

LuJohns Auction Group, LLC

125 Eagle St, Pittsfield, MA 01201
2130 Cape St Route 20, Lee, MA 01238
Office: 413 443-2500
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TERMS & CONDITIONS OF AUCTION SALE

For Real Property known as Downing III Unit - #2C (Master Deed Recorded Book 1179 PG 1120) Pittsfield, MA 01201 (the premises).

1. Property. Any available property information may be obtained by calling Lujohns Auction Group, LLC and/or by calling the Listing Broker indicated in the auction catalog if any. Any property may be withdrawn prior to sale without notice or penalty. Seller shall have no obligation to accept any bids, except those for designated properties being sold Absolute or those properties with a disclosed minimum bid where the bidding at the Auction meets or exceeds the minimum bid.

Closing Date: Closing is to occur no more than Sixty (60) days from the effective date of the sales contract.

1A. All bidders will be required to comply with Commonwealth of Massachusetts regulations including Social Distancing and Face Mask Regulations as mandated by the Commonwealth of Massachusetts.

2. Location of the auction will be sold on-site. The time and date of the auction is in the auction catalog.

3. Auction Registration, On Site Bidders: All bidders are required to register and provide suitable I.D. prior to the auction. Auctioneer reserves the right to decline registration if I.D. produced is not sufficient. Bidder registration will begin approximately 60 minutes prior to each auction. Please come early to avoid delay. The high bidder on the Real Estate will sign the Agreement To Purchase Real Estate At sale By Auction agreement immediately following the Real Estate Auction. The high bidder on the Real Estate will pay a \$10,000 or Ten Percent (10%) deposit whichever is greater.

Deposit is required in the form of:

a. Certified check in the amount of \$10,000.00 (made payable to the "bidder, (yourself) OR LuJohns Auction Group, LLC ...Example: " John Doe or Lujohns Auction Group, LLC") upon registering to bid

b. The balance of deposit to equal 10% of purchase price in the form of company or personal check immediately following the Real Estate Auction.

Bidders hereby approve that these monies will be held by the auctioneer until the conclusion of the auction when the successful bidder(s) funds will be retained as a down payment in the execution of purchase and sales agreement. All unsuccessful bidders' funds will be returned at this time.

A credit card may not be used for auction registration / down payment requirement.

All bidders must register to receive a bidder's number in order to bid on any property. This number shall be required of the bidder at the time said bidder is declared the "High" Bidder. Each Successful Bidder shall be required to sign the Sales Contract immediately, after being declared the "High" Bidder. If for any reason the Successful Bidder fails or refuses to execute the required documents and/or surrender the down payment after being declared the Successful Bidder, the Auctioneer reserves the right to declare the bidder's rights forfeited and may auction the property once again. Said failure or refusal will result in the forfeiture of all earnest moneys of that bidder and will invoke Indemnity Provisions as described by this contract (see paragraph title "indemnity"). If a bidder registers under the name of an LLC or any other business entity, the bidder will be required to present at the time of registration a corporate resolution authorizing that individual to bid on the behalf of said entity. Acceptance of this authorization shall be at the sole discretion of the auctioneer. All high bidders will have and retain the right to increase their own high offer if they so desire in order to position themselves in a more strategic or favorable position to purchase any property.

Auction Registration, Remote Bidders, (if applicable): Participation in this auction remotely via telephone, proxy, absentee, internet or any other technical means of bid submission will be subject to the same terms as the onsite bidders except for the following provisions: the ID requirements and the required deposit in certified funds and check as aforementioned must be provided to the auction firm a minimum of 48 hours prior to the auction. In the event the remote bidder is a Successful bidder that bidder will be required execute the sales agreement electronically immediately upon that declaration by electronic method of communication (i.e.: e-mail correspondence or facsimile transmission). Non compliance with these terms will result in default and the forfeiture of all earnest money (see paragraph title "default").

4. Open House Inspection. All properties are available for inspection prior to the auction. Please contact Lujohns Auction Group, LLC for open house dates and/or to set up an individual appointment.

5. All information distributed to a Bidder and all other materials or information shall be subject to and superseded by the terms of the Sales Contract, Terms & Conditions of Auction Sale, and any other contract documents which shall constitute the entire agreement between the parties. Contact Lujohns Auction Group, LLC for a copy of the Sales Contract, Terms & Conditions of Auction Sale and any other required contract documents prior to auction for review.

6. Closing Costs. The Successful Bidder agrees to pay for all their closing costs permitted under state law. This includes any points, loan origination fees, attorney's fees, lender required inspections, termite inspections, courier fees, lender fees, transfer taxes and recordation fees. Please consult your loan officer.

