agreement and as per the auction budget.
- ii. Be present at all scheduled open houses, where the original listing agent cannot be present.
- iii. Conduct the auction using our normal auction process.
- iv. Make updates to the auction listing websites as bids are received within 24 hours.
- v. Contact, verify and qualify all potential buyer leads.
- vi. Receive offers and present them to the seller(s) with the assistance of the original listing agent and/or broker.
- vii. Follow-through on offers and facilitate the acceptance and closing process, with all parties.
- viii. Use the UC Confidential buyer lists to match potential buyers to your property.
- ix. Provide you a weekly progress report on your property, and feedback on showings.
- x. Track and follow up on all calls and showings.
- xi. Post your property on all appropriate real estate and auction websites and update them weekly.

**10. AUCTION MARKETING PARTICIPATION.** Seller has reviewed the attached auction marketing budget and agrees to participate in the bulk sale auction, and to share in the marketing costs.

**Auction Marketing Budget** (see attached)

- Auction Marketing Costs (per property) \$ \_\_\_\_\_
- Required Deposit/Amount Paid With this Agreement \$ \_\_\_\_\_
- Balance Due \$ \_\_\_\_\_
- Date Balance is Due \_\_\_\_\_

**11. NO GUARANTEE.** USA does not in anyway guarantee or make any promises as to the results of the auction and marketing efforts. Seller understands and agrees that this real estate auction is an enhanced marketing solution to advertise and market the property. If included above, the appraisal and property inspection become the property of the Seller. If the property is not closed, there will be no refunds on any of the above marketing items, and the seller shall not be liable for any additional amount due to USA.

**12. BUYER DEFAULT.** In the event the buyer defaults, the sole remedy for the Seller(s) shall be the forfeiture of the buyer's earnest money deposit. Such deposit will first go to reimburse the seller for the auction marketing fee paid to USA on this property. Any remaining balance will be divided equally between the Seller(s), Original Listing Broker, and USA as liquidated damages.

THE UNDERSIGNED Seller does hereby agree to the terms of this Amendment to the Listing Agreement.

\_\_\_\_\_  
(Seller's Signature) (Address/Phone) (Date)  
E-mail address: \_\_\_\_\_

\_\_\_\_\_  
(Seller's Signature) (Address/Phone) (Date)  
E-mail address: \_\_\_\_\_

\_\_\_\_\_  
(Original Listing Agent) Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

\_\_\_\_\_  
(Original Listing Principal/Broker) (Date) Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

\_\_\_\_\_  
(Auction Agent) (Date)