

## Online Bidder Registration Instructions

Online Real Estate Auction  
U.S. Bankruptcy Court | District of South Carolina  
RE: Brian James MacDonald | Case No.: 19-06512-jw  
5718 Captain Kidd Road, Hollywood, South Carolina 29449  
Thursday, March 4, 2021 Beginning @ 11:00 AM ET; Ending @ 1:00 PM ET

The following are guided instructions to assist an Online Bidder to participate in this Online Auction.

1. Download from [www.fisherauction.com](http://www.fisherauction.com) the Online Bidder Registration Package which includes the following documents;
  - a) Online Bidder Registration Form
  - b) Online Bidder Contract
  - c) Return of Initial Escrow Deposit Form
  - d) General Terms and Conditions of Sale
  - e) Acknowledgment of Review of the Consent Order Regarding Procedure to Sell Property
2. Complete, sign and date the Online Bidder Registration Form.
3. Complete, sign and date the Online Bidder Contract.
4. Complete, sign and date the Return of Initial Escrow Deposit Form.
5. Sign/Date/Time an acknowledgment that the Bidder has read and agrees to be bound by the General Terms and Conditions of Sale.
6. Sign/Date/Time an acknowledgment that the Bidder has read and agrees to be bound by the Consent Order Regarding Procedure to Sell Property.
7. Retain copies of the above documents for your file.
8. Return the five (5) executed documents and a copy of your valid State issued Driver's License or a valid Passport no later than 1:00 PM ET, Tuesday, March 2, 2021 (forty-eight hours in advance of the Auction's end time of 1:00 PM ET on Thursday, March 4, 2021) to Fisher Auction Company, 2112 East Atlantic Boulevard, Pompano Beach, Florida 33062; Facsimile: 954.782.8143; Email: [info@fisherauction.com](mailto:info@fisherauction.com).
9. Wire into Dodds Hennessy & Stith, LLP's IOLTA Account, via a Federal wire transfer in U.S. Funds (not an ACH Credit) a \$50,000 Initial Escrow Deposit no later than 1:00 PM ET on Tuesday, March 2, 2021. Contact Fisher Auction Company for wiring instructions via email [info@fisherauction.com](mailto:info@fisherauction.com) or call 954.942.0917, Ext. 4124.
10. The Auction will begin at 11:00 AM Eastern Time on Thursday, March 4, 2021 and conclude at 1:00 PM Eastern Time on Thursday, March 4, 2021 on Fisher Auction Company's Online Bidder Application which can be accessed through the Fisher Auction Company website. Please note that each Bidder will need to click "accept" to agree to the Online Bidding Application terms prior to the start of the sale in order to become activated to bid.
11. The highest and best bidder will execute the non-contingent Agreement/Contract: To Buy and Sell Real Estate (Residential) and any and all Addenda, immediately following the Auction.

A Sale Hearing ("Sale Hearing") shall be held on Thursday, March 11<sup>th</sup>, 2021 at 10:00AM Eastern Time at the United States Bankruptcy Court, King and Queen Building, 145 King Street, Room 225, Charleston, South Carolina, for the Court to approve the Sale of Real Property free and clear of all liens, claims and encumbrances to the Highest and Best Bidder. **Within (24) hours from the highest and best bidder being approved by the Court, an Additional Escrow Deposit totaling (10%) of the total contract price in U.S. Funds will be wired into Dodds Hennessy & Stith, LLP's IOLTA Account (the "Escrow Agent").**

**ONLINE BIDDER REGISTRATION FORM**

**Online Real Estate Auction**  
**U.S. Bankruptcy Court | District of South Carolina**  
**RE: Brian James MacDonald | Case No.: 19-06512-jw**  
**5718 Captain Kidd Road, Hollywood, South Carolina 29449**  
**Thursday, March 4, 2021 Beginning @ 11:00 AM ET; Ending @ 1:00 PM ET**

(Please Print Clearly)

<b>Name:</b>	
<b>Company Name (if applicable):</b>	
<b>Company Address:</b>	
<b>City, State &amp; Zip:</b>	
<b>City, Country &amp; Country Code (if outside the U.S.):</b>	
<b>Residential Address:</b>	
<b>City, State &amp; 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>Contact Phone:</b>	<b>Facsimile:</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>
<b>How did you hear about Auction:</b>	

