

## GENERAL TERMS AND CONDITIONS OF SALE

**“Public Auction” – Thursday, June 3, 2010 @ 11:00 A.M. E.D.T.**

**By Court Ordered State Receivership, Kenneth A. Welt, Receiver, Case No.: 09-004712 CACE 14  
Petroleum Facility with Convenience Store, 5900 North Federal Highway, Fort Lauderdale, Florida 33308**

**Please review this document carefully. In order to register and receive a Bidder’s Number, a Bidder must sign their Acknowledgment and Acceptance of these General Terms and Conditions of Sale.**

### **1. AUCTION TIME AND PLACE:**

The Auction (“Auction”) will be held on Thursday, June 3, 2010 at 5900 North Federal Highway, Fort Lauderdale, Florida 33308, and conducted by Fisher Auction Co., Inc. The Auction will commence at approximately 11:00 A.M., E.D.T.

### **2. AUCTION REGISTRATION:**

Registration will begin one (1) hour prior to the Auction time. Registration is required to become a qualified and eligible bidder (“Bidder”) at the Auction. To register, a prospective Bidder must:

(a) Provide Bidder’s full name, company name, residence/business addresses with telephone numbers, cellular telephone number, facsimile number, email address, a State valid driver’s license number, or a valid passport and the name(s) and / or entity in which the Bidder will take title to the Property.

**(b) Present (for review) at registration a \$50,000.00 Cashier’s Check or Certified Funds (no exceptions) payable in U.S. Funds from a U.S. Bank to Feingold Schechter PA Real Estate Trust Account. If desired, Bidders may wire transfer said deposit no later than two (2) business days prior to the Auction. (Call for wiring instructions).**

(c) Sign an acknowledgment that the Bidder has read and agrees to be bound by these General Terms and Conditions of Sale.

### **3. HIGHEST BID, TOTAL PURCHASE PRICE, ESCROW DEPOSITS, REAL ESTATE SALES CONTRACT:**

(a) The Highest Bidder on the property will be required to execute, as Buyer (“Buyer”), the Real Estate Sales Contract (“Contract”) immediately following the conclusion of the Auction, with no changes / exceptions, and tender the escrow deposits so required. The Highest Bidder’s deposit stated in 2(b) (“Initial Deposit”) shall be delivered to the Law Offices of Feingold Schechter PA, as Settlement Agent, for deposit into their escrow account and held in escrow as a required deposit pursuant to the terms of the Contract.

(b) An additional deposit (“Additional Deposit”) equal to the difference between 10% of the Total Purchase Price and the Initial Deposit, will also be due Auction Day in the form of a personal or business check from a U.S. Bank payable to Feingold Schechter PA Real Estate Trust Account and delivered to the Law Offices of Feingold Schechter PA, as Settlement Agent, for deposit into their escrow account and held in escrow as a required deposit pursuant to the terms of the Contract.

(c) The amount of (i) the Highest Bid **AND** (ii) 10% of the Highest Bid (“Buyer’s Premium”), added together, will be the **Total Purchase Price** (“Total Purchase Price”) for the Property to be purchased by the Buyer under the Contract.

### **4. CLOSING AND PAYMENT OF TOTAL PURCHASE PRICE:**

(a) The Closing (“Closing”) will be on or before thirty (30) days after the Effective Date on the Contract subject to the approval of the sale terms by both the Receiver and the Circuit Court administering the receivership proceedings. The Closing will be coordinated through the Law Offices of the Settlement Agent; Robert A. Feingold, Feingold Schechter PA, 3858-S Sheridan Street, Hollywood, Florida 33021. Telephone: 954.967.2575 x201, Facsimile: 954.967.2576.

(b) The Total Purchase Price will be due and payable by Buyer at Closing by Wire Transfer of immediate funds, pursuant to written instructions from the Settlement Agent. Buyer shall receive credit for the Initial Deposit and the Additional Deposit, upon clearance, which shall be released from escrow and applied by the Settlement Agent towards the Total Purchase Price at Closing.

(c) Time shall be of the essence as to Buyer’s obligations as described in the Contract.

### **5. TITLE INSURANCE and ZONING:**

(a) Seller, **at Seller’s expense**, will provide Buyer a Commitment (“Commitment”) to issue an Owner’s Title Insurance Policy for the Property at the promulgated rate as required by and provided in applicable Florida Statutes, Codes, Rules and Regulations (including the Florida Administrative Rules). The Commitment and Owner’s Title Insurance Policy will be issued by the Settlement Agent through First American Title Insurance Company. A copy of the proposed Commitment will be attached to the Contract.

(b) It is understood and agreed that Fee Simple Title to the Property is being sold to the Buyer.

(c) The Seller will convey title by a Special Warranty Deed.

(d) Title to the Property will be subject to the exceptions set forth in the proposed Commitment (“Permitted Exceptions”). Buyer agrees to take title to the Property subject to the Permitted Exceptions.

(e) Buyer agrees that the Property is subject to all laws, ordinances, codes, rules and regulations of applicable governmental authorities pertaining to the ownership, use and occupancy of the Property including, but not limited to, zoning, land use, building codes, and agrees to take title subject to such matters, and the following permitted exceptions: (i) all covenants, restrictions, easements and agreements of record now on the Property; (ii) all liens for unpaid municipal charges not yet due and payable and all taxes and assessments for the year of Closing and all subsequent years not yet due and payable, (iii) the state of facts which would be shown by a current survey or inspection of the Property; (iv) any matter created by or through Buyer; (v) any title matters which Buyer has accepted or is deemed to have accepted as set forth in the Contract; and (vi) such other items that will not make the Property unusable or unmarketable for the purposes for which it is currently used.

