



## STATE OF IDAHO, DEPARTMENT OF LANDS – STATE LAND

### REAL ESTATE AUCTION TERMS AND CONDITIONS AGREEMENT

**Bottles Real Estate Auctions, LLC**, an Idaho limited liability company (“**Auctioneer**”), **AS AGENT FOR SELLER, the State Board of Land Commissioners, acting by and through the Idaho Department of Lands (“IDL”)**, will offer the Endowment Land in today’s auction according to the following terms and conditions:

1. The Auction will be with reserve. All bids for the Endowment Land are subject to acceptance by IDL at close of auction. The winning highest bid accepted by IDL (the “Successful Bid”) must equal or exceed the appraised value of the Endowment Land.
2. All bidders at the auction must be citizens of the United States, eighteen (18) years of age or older, of sound mind, and legally competent to own and transfer real property in the State of Idaho.
3. IDL owns the Endowment Land.
4. The auction may be for the purchase of the Endowment Land in either of the following scenarios:
  - a. Endowment Land only (excluding any Personal Property owned by a current or prior lessee which may be located on the Endowment Land, as defined below).
  - b. Endowment Land that is unleased and may have fixtures and improvements located on the Endowment Land owned by IDL.
5. “Personal Property” as defined herein shall refer to those structures and modifications located upon the Endowment Land that are owned by the most recent Lessee or other third party and are not owned by IDL, that would commonly be referred to as fixtures and improvements if the underlying real property and the fixtures and improvements thereon were owned by the same party.
6. The Endowment Land shall be sold “AS IS”, and subject to all existing easements or claims of easements, rights of way, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes, and all other matters. IDL does not guarantee the accuracy of the acreage, if any, identified in the property description. IDL makes no representation as to the use of the Endowment Land for any purpose.
7. A title commitment (“Title Commitment”) was acquired in order to demonstrate the status of title to the Endowment Land for purposes of auction. IDL obtained a Title Commitment from First American Title Company (the “Title Company”). IDL makes no representation or warranty whatsoever of title. A current Title Commitment for a standard owner’s title insurance policy from the Title Company, together with updates from time to time, will be available on the internet at [www.bottlesauctions.com](http://www.bottlesauctions.com) and will be available for review prior to the auction.
8. IDL, as an agency of the State of Idaho, is statutorily precluded from paying taxes and assessments on Endowment Land. The State cannot be taxed by any County, City, or other local governmental or other quasi-governmental entities, such as a water or sewer district related to a prior lessee’s use. The County or other governmental or quasi-governmental entities may show past due taxes and/or assessments relating to a prior lessee’s use of the Endowment Land and are typically the

personal obligation of the prior lessee or current owner of the Personal Property. Such taxes and assessments, and the entities capable of assessing such taxes and assessments are generally identified in the Title Commitment. If the Endowment Land has no Personal Property thereon, then there may be taxes and assessments and utilities whether or not shown on the Title Commitment that were incurred by a prior lessee; as such, the Endowment Land shall be sold subject to any such taxes, assessments, or costs for utilities.

**9.** The Successful Bidder may acquire a title policy ("Title Policy") from the Title Company at the Successful Bidder's cost. If the Successful Bidder acquires a Title Policy from the Title Company, if any, then the title commitment deposit ("Title Commitment Deposit") to be paid at close of auction shall be applied towards the premium for such Title Policy, and any portion of the Title Commitment Deposit in excess of the said premium, if any, shall be refunded to the Successful Bidder. If the Successful Bidder chooses not to purchase a Title Policy from the Title Company, then the applicable cancellation fee shall be calculated in an amount equal to one-half (½) of what the premium for the Title Policy would have been, and the difference, if any, shall be refunded to the Successful Bidder.

**10.** Prior to the auction, the Endowment Land and Personal Property, if any, and/or fixtures and improvements located thereon was made available for inspection and review, and the Successful Bidder certifies that all due diligence required by the Successful Bidder has been completed prior to auction.