**ONLINE BIDDER CONTRACT**

**Online Real Estate Auction  
 U.S. Bankruptcy Court | District of South Carolina  
 RE: Brian James MacDonald | Case No.: 19-06512-jw  
 5718 Captain Kidd Road, Hollywood, South Carolina 29449  
 Thursday, March 4, 2021 Beginning @ 11:00 AM ET; Ending @ 1:00 PM ET**

Please carefully review this Online Bidder Contract ("Contract") and the General Terms and Conditions of Sale ("Terms"). You must follow instructions for the required Initial Escrow Deposit, execute this Contract along with the other required documents within the Online Bidding Instructions Package, and send to Fisher Auction Company, 2112 East Atlantic Boulevard, Pompano Beach, Florida 33062; Facsimile: 954.782.8143; Email: info@fisherauction.com, in order for you to be able to participate as a Qualified Online Bidder in this Online Auction. All executed documents and the required Escrow Deposit to be received no later than 1:00 PM, ET, Tuesday, March 2, 2021.

This is a Contract entered into by and between the Bidder ("Bidder") whose name is identified below and Fisher Auction Company, "Auctioneer".

1. All registration information the Bidder provides to Auctioneer shall be current, complete, and accurate. Bidder must be 21 years of age or older. Bidder agrees not to use any device, software or routine to interfere or attempt to interfere with the proper working of any transaction being conducted during this Online Auction.
2. Bidder agrees not to retract its offer(s). The successful Bidder is legally bound to purchase the Property awarded in accordance with his / her bid, the Terms, the Agreement/Contract: To Buy and Sell Real Estate (Residential) and Addendums, the Consent Order Regarding Procedure to Sell Property and all other Federal and State Regulations governing contracts for the purchase of real property. Unilateral conditions asserted by any Bidder will not be accepted. There will be a 7% Buyer's Premium added to the Final Bid Price and included in the Total Purchase Price.
3. Auctioneer reserves the right, for any reason, in its sole discretion, to terminate, change or suspend any aspect of this Online Auction.
4. Disputes Between Bidders - If a dispute arises between two or more Bidders, Auctioneer reserves the right to reopen the bidding. Auctioneer's designation of the successful Bidder shall be final.
5. Termination: This Contract constitutes a binding agreement between Bidder and Auctioneer until terminated by Auctioneer, which Auctioneer may do at any time, without notice, in Auctioneer's sole discretion. If Bidder dissatisfaction occurs with this Online Auction in any way, Bidder's only recourse is to immediately discontinue use of this Online Auction. Auctioneer reserves the right to terminate Bidder registration and use of this Online Auction, and impose limits on certain features of this Online Auction or restrict Bidder access to, or use of, part or the entire Online Auction without notice or penalty.
6. Hold Harmless - Auctioneer cannot, and will not, be held responsible for any interruption in service, errors, and/or omissions, caused by any means, therefore they cannot guarantee continual, uninterrupted or error free service as the website could be interfered with by means out of Auctioneer's control. Bidder acknowledges that this Online Auction is conducted electronically and relies on hardware and software that may malfunction without warning. The Auctioneer may void any sale, temporarily suspend bidding, extend bidding times and/or re-sell the Property that was affected by any malfunction. The decision of the Auctioneer is final.
7. Required Escrow Deposit – In order to be fully and properly registered to bid online for this Auction, Bidder will have wire transferred the required Initial Escrow Deposit in the amount of \$50,000 in U.S. Funds to **Dodds Hennessy & Stith, LLP's IOLTA Account** ("Escrow Agent" / "Settlement Agent"), by 1:00 PM ET on Tuesday, March 2, 2021 and received Deposit confirmation by Fisher Auction Company. Once the Escrow Deposit and all required executed documents are received, no later than 1:00 PM ET on Tuesday, March 2, 2021, Auctioneer will approve your access to bid. Any questions regarding this online bidding process may be obtained by contacting Auctioneer at info@fisherauction.com or 800.331.6620 (U.S. calls) or 954.942.0917 (International calls).
8. Property Inspection: The Bidder is invited, urged and cautioned to inspect the Property prior to submitting any bid. Failure to inspect the Property shall not constitute cause for cancellation of sale.
9. OFFICE OF FOREIGN ASSETS CONTROL (OFAC) COMPLIANCE: All bidders are subject to providing appropriate government identification that includes full legal name and date of birth. In addition, all bidders are subject to being required to disclose their place of birth. By providing this information bidders agree to allow Seller to perform a search of the Specially Designated Nationals List, Blocked Persons List and Sanctioned Country List provided by the United States Office of Foreign Assets Control. Seller reserves the right to reject any bidder from registration after this search has been completed. By registering all bidders agree to abide by all of the Terms of Sale.
10. The Bidder agrees that, should they be the successful Bidder on the Property, all information regarding the transaction may be published on the Auctioneer's web site per the Electronic Freedom of Information Act Amendments of 1996 (5 U.S.C. 522(2000)).