(f) Seller is not providing any survey of the Property to Buyer.

#### **6. BUYER’S NOTE:**

(a) The sale of the Property is an “All Cash” transaction and shall not be subject to any financing, other contingencies, or post due diligence.

(b) The Seller and Fisher Auction Co., Inc., their representatives, attorneys, agents, and sub-agents, assume no liability for errors or omissions in this or any other property listing or advertising or promotional/publicity statements and material. The Seller and Fisher Auction Co., Inc., their representatives, attorneys, agents and sub-agents, make no guarantee as to the accuracy of the information herein contained or in any other property listing or advertising or promotional/publicity statements and material. Neither Fisher Auction Co., Inc. nor the Seller has any obligation to update this information. Neither Fisher Auction Co., Inc. nor the Seller, their Agents and Sub-Agents, have any liability whatsoever for any oral or written representations, warranties, or agreements relating to the Property except as is expressly set forth in the Contract.

(c) The Property is sold in “AS IS AND WHERE IS” condition and with all faults and defects, with no representations or warranties, express or implied. All Bidders are encouraged to inspect the Property prior to placing any bid at the Auction and the Highest Bidder, as Buyer, acknowledges that it has had a reasonable opportunity to inspect and examine the condition of the Property and make inquiries of applicable governmental authorities pertaining to Buyer’s proposed use of the Property prior to the Auction as Buyer has deemed necessary or desirable. Please review the Contract, the As-Is Rider and the Disclosures attached to the Contract.

(d) Competitive bidding is an essential element of an Auction sale, and such a sale should be conducted fairly and openly with full and free opportunity for competition among bidders. Any conduct, artifice, agreement, or combination the purpose and effect of which is to stifle fair competition and chill the bidding, is against public policy and will cause the sale to be set aside. Collusion / Bid Rigging is a Federal Felony punishable by imprisonment and fine. Fisher Auction Co., Inc. will report all illegal conduct to the F.B.I. and cooperate with any prosecution.

(e) Seller, in its absolute sole discretion, reserves the right to amend, negotiate, modify, or add any terms and conditions to these General Terms and Conditions of Sale, the Contract and to announce such amendments, modifications, or additional terms and conditions at anytime.

(f) Back-up bids will be received by Seller in Seller’s absolute discretion. Should the Property not close with the Buyer, the Seller will have the option to pursue back-up bids.

(g) If you are unsure about anything regarding the Property, do not place a bid. Review of the Contract before making any bid is strongly recommended.

#### **7. ANNOUNCEMENTS:**

All announcements from the Auction Block at the Auction will take precedence over all previously printed material and any other oral statements made; provided however that the Auctioneer shall not be authorized to make any representation or warranty (express or implied) with respect to the Property. In the event of a dispute over bidding procedures, the Auctioneer shall make the sole and final decision and will have the right either to accept or reject the final bid or re-open the bidding. Bidding increments shall be at the sole discretion of the Auctioneer.

#### **8. ABSENTEE / TELEPHONE BIDS:**

Absentee / Telephone Bids will be accepted, subject to all terms and conditions of the Auction. Interested bidders must obtain and sign the proper forms by contacting Fisher Auction Co., Inc. and tender the required escrow deposit(s).

#### **9. DEFAULT:**

If the Buyer fails to comply with any of these General Terms and Conditions of Sale, the Seller may retain the required deposit(s) under the Contract as liquidated damages and not as a penalty.

**10. REPRESENTATIONS:**

All information was derived from sources believed to be correct, but is not guaranteed. Bidders shall rely entirely on their own information, judgment, and inspection of the Property and records. Neither Seller or Fisher Auction Co., Inc., its Agents and Sub-Agents makes any representation or warranties as to the accuracy or completeness of any information provided. All sizes, dimensions and drawings are approximations only.

**11. BROKER PARTICIPATION:**

Three Percent (3%) of the Bid Price will be paid to a qualified Licensed Real Estate Broker ("Broker") whose registered Buyer's offer is accepted by the Receiver and the Circuit Court administering the receivership proceedings and closes on the Property, provided the Broker is not prohibited by law from being paid such commission. To qualify for a commission, the Broker must first register their prospect on the MANDATORY REAL ESTATE BUYER BROKER PARTICIPATION REGISTRATION form. This form must be mailed such that it is received by the office of Fisher Auction Co., Inc. no later than 5:00 P.M. E.D.T., Wednesday, June 2, 2010. This registration MUST be sent to Fisher Auction Co., Inc., 619 East Atlantic Blvd., Pompano Beach, FL 33060. Brokers may also fax their broker registration to 954-782-8143. NO LATE REGISTRATIONS WILL BE ACCEPTED. Commissions will be paid only after closing and after Fisher Auction Co., Inc. has been paid in full. Brokers are not required to attend the closing. If a Broker has not met all of these requirements, no commission will be paid to the Broker, even if the Broker's prospect purchases the Property. No oral registrations will be accepted. Under no circumstances whatsoever will any commission be paid if the sale does not close for any reason.

**12. BID PRICE:**

The bid price for the Property shall be determined by competitive bidding at the Auction. The effectiveness of any proposed sale to the selected bidder is conditioned upon the subsequent approval of the sale terms by both the Receiver and the Circuit Court administering the receivership proceedings.

**13. ACKNOWLEDGMENT AND ACCEPTANCE:**

The Undersigned Bidder acknowledges receipt of a copy of these General Terms and Conditions of Sale, and having read and understood the provisions set forth therein, accepts same and agrees to be bound thereby. Facsimile signatures will be treated and considered as original.

\_\_\_\_\_  
Bidder's #

\_\_\_\_\_  
Bidder's Signature

\_\_\_\_\_  
Date