**11.** Any bidder for Endowment Land that is Lake Front property that is not the owner of the Personal Property located upon the Endowment Land, nor the current lessee of the Endowment Land upon which the bidder is bidding must present a cashier's check in the sum of Fifty Thousand Dollars (\$50,000) per Endowment Land lot that bidder wishes to purchase in order to register to bid for any Endowment Land (the "Bid Deposit"). In the event Bidder wishes to bid on and ultimately purchase more than one lot of Endowment Land, Bidder shall present a cashier's check in the sum of \$50,000 for each Endowment Land lot. Bidder shall retain the cashier's check until succeeding as the Successful Bidder. If bidder is ultimately the Successful Bidder, then bidder shall provide the cashier's check(s) to the IDL representative at the close of auction for said Endowment Land, and the funds shall be deposited with the Title Company and applied towards the purchase of the Endowment Land upon a successful close of escrow ("Closing") of the purchase of the Endowment Land in accordance with the terms and conditions of the Purchase and Sale Agreement ("PSA"), or forfeited to IDL if Closing fails to occur through no default of IDL. At close of auction, the Successful Bidder shall execute Escrow Instructions (the form of which can be viewed on the internet at [www.bottlesauctions.com](http://www.bottlesauctions.com)) prepared by IDL in which the Successful Bidder shall agree to the non-refundable nature of the Bid Deposit and payment of other costs and fees, as well as the forfeiture of all such Bid Deposit and payment of costs and fee in the event of a default by the Successful Bidder. If the Successful Bidder is bidding online, the Successful Bidder shall promptly sign following close of auction the Escrow Instructions through an electronic signature software used by Auctioneer.

**12.** Any bidder for Endowment Land that is not Lake Front property and who is not the owner of any Personal Property located upon the Endowment Land, nor the current lessee of the Endowment Land, upon which the bidder is bidding, must present a cashier's check in the sum of Ten Thousand Dollars (\$10,000) per Endowment Land lot that bidder wishes to purchase in order to register to bid for all non-Lake Front or Upland Endowment Land (the "Upland Bid Deposit"). In the event Bidder wishes to bid on and ultimately purchase more than one lot of Endowment Land, Bidder shall present a cashier's check in the sum of \$10,000 for each Endowment Land lot. Bidder shall retain the cashier's check(s) until succeeding as the Successful Bidder. If bidder is ultimately the Successful Bidder, then bidder shall provide the cashier's check to the IDL representative at the close of auction for said Endowment Land, and the funds shall be applied towards the purchase of the Endowment Land upon a successful Closing, or forfeited to IDL if Closing fails to occur through no default of IDL.

At close of auction, the Successful Bidder shall execute Escrow Instructions (the form of which can be viewed on the internet at [www.bottlesauctions.com](http://www.bottlesauctions.com)) prepared by IDL in which the Successful Bidder shall agree to the non-refundable nature of the Bid Deposit and payment of other costs and fees, as well as the forfeiture of all such Bid Deposit and payment of costs and fee in the event of a default by the Successful Bidder. If the Successful Bidder is bidding online, the Successful Bidder shall promptly sign at close of auction the Escrow Instructions through an electronic signature software used by Auctioneer.

**13.** At the close of auction, the Successful Bidder shall execute a PSA, an Endowment Land Affidavit, and a Statement of Non-Collusion, sample forms of which can be reviewed on the internet at [www.bottlesauctions.com](http://www.bottlesauctions.com) or are available for review at the auction location prior to the auction. If the Successful Bidder is bidding online, the Successful Bidder shall promptly sign at close of auction the PSA, an Endowment Land Affidavit, and a Statement of Non-Collusion through an electronic signature software used by Auctioneer.

**14.** The Endowment Land Affidavit shall confirm that neither the Successful Bidder nor any third party that the Successful Bidder may represent has purchased in excess of the constitutional limitation of a total of three hundred twenty (320) acres of Endowment Land, including the Endowment Land that is the subject of this auction. If at any time it is discovered that the three hundred twenty (320) acre constitutional limitation has been exceeded, then the Successful Bidder and any third party that the Successful Bidder may represent shall forfeit any and all amounts, costs, fees, charges, and expenses of any kind paid at any time relative to the acquisition of the Endowment Land, including, but not limited to, any and all amounts, costs, fees, charges, and expenses of any kind paid at the close of auction, including the amount of the appraised value of any Personal Property located upon the Endowment Land or any lesser amount agreed to by the owner of the Personal Property (the "Personal Property Value"), and any and all amounts, costs, fees, charges, and expenses of any kind, including the Successful Bid amount for the Endowment Land paid at Closing. In addition, the Successful Bidder and any third party that the Successful Bidder may represent shall be required to reconvey to IDL, upon demand by IDL, all Endowment Land acquired at auction free and clear of any and all liens and encumbrances.