<b>Name:</b>			
<b>Address:</b>			
<b>City – St – Zip:</b>			
<b>City, Country, Country Code (if outside the U.S.)</b>			
<b>Contact Telephone:</b>		<b>Email Address:</b>	

I hereby acknowledge and accept the above terms of this Online Bidding Contract and agree to comply with same. Facsimile and electronic signatures of the parties to this Contract shall be treated as original signatures.

<b>Signature</b>	<b>Date</b>

## Return of Initial Escrow Deposit Form

Online Real Estate Auction  
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In the event that you are not the successful Bidder on the Property, please fill out this form to instruct Dodds Hennessy & Stith, LLP (Escrow Agent / Settlement Agent), as to how to return your Initial Escrow Deposit. Please note, any return of escrowed funds will be returned to the same bank account where the funds had originated.

The amount of the Initial Escrow Deposit held in Escrow is: \$50,000.

I, \_\_\_\_\_, hereby authorize Dodds Hennessy & Stith, LLP. (the "Escrow Agent"), to release my Initial Escrow Deposit back to me within three (3) business days via:

### PLEASE TYPE OR PRINT CLEARLY

A wire transfer to the originating bank to the originator per the wiring instructions below:

#### Bank Information

<b>Bank Name:</b>
<b>Address:</b>
<b>City, St., Zip</b>
<b>Phone:</b>
<b>Swift Code (International Wires):</b>
<b>ABA Number:</b>

#### Account Information

<b>Account Name:</b>
<b>Account Number:</b>
<b>Address:</b>
<b>City, St., Zip</b>
<b>Phone:</b>

<b>Bidder Signature:</b>	<b>Date:</b>
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## GENERAL TERMS AND CONDITIONS OF SALE

**Online Real Estate Auction**  
**U.S. Bankruptcy Court | District of South Carolina**  
**RE: Brian James MacDonald | Case No.: 19-06512-jw**  
**5718 Captain Kidd Road, Hollywood, South Carolina 29449**  
**Thursday, March 4, 2021 Beginning @ 11:00 AM ET; Ending @ 1:00 PM ET**

Please review this document ("Terms and Conditions") carefully. In order to be eligible to bid on the Property, a Bidder must sign their Acknowledgment and Acceptance of these General Terms and Conditions of Sale.

### **1. START / END DATES AND TIMES:**

The Online Real Estate Auction ("Online Auction" or "Auction") shall begin on Thursday, March 4, 2021 at 11:00 AM ET and will conclude on Thursday, March 4, 2021, at 1:00 PM ET.

### **2. ONLINE BIDDER REGISTRATION:**

Registration is required to become a qualified and eligible online bidder ("Bidder"). To register, a prospective Bidder must:

(a) Complete the Online Bidder Registration Form providing Bidder's full name, company name, residence / business addresses (if applicable) with telephone numbers, cellular telephone number, facsimile number, email address, a copy of 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) Bidders must wire into Dodds Hennessey & Stith, LLP's IOLTA Account (the "Escrow / Settlement Agent"), via a Federal wire transfer in U.S. Funds (not an ACH Credit) a \$50,000 Initial Escrow Deposit no later than Tuesday, March 2, 2021 at 1:00 PM ET (forty-eight hours in advance of the Auction's end time of 1:00 PM ET on Thursday, March 4, 2021). Contact Fisher Auction Company for wiring instructions via email [info@fisherauction.com](mailto:info@fisherauction.com) or call 954.942.0917, Ext. 4124. All wired deposits must be verified by Fisher Auction Company prior to being approved to bid.

(c) Complete the Return of Initial Escrow Deposit Form.

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

(e) Execute the Online Bidder Contract.

(f) Sign /Date / Time the Acknowledgement of review of the Consent Order Regarding Procedure to Sell Property.

(g) Return the required five (5) executed documents to Fisher Auction Company, 2112 East Atlantic Boulevard, Pompano Beach, Florida 33062; Facsimile: 954.782.8143; Email: [info@fisherauction.com](mailto:info@fisherauction.com) no later than 1:00 PM ET, Tuesday, March 2, 2021.

