

# **Telephone Bidding Instructions**

**Lender Ordered Auction - 75 Brand New Waterfront Condominiums  
"The Riviera"  
2743 First Street, Fort Myers, Florida 33916  
Saturday, May 16, 2009 @ 11:00 A.M. E.D.T.**

**The following are guided instructions to assist a Telephone Bidder in order to participate in the Auction.**

1. Download from [www.fisherauction.com](http://www.fisherauction.com) the following documents for completion;
  - a) Bidder Registration Form
  - b) General Terms and Conditions of Sale
2. Complete, sign and date the Bidder Registration Form.
3. Sign and date the General Terms and Conditions of Sale.
4. Retain copies of the above documents for your file.
5. Return the two (2) original executed documents and a copy of your valid State issued Driver's License or a valid Passport no later than 12:00 Noon, E.D.T., Wednesday, May 13, 2009 to Fisher Auction Co., Inc., 619 E. Atlantic Blvd., Pompano Beach, Florida 33060. The required Escrow Deposit(s) in U.S. Funds must be wire transferred to Title Matters, LLC, Escrow Account (Escrow Agent) and verified by the above mentioned date / time (see wiring instructions below).
6. Once all the documents and the Escrow Deposit(s) is received and verified by Fisher Auction Co., Inc., you will be notified of your approved telephone number to bid.
7. If you are declared the highest and successful Bidder, you will immediately be required to execute via facsimile the Sales Contract ("Contract") and tender via wire transfer on Monday, May 18, 2009 the additional Escrow Deposit required per the Contract.

The Seller, IBRC, LLC and Fisher Auction Co., Inc. wish you the best of luck in the bidding process!

### **Wiring Instructions:**

Wachovia Bank  
1700 Palm Beach Lakes Blvd., #100  
West Palm Beach, Florida 33401  
ABA: 063000021

For the Benefit of:  
Title Matters LLC Escrow Account  
Account: 2000503895642  
Wachovia Wire Department 800.669.4458 Option 2

Please include bidder's last name, reference "The Riviera Auction" and call Title Matters office 561.835.0535 once your wire request has been sent.

Lender Ordered Auction - 75 Brand New Waterfront Condominiums  
"The Riviera"  
2743 First Street, Fort Myers, Florida 33916  
Saturday, May 16, 2009 @ 11:00 A.M. E.D.T.

**Online or Telephone Bidder Registration Form**  
(Please Type or Print Clearly)

<b>Name:</b>		
<b>Company Name (if applicable):</b>		
<b>Company Address:</b>		
<b>City:</b>	<b>St:</b>	<b>Zip:</b>
<b>City, Country &amp; Country Code (if outside the U.S.)</b>		
<b>Residential Address:</b>		
<b>City:</b>	<b>St:</b>	<b>Zip:</b>
<b>City, Country &amp; Country Code (if outside the U.S.)</b>		
<b>Valid State Issued Driver's License No. or Passport: (Copy of License or Passport Required)</b>		
<b>Daytime Phone:</b>	<b>Evening Phone:</b>	
<b>Cellular Phone:</b>	<b>Facsimile:</b>	
<b>Auction Day Contact Phone:</b>		
<b>Email:</b>		
<b>Entity in which Bidder will take Title:</b>		
<b>Marital Status:</b>		
<b>Bidder's Signature:</b>	<b>Date:</b>	

## GENERAL TERMS AND CONDITIONS OF SALE

**Lender Ordered Auction - 75 Brand New Waterfront Condominiums  
"The Riviera"  
2743 First Street, Fort Myers, Florida 33916  
Saturday, May 16, 2009 @ 11:00 A.M. E.D.T.**

**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, which may be incorporated into the Real Estate Sales Contract.**

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

The Auction ("Auction") shall be held on Saturday, May 16, 2009, at the Harborside Event Center, 1375 Monroe St., Ft. Myers, FL 33901, 239.321.8120. The Auction will commence at approximately 11:00 A.M. E.D.T.

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

Registration will begin two (2) hours 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 Cashier's Check or Certified Funds (no exceptions) payable in U.S. Funds from a U.S. Bank to Title Matters, LLC Escrow in the amount of \$10,000.00 (per Condominium). If desired, Bidders may wire transfer said deposit(s) no later than two (2) business days prior to the Auction date. (See wiring instructions below). Wired deposit(s) must be verified by Settlement Agent as being received by Settlement Agent prior to the commencement of the Auction.**

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

### **3. SUCCESSFUL BID, TOTAL PURCHASE PRICE, ESCROW DEPOSITS, CASHIER'S CHECK, REAL ESTATE SALES CONTRACT:**

(a) If the Seller accepts the highest bid ("Successful Bid") for the Property, then the successful Bidder will be required to execute, as Buyer ("Buyer"), the Real Estate Sales Contract ("Contract") immediately following the bidding and / or no later than the conclusion of the Auction, with no changes / exceptions, and tender the escrow deposits so required. The Successful Bidder's deposit(s) stated in 2 (b) above shall be delivered to Title Matters, LLC., as Settlement Agent, ("Initial Deposit") for deposit into their Escrow Account and held in escrow as a required deposit pursuant to the terms of the Contract.