**15.** At the close of auction for each parcel of Endowment Land, the Successful Bidder shall be promptly escorted to the contract table to sign the PSA for the Endowment Land successfully bid upon, and shall be required to pay with certified funds or other readily available funds the equivalent of cash, an amount equal to the Personal Property Value, together with all other amounts the Successful Bidder is required to pay at close of auction. If the Successful Bidder is bidding online, the Successful Bidder shall promptly sign at close of auction the PSA through an electronic signature software used by Auctioneer. If the Successful Bidder fails or refuses to sign the PSA, then the Successful Bidder shall immediately pay and forfeit to IDL the Bid Deposit in the amount of Fifty Thousand Dollars (\$50,000), or the Upland Bid Deposit in the amount of Ten Thousand Dollars (\$10,000), depending upon whether the Endowment Land bid upon was Lake Front or non-Lake Front Upland property.

**16.** If the Endowment Land bid upon has no Personal Property thereon, then the Successful Bidder shall pay to IDL at close of auction the following costs and fees: a) an appraisal fee for appraisal of the Endowment Land in the amount of One Thousand Dollars (\$1,000); and, b) a Title Commitment Deposit of Two Thousand Dollars (\$2,000) for Lake Front property, or Eight Hundred Dollars (\$800) for Upland property; provided however, that if the Successful Bidder previously paid for the appraisal fee and Title Commitment Deposit fee as part of the nomination processes, the Successful Bidder shall not be required to pay such fees. Such fees shall be assessed for each lot of Endowment Land. At Closing, the Successful Bidder shall pay an administration fee in the amount of six percent (6%) of the Successful Bid.

**17.** If the Successful Bidder is also the owner of the Personal Property located upon the Endowment Land, then the following costs and fees were paid prior to the auction: a) an "Initial Administration Fee" in an amount equal to one percent (1%) of the Endowment Land appraised value as set forth in the

legal notice for Endowment Land; b) an appraisal fee for appraisal of the Endowment Land in the amount of One Thousand Dollars (\$1,000); and, c) a Title Commitment Deposit of Two Thousand Dollars (\$2,000) for Lake Front property, or Eight Hundred Dollars (\$800) for Upland property. In addition to the costs and fees described above to be paid by the Successful Bidder of Endowment Land who is the owner of the Personal Property located upon the Endowment Land, the Successful Bidder shall pay an Additional Administration Fee equal to four percent (4%) of the appraised value of the Endowment Land at Closing.

**18.** If the Successful Bidder is not the owner of the Personal Property located upon the Endowment Land, then the following costs and fees shall be paid at the close of auction: a) an "Initial Administration Fee" in an amount equal to one percent (1%) of the bid amount for the Endowment Land; b) an Appraisal Fee for appraisal of the Endowment Land in the amount of One Thousand Dollars (\$1,000); and, c) a Title Commitment Deposit of Two Thousand Dollars (\$2,000) for Lake Front property, or Eight Hundred Dollars (\$800) for Upland property. Such fees shall be assessed for each lot of Endowment Land. In addition to the fees described above to be paid by the Successful Bidder of Endowment Land who is not the owner of the Personal Property located upon the Endowment Land, the Successful Bidder shall pay at Closing an Additional Administration Fee equal to four percent (4%) of the bid amount for the Successful Bid.

**19.** If the Successful Bidder shall fail at the close of auction for the Endowment Land to promptly sign all instruments required to be executed at close of auction, including but not limited to, the PSA, the Non-Collusion Agreement, the Endowment Land Affidavit, or the Escrow Instructions, or shall fail to pay by certified check, or other readily available funds the equivalent of cash, the Personal Property Value, or any other applicable cost, fee or payment required herein to be paid at the close of auction, then the Endowment Land may immediately be offered or re-offered for auction on the same day.

**20.** The PSA shall identify the Successful Bid amount for the Endowment Land, which is the purchase price to be paid by Successful Bidder at Closing, and shall also identify the price paid for the Personal Property, if any, at the close of auction.

**21.** A date for Closing shall be established by IDL to occur not sooner than thirty (30) days following the auction date, but not to exceed sixty (60) days.