### **3. SUCCESSFUL BID, TOTAL PURCHASE PRICE (INCLUDES BUYER'S PREMIUM), ADDITIONAL ESCROW DEPOSIT, AGREEMENT / CONTRACT: TO BUY AND SELL REAL ESTATE (RESIDENTIAL) AND ADDENDUMS:**

(a) If the Sellers by and through Fisher Auction Company ("Auctioneer") and Century 21 – Expert Advisors ("Broker") accepts a bid ("Successful Bid") for the Property, then the successful Bidder will be required to execute, as Buyer ("Buyer") (i) the Agreement / Contract: To Buy and Sell Real Estate (Residential) and its Addendums ("Contract"), which has been previously furnished to Bidder, immediately following the bidding and / or no later than the conclusion of the Online Auction, with no changes / exceptions (ii) within twenty-four (24) hours of Sale Approval by the U.S. Bankruptcy Court, District of South Carolina, initiate a wire transfer for an Additional Escrow Deposit equal to the difference between 10% of the Total Purchase Price and the Initial Escrow Deposit, to the Escrow Agent, Dodds Hennessey & Stith, LLP. Bidder will have no later than twenty-four (24) hours following the end of the Auction to execute and return the Contract and no later than twenty-four (24) hours of Sale Approval by the U.S. Bankruptcy Court, District of South Carolina, to initiate the wire transfer. If the Successful Bidder does not initiate the wire for the Escrow Deposit as stated above and execute and return the Contract within twenty-four (24) hours from the end of the Auction, they will be considered in default and the \$50,000 Initial Escrow Deposit will be forfeited and considered as liquidated damages.

(b) The amount of (i) the Successful Bid AND (ii) 7% 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 together with closing costs as further provided in the Contract.

### **4. IMMEDIATE BACK-UP BIDDER:**

By participating in the Auction, each Qualified Bidder consents to its bid being designated as a back-up bid in the event its bid is designated as the second highest and best offer to purchase the Property (the "Immediate Back-Up Bid") and as such, will execute the Contract at their bid price. If the successful Bidder fails to consummate the sale of the Property by the required closing date because of a breach or failure to perform on the part of such successful Bidder, the successful Bidder shall forfeit its Bidder Deposit to the Sellers and the next highest or otherwise best qualified bid for the Property will be deemed to be the Successful Bid, and the Sellers will be authorized to consummate the sale with the applicable second highest Bidder, submitting such bid without further order of the Bankruptcy Court (the "Immediate Back-Up Bidder"). The Closing to the Immediate Back-up Bidder shall take place within twenty (20) calendar days after such Immediate Back-Up Bidder receives notice from Sellers that the successful Bidder failed to close, and that the Sellers have elected to proceed to close with the Immediate Back-Up Bidder. If the Immediate Back-Up Bidder is unable or unwilling to close in the time permitted, the Immediate Back-Up Bidder shall forfeit its Bidder Deposit to the Sellers. In the event that the successful Bidder closes, the Escrow / Settlement Agent shall return to the Immediate Back-Up Bidder its Bidder Deposit within three (3) business days after the closing. In the event the Immediate Back-Up Bidder closes on the purchase of the Property, its Bidder Deposit shall be applied by the Sellers against the purchase price.

### **5. CLOSING AND PAYMENT OF PURCHASE PRICE:**

(a) **The Closing ("Closing") will take place within twenty (20) calendar days from the date of the signed U.S. Bankruptcy Court, District of South Carolina, Order Approving the Sale.** The Closing will be coordinated and administered through the offices of the Escrow / Settlement Agent; Dodds Hennessey & Stith, LLP; 973 Houston Northcutt Blvd., Ste. 101, Mount Pleasant, South Carolina 29464; Phone: 843.881.1022, Facsimile: 843.884.0351.

(b) The remaining balance of the Total Purchase Price will be due and payable by Buyer at Closing by Wire Transfer of immediately available U.S. funds, pursuant to written instructions from the Escrow / Settlement Agent. Buyer shall receive credit for the Escrow Deposits which shall be released from escrow and applied by the Escrow / Settlement Agent towards the Total Purchase Price at Closing.

(c) Time shall be of the essence as to Buyer's obligations in these General Terms and Conditions and as described in the Contract.