7. Contingencies. All sales are NOT contingent on financing or any other requirement. It is strongly recommended that prospective buyers investigate available financing prior to the Auction. Each bidder is responsible for determining availability and qualifying for such financing.

7A. Closing Documents. Seller shall provide a good clear record and marketable title at closing. In the event that any title or other issues are discovered the Seller has the right to

extend the closing date up to 90 additional days to perfect title The sole remedy for any unforeseen title or other defects that are not able to be corrected during this interim shall be the refund of any deposits to the buyer and the cancellation of the purchase agreement

8. Property Condition. All property is being sold "As-Is, Where-Is" and "With All Faults" as of the Closing Date. Neither the Seller, Auctioneer, Auction Firm, Broker nor any of their agents, contractors, attorneys, officers or directors ("Agents") makes any representations or warranties with respect to the physical condition of the land or any improvement thereon, the Property's fitness for any particular purpose, the Property's merchantability, or any other warranty, express or implied. No representations or warranties are made with respect to the subject premises, as same address zoning, site plan approval or other federal, state or local laws. Any maps, plats, surveys, site plans, subdivision maps or the like have been supplied by seller and broker and auctioneer make no representation, warranties or guarantees with respect to locations, dimensions, tract sizes, suitability for use, or subsurface conditions. The Seller, Auctioneer, Auction Firm, Broker and their Agents, specifically disclaim any warranty, guaranty, or representation, oral or written, past or present, express or implied concerning the Property. Bidders are expected to undertake their own independent physical inspection of the Property. If the Successful Bidder's lender requires any repair(s) and/or treatment(s) to be done to the property, it is the Successful Bidders responsibility to pay for those repair(s) and/or treatments(s) and shall not be considered a contingency to be met by the Seller under any agreement executed between the parties hereto . If the local or state laws require a property Disclaimer or Disclosure from the Seller, the Seller will meet this requirement and LuJohns will provide any signed documentation from the Seller to all prospective bidders.

9. Environmental Audit. If a residential auction property was built prior to 1978, each bidder will receive a copy of the booklet titled "Protect Your Family From Lead in Your Home" along with a Lead Based Paint Disclosure from the Listing Broker. Each bidder for residential and commercial property has the opportunity prior to auction to pay, at their expense, for a lead based paint, radon, asbestos, ground pollution and/or any other inspection of the property. For all residential properties built prior to 1978, the High Bidder at the auction must sign the Lead Based Paint Disclosure to ratify the contract. For any auction property, the Seller, Auctioneer, Auction Firm, Broker or their Agents bear no responsibility to pay to remove or to remove any lead-based paint, lead- based paint hazard, asbestos, radon, ground pollution and/or any other environmental contamination from any auction property prior to, on the day of or after settlement.

10. Buyers Premium. A ten percent (10%) Buyers Premium will be added to the high bid price and become part of the total contract sales price paid by the Buyer at closing.

Example: With a \$100,000 high bid, the 10% buyers premium will be added resulting in a total contract price of \$110,000. Credit Cards are not accepted for any part of the Real Estate Transaction.

11. Licensed Broker Participation Invited. If the High Bidder is registered by a real estate Broker and/or their Agent licensed in the state of the auction sale and the Broker and/or their Agent has submitted and met the terms of the brokers participation form including attending the auction with their customer or client, the Broker will be paid up to a 3% selling commission based on the Brokers Participation form when the auction property closes and when the entire 10% Buyers Premium is collected by the Auctioneer at closing.

12. Participation. All properties are available to qualified purchasers without regard to prospective purchaser's race, physical handicap, color, religion, sex, familial status or

national origin. Any person bidding on behalf of another person or entity must have a valid, legally enforceable, unexpired, recordable Specific Power of Attorney approved by the Seller prior to the date of the auction.

13. Default. If closing is delayed by actions or lack of actions or failure to comply with these Terms & Conditions of Auction Sale or the Sales Contract on the part of the Successful Bidder, default will be declared and all Earnest Money will be retained by the Auctioneer and Seller as liquidated damages, representing the negotiated and fair measure of damages, not to be construed as a penalty.

14 Representation. By execution of this agreement the bidder acknowledges the auctioneer and listing broker(if any) represent the seller only, and the commission paid in respect to this sale is identified as a buyer's premium as set forth in paragraph titled "Buyers Premium" above. This is a portion of commission paid by the buyer. In all circumstances, the Listing Agent, the Listing Broker, the Auctioneer and the Auction Firm and its representatives represent the Seller, except if the Seller allows the Listing Broker to be a dual agent...

15. Time is of the essence as to all terms of this contract.

16. If any terms of this addendum conflict with any part of the sales contract, the Terms & Conditions of Auction Sale shall supersede.