(b) The amount of (i) the Successful Bid **AND** (ii) 10% of the Successful 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.

(c) 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 Title Matters, LLC, Escrow and delivered to Title Matters, LLC, as Settlement Agent, for deposit into their Escrow Account and held in escrow as a required deposit pursuant to the terms of the Contract.

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

(a) The Closing ("Closing") will be on or before Tuesday, June 16, 2009 and will be coordinated through the offices of the Settlement Agent; Deborah Pope, Title Matters, LLC, 314 Clematis Street Suite 201, West Palm Beach, Florida 33401, Phone 561.804.4571, Facsimile 561.828.8553.

(b) The Total Purchase Price will be due and payable by Buyer at Closing by Cashier's Check from a U.S. Bank in U.S. Funds (payable to Title Matters, LLC, Escrow) or by Wire Transfer 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 the Buyer's obligation as described in the Contract.

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

(a) Seller 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 Stewart Title Guaranty 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 being sold to the Buyer is free and clear of liens.

(c) The Seller will convey title by a Special Warranty Deed (the "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) any matter created by or through Buyer; (iv) any title matters which Buyer has accepted or is deemed to have accepted as set forth in the Contract; (v) any Condominium's Association Documents / Fees; and (vi) such other items that will not make the Property unusable or unmarketable for the purposes for which it is currently used.

### **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, Fisher Auction Co., Inc., and IBRC, LLC, 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, Fisher Auction Co., Inc., and IBRC, LLC 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., IBRC, LLC, nor the Seller have any obligation to update this information. Neither Fisher Auction Co., Inc., IBRC, LLC 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 being 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 Successful 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) The Property may be withdrawn from the Auction at any time without notice and is subject to prior sale.

(f) The 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 and to announce such amendments, modifications, or additional terms and conditions, at anytime.

(g) The highest bid shall be the Successful Bid only if same is acceptable to and accepted by Seller as evidenced by Seller and the Successful Bidder, as Buyer, each executing the Contract.

(h) Back-up bids will be recorded and received. Should the Property not close with the Buyer, the Seller will have the option to pursue back-up bids.

(i) If you are unsure about anything regarding the Property, do not place a bid. Review of the Contract before making any bids 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 the bidding process, 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/ONLINE BIDDING:**

Absentee / Telephone / Online 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, Fisher Auction Co., Inc. or IBRC, LLC, it's Agents and Sub-Agents makes any representation or warranties as to the accuracy or completeness of any information provided. All sizes, dimensions, drawings are approximations only.

**11. BROKER PARTICIPATION:**

Three Percent (3%) of the Bid Price(s) will be paid to a qualified Licensed Real Estate Broker ("Broker") whose registered Buyer's offer(s) is accepted by the Seller and closes on the Property(s), 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. The form must be received by the office of Fisher Auction Co., Inc. no later than 5:00 P.M. E.D.T., Friday, May 15, 2009. 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(s) 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 cooperating Broker has not met all of these requirements, no commission will be paid to the cooperating Broker, even if the cooperating Broker's prospect purchases the Property(s). 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. Twenty (20) Properties will be sold Absolute to the highest Bidders with no minimums or reserves and the remaining Properties will be sold Subject to Final Approval of and Acceptance of Price by the Seller.

**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

**Wiring Instructions:**

Wachovia Bank  
1700 Palm Beach Lakes Blvd., #100  
West Palm Beach, Florida 33401  
ABA: 063000021

For the Benefit of:  
Title Matters LLC Escrow Account  
Account: 2000503895642  
Wachovia Wire Department 800.669.4458 Option 2

Please include bidder's last name, reference "The Riviera Auction" and call Title Matters office 561.835.0535 once your wire request has been sent.

## Return of Escrow Instructions

In the event that you are not the successful Online or Telephone Bidder on a property, then please fill out this form to instruct us as to how you would like your escrow deposit sent back to you.

The amount of Deposit held in Escrow is: \$ \_\_\_\_\_

I, \_\_\_\_\_, hereby authorize Title Matters, LLC (Escrow Agent) to release my deposit back to me via:

### PLEASE PRINT CLEARLY

\_\_\_\_\_ A check sent to the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OR**

\_\_\_\_\_ A wire transfer to my bank per the wiring instructions below:

Bank Name: \_\_\_\_\_

Bank Address: \_\_\_\_\_  
\_\_\_\_\_

Bank Phone No.: \_\_\_\_\_

Bank ABA No.: \_\_\_\_\_

Account Name: \_\_\_\_\_

Account No.: \_\_\_\_\_

Bidder Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name Printed: \_\_\_\_\_