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

(a) The Seller will provide an Owner's Title Commitment and Policy on the Property through the Escrow / Settlement Agent. **The Title Commitment and the Premium for the Owner's Title Policy shall be paid by the Buyer.** The Commitment and Owner's Title Insurance Policy shall be issued by the Settlement Agent from Chicago Title Insurance Company.

(b) Except as provided for herein, it is understood and agreed that fee simple title to the Property is being sold to the Buyer without representation or warranty and subject to the Permitted Exceptions.

(c) The Seller will convey title by a Quit Claim Deed ("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, among other matters as described in these General Terms and Conditions of Sale and in the Contract.

(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, homeowner association documents / fees, if any, 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; (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; (vi) such other matters that will not make the Property unusable or unmarketable for residential purposes.

(f) Seller is not providing to Buyer any survey of the Property. In the event Buyer desires to obtain a survey of the Property, Buyer will be solely responsible to obtain, and pay for, such survey without reducing the proceeds of the Total Purchase Price payable to Seller at the Closing. Buyer shall not have the right to terminate the Contract based upon the results of the survey.

#### **7. BUYER'S ACKNOWLEDGEMENTS:**

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

(b) The Sellers, Century 21 – Expert Advisors and Fisher Auction Company and 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 materials. The Sellers, Century 21 – Expert Advisors and Fisher Auction Company and their representatives, attorneys, agents and sub-agents, make no representation or guarantee as to the accuracy of the information herein contained or in any other property listing or advertising or promotional / publicity statements and materials. Neither Fisher Auction Company, Century 21 – Expert Advisors nor the Sellers have any obligation to update this information. Neither Fisher Auction Company, Century 21 – Expert Advisors nor the Sellers, their Agents and Sub-Agents, attorneys, Escrow / Settlement Agent, representatives, members, managers or affiliates have any liability whatsoever for any oral or written representations, warranties, or agreements relating to a Property except as is expressly set forth in the Contract.

(c) **The Property is sold in its "AS IS AND WHERE IS" condition and with all faults and defects, with no representations or warranties, express or implied. The Property is sold free and clear of all liens, claims, encumbrances and other interests including any back real estate taxes owed.** All Bidders are encouraged to inspect the Property prior to placing any bid at the Online Auction and the Successful Bidder, as Buyer, acknowledges that it has had a reasonable opportunity to inspect and examine all aspects of the Property and make inquiries of applicable governing authorities pertaining to such matters in connection with the Property as Buyer has deemed necessary or desirable prior to the Online Auction. Bidders should review all applicable zoning, land use, code compliance, environmental matters, physical condition, and any and all other governmental statutes, ordinances, rules, laws and regulations and do such other due diligence in advance of execution of this document and all of the accompanying documents in connection with the purchase of the Property ("Governing Documents"). Please review all Governing Documents carefully, including the Consent Order Regarding Procedure to Sell Property and seek the advice of an attorney if Bidder feels it is necessary.

(d) Competitive bidding is an essential element of an Online 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 Company will report all illegal conduct to the F.B.I., the U.S. Bankruptcy Court and will cooperate with any prosecution.

(e) The Property may be withdrawn from the Online Auction at any time without notice and is subject to prior sale.

(f) Sellers / Court in their absolute sole discretion, reserve 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 any time, including during this Online Auction.

(g) The bidding increments shall be determined by the Auctioneer, in its reasonable discretion.

(h) The highest bid shall be the Successful Bid only if same is acceptable to and accepted by the U.S. Bankruptcy Court, District of South Carolina at the Final Sale Hearing.

(i) **If you are unsure about anything regarding the Property or the Governing Documents, do not place a bid or participate in the Online Auction.** Review of the Governing Documents, including the Consent Order Regarding Procedure to Sell Property, and all of the terms and conditions as well as a review of the Property before making any bids is strongly recommended and you will be deemed to have done so on execution of these General Terms and Conditions of Sale.

(j) At the close of this Online Auction, upon the acceptance of the Purchaser's bid is an acknowledgment that such bid is the highest bid, at which time it became a binding agreement to purchase the Property. Thereafter, you may not withdraw your bid and you are obligated to execute the Contract. Whether such bid is accepted, is subject to approval by the U.S. Bankruptcy Court, District of South Carolina .

(k) In the event a conflict exists between the Contract and the General Terms and Conditions of Sale, then, (i) prior to Buyer's execution and delivery of the Contract, the terms of the General Terms and Conditions of Sale shall govern and control and (ii) following Buyer's execution and

delivery of the Contract, the terms of the Contract shall govern and control over the General Terms and Conditions of Sale. However, in the event a conflict exists between the Contract or the General Terms and Conditions of Sale and the Consent Order Regarding Procedure to Sell Property or the Order Approving Sale, the Court Orders will control over any other document.