17. Determination of Disputes. In the case of disputed bids, the auctioneer shall exercise his or her best discretion in determining the resolution of claims, and such decision is final. Such decision shall not be the subject of any post-auction claims. No transfer shall be recognized from one buyer to another buyer. In the event a dispute should arise after the auction, the auctioneer's records shall be conclusive.

18. Participation; Privacy of Auction. The auction you attend is a privately conducted event, not open to the public and as such, Auctioneer reserves the right to refuse admittance to any person.

19. Indemnity Provisions. By execution of this agreement, bidder agrees to bear responsibility for any charges, claims or expenses incurred by reason of any violation, breach or default in respect to these terms and conditions, including, reasonable attorney's fees, court costs, the cost of re-sale, and remarketing costs. The foregoing remedies are not exclusive.

20. General Provisions. This agreement shall not be interpreted or construed in a manner which creates a negative inference based upon the fact that the Auctioneer prepared the agreement. Facsimile signatures shall be considered binding. In such event any provision herein is deemed illegal, void or unenforceable by a court of law, it shall not impact the body or balance of the agreement.

21. Interpretation. Interpretation of this agreement shall be consistent with the purchase and sale agreement, it being the stated intent that this document and the purchase and sale agreement are to be read as integrated documents conferring the same rights and obligations.

22. Lujohns Auction Group, LLC as auctioneers, reserve the rights to receive and administer telephone, proxy, absentee, internet or any other technical means of bid submission in

conjunction with the live auction event and to bid on the behalf of any buyer or seller. All absentee or remote bidding must be approved no later than 48 hours prior to the auction.

23. Any addendum to these Terms and Conditions delivered verbally or in writing at the opening of the auction become incorporated into this contract and become components of the whole. Any party entering into the bidding process after the delivery of said addendums accepts these additional or prevailing terms.

24. Buyer understands there is a current Maintenance Fee of \$700.00 / Month and is required to abide by the "Trustees of the 17 Downing Three Condominium Trust" By Laws, Covenants, Master Deed and all other Restrictions of Record pertaining to " the premises" including permitted usage of property Industrial Manufacturing, Warehousing, Research, General Office and purpose related thereto.

**IMPORTANT NOTICE REGARDING ALL AUCTIONS & INSPECTIONS
AS ALWAYS,**

**THE HEALTH AND SAFETY OF OUR CUSTOMERS AND EMPLOYEES IS OUR TOP PRIORITY.
WE ARE DOING OUR BEST TO ENSURE OUR STAFF AND CUSTOMERS ARE AS SAFE AS
POSSIBLE.**

Due to the spread of the Coronavirus
(Covid-19)

**IF YOU WISH TO INSPECT THE ASSETS AT ANY OF OUR AUCTION SALES, WE ASK THAT
YOU MAKE AN APPOINTMENT SO WE MAY TAKE THE NECESSARY PRECAUTIONS TO
MAINTAIN HEALTH AND SAFETY PROTOCOLS**

**THE COVIDVIRUS STILL REMAINS A POTENTIAL RISK IN ANY PERMITTED PUBLIC
GATHERING. ALL AUCTION SALE ATTENDEES SHOULD REMAIN MINDFUL TO OBSERVE
SOCIAL DISTANCING AND ALL OTHER CDC AND GOVERNMENTAL HEALTH CAUTIONS. WE
CANNOT BE RESPONSIBLE FOR ANY VIOLATIONS BY ANY PERSONS, OR RISK OF
CONTRACTION IN ANY EVENT.**

**PLEASE MAINTAIN A 6' DISTANCE
BETWEEN YOURSELF AND OTHERS.**

**PLEASE DO NOT ATTEND IF YOU ARE EXPERIENCING ANY SYMPTOMS OF ILLNESS OR HAVE
BEEN EXPOSED TO SOMEONE WHO HAS, OR HAVE TRAVELED OUTSIDE OF THE USA IN THE
LAST MONTH.**

**PLEASE BE AWARE
OF THE COVID-19 TRAVEL ORDER ISSUED BY
THE COMMONWEALTH OF MASSACHUSETTS
(SEE WWW.MASS.GOV FOR ADDITIONAL INFORMATION).
MASKS REQUIRED.**

By signing below the Successful Bidder agrees to meet all of the terms and conditions of this document as outlined above. This document is made part of the AGREEMENT TO PURCHASE REAL ESTATE AT SALE BY AUCTION, Auction Sale Memorandum, the and any other required contract documents which follow the execution of this document and which taken together form the entire agreement between the parties.

I hereby agree to the TERMS & CONDITIONS OF AUCTION SALE

Bidders Signature: _____

Date: _____