**22.** A Successful Bidder requesting an extension of Closing beyond sixty (60) days after auction date for an additional thirty (30) days will be required to pay an additional non-refundable Five Thousand Dollar (\$5,000) Extension Deposit prior to the termination of the sixty (60) day period. In the event Successful Bidder is not the current lessee, the Extension Deposit may be used to cover the accrual of lease payments, if any, accruing during the period of the extension of the Closing. The Extension Deposit will be prorated toward the lease payment beginning sixty-one (61) days after the date of the auction through the date of Closing. Any remaining Extension Deposit funds not applied towards lease payment will be applied to the Purchase Price at Closing. In the event the Successful Bidder fails to close, the lease will be continued with the Applicant as set forth in the Auction Administration Agreement; provided however, that at the discretion of IDL, a PSA for the Endowment Land and Personal Property may be offered to the second highest qualified bidder at the auction who also executes at the auction a form provided by IDL acknowledging its second highest bid, who must also agree to pay lease payments, if any, accruing from the date of the failed Closing through the Closing under the new PSA. Any reference herein to Successful Bidder shall apply equally to and shall include the second highest bidder. In the event the second highest qualified bidder fails to close, the lease will be continued with the Applicant as set forth in the Auction Administration Agreement, who shall be responsible for continuing and future lease payments.

**23.** Upon satisfaction of all of the Successful Bidder's obligations under the PSA, including all payments due at Closing, the purchaser shall receive a State Deed transferring title to the Endowment Land, and shall also receive a Bill of Sale from the owner of the Personal Property transferring title to the Personal Property, if any, located on the Endowment Land. The general form of the State Deed and the Bill of Sale, if applicable, are available on the internet at [www.bottlesauctions.com](http://www.bottlesauctions.com) or are available for review at the auction location prior to the auction.

**24.** If the owner of the Personal Property located upon the Endowment Land is not the purchaser, then upon the successful Closing, the owner of the Personal Property shall receive an amount equal to the Personal Property Value or lesser agreed upon value.

**25.** If the Successful Bidder fails to satisfy all of the Successful Bidder's obligations in the PSA, including payment of all amounts due and owing at Closing, then the PSA shall be deemed terminated, and any and all amounts, costs, fees, charges, and expenses of any kind paid at any time relative to the acquisition of the Endowment Land or the Personal Property shall be forfeited to IDL without any further action required by IDL as a reasonable estimate of liquidated damages which are otherwise difficult to determine. IDL shall then be entitled to offer the second highest bidder a PSA for the purchase of the Endowment Land, or may place the Endowment Land for re-auction immediately for sale or lease, or to do anything with the Endowment Land that IDL deems appropriate in its discretion.

**26.** IDL may cancel this auction at any time prior to IDL's acceptance of a final bid.

**27.** In the event any term or condition set forth herein is inconsistent with any term or condition set forth in the PSA or any other document or agreement entered contemporaneously herewith, or prior to the execution of the PSA, the terms and conditions of the PSA to be executed by the Successful Bidder and IDL shall control.

The undersigned hereby acknowledges reading and accepting the above terms and conditions.

**The Undersigned Hereby Acknowledges Reading and Accepting the Above Terms & Conditions**

**BIDDER:**

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

Print Name of above signed: \_\_\_\_\_

If Bidder is an **ENTITY**, Please also complete the Following:

Name of Entity & Entity Type  
(i.e. LLC, Inc): \_\_\_\_\_

State of Organization: \_\_\_\_\_

Representative Capacity of Above signed (i.e. Manager, Member, President) : \_\_\_\_\_

Photo I.D. (Driver's License) to be verified by auction clerk:  
\_\_\_\_\_  
\_\_\_\_\_

Bidder # \_\_\_\_\_

Cashier's Check #  
\_\_\_\_\_  
\_\_\_\_\_

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

City: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_  
PH# \_\_\_\_\_

Email Address \_\_\_\_\_

Name/Address of Property Registering for: \_\_\_\_\_

Represented by (Real Estate Agent OR Self): \_\_\_\_\_

Brokerage (If Applicable): Please tell us how you heard about us:

Sign       Realtor  
 Website       Newspaper Ad  
 Radio       Other

**Form Cannot Be Accepted Until Auction Day Due to Cashier's Check Requirement**  
**\*\*\*Information May Be Subject to Public Records Requests\*\*\***