**8. ANNOUNCEMENTS / NOTICES:**

All announcements / notices provided to the bidders shall supersede and take precedence over all previously written or 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. The Auctioneer has the sole and absolute discretion to make any announcements via this Online Auction, including but not limited to any announcements that may amend or alter these Online Auction terms, conditions, or procedures that were previously set forth in written materials. 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.

**9. DEFAULT:**

If the Buyer fails to comply with any of these General Terms and Conditions of Sale, the Sellers shall retain the required Initial and Additional Escrow Deposits, which shall be considered fully earned and non-refundable, under this Agreement and / or the Contract as liquidated damages and not as a penalty. The Escrow / Settlement Agent must immediately release the Initial and Additional Escrow Deposits upon request of the Sellers. Buyer acknowledges and understands that this provision is enforceable and shall not be deemed a penalty because the damages are not readily ascertainable and generally impossible to calculate under the circumstances. Upon Default and notice of same by Sellers to Escrow / Settlement Agent, Buyer understands and agrees to the immediate release of the Initial and Additional Escrow Deposit funds to the Sellers by Escrow / Settlement Agent without the requirement of further documentation or consent from Buyer. Fisher Auction Company and the Sellers also reserve the right to immediately put the Property up for sale again. These remedies are in addition to any other remedies, including specific performance and / or additional money damages that the Sellers and / or Fisher Auction Company may have in equity or at law.

**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 the Sellers, Century 21 – Expert Advisors nor Fisher Auction Company, its 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:**

Two Percent (2%) of the Final Bid Price will be paid to a qualified Licensed Real Estate Broker (“Buyer’s Broker”) whose registered Buyer’s offer is accepted by the Sellers / Court and closes on the Property, provided the Buyer’s Broker is not prohibited by law from being paid such commission. To qualify for a commission, the Buyer’s 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 Company no later than 1:00 PM ET Tuesday, March 2, 2021. This registration MUST be sent to Fisher Auction Company, Inc., 2112 East Atlantic Boulevard, Pompano Beach, FL 33062. Buyer’s Broker may fax their broker registration(s) to 954.782.8143 or email to info@fisherauction.com. NO LATE REGISTRATIONS WILL BE ACCEPTED. Commissions will be paid only after closing and after Fisher Auction Company and Century 21 – Expert Advisors have been paid in full. Buyer’s Broker is not required to attend the Closing. If a Buyer’s Broker has not met all of these requirements, no commission will be paid to the Buyer’s Broker, even if the Buyer’s 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. FINAL BID PRICE:**

The Property is being sold to the Highest and Successful Bidder at or above a bid price of \$600,000 plus the seven percent (7%) Buyer’s Premium, subject to the terms and conditions of the Governing Documents and the U.S. Bankruptcy Court Approval at the Final Sale Hearing.

**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 or electronic signatures will be treated and considered as original.

**14. INDEMNIFICATION:**

Buyer shall defend, indemnify, and hold harmless Sellers, the Auctioneer, Fisher Auction Company, and Century 21 – Expert Advisors, their officers, directors, employees, and agents, from and against any and all claims, demands, causes of action, costs, liabilities, losses, damages, and expenses (including reasonable attorneys and expert witness fees and expenses) (collectively, “Claims”), and by whomever brought, to the extent arising out of or in any way related to (i) the sale of, (ii) the performance of the parties’ obligations under this Agreement; (iii) the physical condition and quality (and express or implied representations regarding such condition and quality) of the Property or any portion thereof, (iv) any breach of these General Terms and Conditions of Sale, Governing Documents, or the Contract; (v) any claim arising from the sale of the Property; (vi) any claim arising from Buyer’s participation in the Online Auction; or (vii) any other act, omission or representation by Buyer.

**15. HOLD HARMLESS:**

Fisher Auction Company cannot, and will not, be held responsible for any interruption in service, bidding extension times, errors, and/or omissions, caused by any means, therefore they cannot guarantee continual, uninterrupted or error free service as the website could be interfered with by means out of Fisher Auction Company’s control. Bidder acknowledges that this Online Auction is conducted electronically and relies on hardware and software that may malfunction without warning. Fisher Auction Company may void any sale, temporarily suspend bidding, extend bidding times and/or re-sell the Property that was affected by any malfunction. The decision of Fisher Auction Company is final.

**16. GOVERNING LAW / JURISDICTION / VENUE:**

The U.S. Bankruptcy Court, District of South Carolina shall retain exclusive jurisdiction over any matter or dispute relating to the sale.

**17. WAIVER OF JURY TRIAL:**

EACH PARTY TO THIS AGREEMENT HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED UPON THIS AGREEMENT OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER AGREEMENT CONTEMPLATED AND EXECUTED IN CONNECTION HEREWITH, OR ANY COURSE OF DEALING, COURSE OF CONDUCT, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO.

**18. ATTORNEY'S FEES:**

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret any provision or provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs, whether at the trial court and appellate level, in addition to all other costs associated with the action whether or not the action advances to judgment, in addition to any other relief to which that party may be entitled.

**19. ENTIRE AGREEMENT:**

This Agreement embodies the entire agreement between the parties relative to the subject matter, and there are no oral or written agreements between the parties, or any representations made by either party relative to the subject matter, which are not expressly set forth herein. To the extent that any of the terms or provisions contained herein differs or conflicts with those contained within the Contract, the Contract shall control. However, the Consent Order Regarding Procedure to Sell Property or the Order Approving Sale will control over any other document.

THE BIDDER ACKNOWLEDGES AND AGREES THAT THE BIDDER HAS READ ALL OF THE TERMS AND CONDITIONS AND EACH OF THE TERMS AND CONDITIONS CONTAINED IN THE GOVERNING DOCUMENTS AND AGREES TO BE BOUND TO SAME BY BIDDER'S SIGNATURE BELOW.

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Bidder's Signature

Date

Time



**ACKNOWLEDGEMENT OF REVIEW OF THE CONSENT ORDER REGARDING PROCEDURE TO SELL PROPERTY**

**Online Real Estate Auction  
U.S. Bankruptcy Court | District of South Carolina  
RE: Brian James MacDonald | Case No.: 19-06512-jw  
5718 Captain Kidd Road, Hollywood, South Carolina 29449  
Thursday, March 4, 2021 Beginning @ 11:00 AM ET; Ending @ 1:00 PM ET**

I \_\_\_\_\_, hereby acknowledges that I have read and  
**(Name of Bidder)**

agree to be bound by **The United States Bankruptcy Court, District of South Carolina Consent Order Regarding Procedure to Sell Property, as well as the Court’s ruling at the Sale Approval Hearing that shall be held on Thursday, March 11, 2021 at 10:00 AM Eastern Time.**

Acknowledged:

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**Signature**

**Date**

**Time**

U.S. BANKRUPTCY COURT  
District of South Carolina

Case Number: 19-06512-jw

CONSENT ORDER REGARDING PROCEDURE TO SELL PROPERTY

The relief set forth on the following pages, for a total of 5 pages including this page, is hereby **ORDERED**.

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**FILED BY THE COURT**  
**12/18/2020**



A handwritten signature in cursive script, reading "John E. Waites". The signature is written in black ink and is positioned above a horizontal line.

US Bankruptcy Judge  
District of South Carolina

Entered: 12/18/2020

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

In re:

Brian James Macdonald

Debtor.

Case No. 19-06512-jw

Chapter 13

**CONSENT ORDER**

This matter comes before the Court based on the order entered on September 15, 2020 (“Movants”) in the adversary proceeding to partition of the Debtor’s residence, Adversary Proceeding Number 20-80027-jw (“Partition Order”).

**FACTS**

1. This Court ordered partition of the ownership interests of the Debtor and Michael and Cathy Furlow (the “Furlows”) (the Debtor and the Furlows are described collectively as the “Parties”) in the Property located at 5718 Captain Kidd Road, Hollywood, SC (the “Property”).

2. The Partition Order provided that the Debtor was entitled to a 25% interest in the Property and the Furlows were entitled to a 75% interest in the Property.

3. The Furlows asked this Court to reconsider its Partition Order and the Court did so in its Order entered on October 15, 2020.

4. The Court denied the motion to reconsider in an order entered on October 15, 2020.

5. On October 29, 2020, the Furlows filed a notice of appeal of the Partition Order to the United States District Court for the District of South Carolina.

6. This Court issued a notice of a status conference asking the Parties to report to the Court on their efforts to create a sale mechanism and scheduled this hearing for December 3, 2020.

7. At the status conference the parties announced that they were working towards a final consent order on the sale of the house and were instructed to file the proposed order no later than 7 days from the status conference.

8. The parties now assert that they have agreed, by consent, to a sale mechanism and the agreement is evidenced by this consent order and the terms contained herein.

For the reasons set forth above, it appears that cause exists for the relief requested. After due deliberation and sufficient cause appearing therefore, it is **HEREBY**:

**ORDERED** that the relief sought by consent is hereby **GRANTED**;

It is further **ORDERED** that with the consent of the parties the following stipulations are adopted as this Court's rulings:

1. The Parties will auction the property with a qualified auctioneer or company to be selected within 10 days of this order.

2. Any sale of the Property will pay all costs of sale, and any approved repair reimbursement costs prior to any distribution to the Parties. The resulting balance after these expenses shall be referred to as the "Net Proceeds." Michael Furlow is advancing \$10,000 to the auction company for marketing. If the Furlows' marketing advance is not fully reimbursed from the buyer's premium, the balance owed will be reimbursed from the sale proceeds prior to the distribution of Net Proceeds to the Parties.

3. Once the auctioneer or company is selected, the parties, with the assistance of the auctioneer, will establish a timeline on which the auction shall occur. The Parties will confer with Chambers on setting a date to schedule a hearing to approve the sale.

4. Auctioneer, with the assistance of Debtor's counsel, will file and notice a proposed 11 U.S.C. § 363 sale motion if such protections are recommended by the Auctioneer to maximize the sale price of the Property.

5. The Parties have agreed that any auction must have a minimum starting price, or a disclosed reserve of \$600,000. The Parties have the option to bid at the auction.

6. The parties have agreed that 75% of the Net Proceeds shall be distributed to the Furlows and 3.165% shall be distributed to Macdonald. The remaining 21.835% of the Net Proceeds shall be deposited with the escrow agent selected by the Parties to hold until the conclusion of the appeal of the Partition Order. Because Debtor's ownership percentage could be reduced on appeal, those funds will be held in escrow until such time as the appeals process concludes or the Parties agree in writing to release those funds after consultation with the Chapter 13 Trustee. The amounts and to whom they are paid will be governed by the final determination of the ownership percentages on appeal.

7. As referenced in the preceding paragraph, a qualified third-party law firm with no connection to the Parties (the "Escrow Agent") will be selected by counsel for the Parties and will

be governed by the terms proposed by counsel for the Parties and enforced by Court order in the event there is a disagreement over the terms of that agreement. A copy of this escrow agreement to be executed by the parties at the time of the closing, was provided as an exhibit filed on the docket but is not adopted as part of this order. The Parties have agreed to execute a document in substantially similar form to the exhibit.

8. The Property will be auctioned in an “As-Is” condition and the Parties do not, and will not, make any representations as to the condition of the Property. They will not agree to any sale that involves a warranty as to the condition of the Property and will not execute a contract that requires the Parties to make representations as to the Property.

9. The Parties agree that any needed or necessary expenses that are required to be paid will be approved by the Parties in writing prior to the expense being paid in order for those expenses to be paid before Net Proceeds are distributed. The items below are identified expenses that must be paid and maintained and will be treated as follows:

- a. Property taxes will be paid according to the current property ownership structure at closing. If the property division is later determined to be different than this structure the Party that overpaid their share of the taxes will be an adjustment that must be addressed prior to the Escrow Agent distributing the funds.
  - b. Mr. Furlow is paying the insurance costs on the house to preserve the asset. Any refund of insurance proceeds will only be paid to the Furlows since they paid the full insurance premium.
10. Access to the property by the Parties is only permitted with appropriate notice.
- a. Neither Party will access the property other than to check on the condition of the Property, allow access for maintenance or repair, to allow access to parties as part of the sale process, or for any security or emergency access requirements.
  - b. For any non-emergency visit, the Parties are required to notify each other of any need to attend to the property. No party is allowed to stay overnight on the Property, allow others to stay on the Property, or utilize the Property grounds for any purpose other than to maintain, check on, or allow access to the property for purposes of furthering the sale.
  - c. In the event there is an emergency, the Parties are required to provide as much notice as possible of the visit to the Property, or if such notice is not feasible,

provide notice of the emergency and a summary of the visit as soon as possible thereafter.

- d. Notice shall not be provided by direct communication between the Parties. They may provide the notice through their attorneys in writing and the attorneys are authorized to share these notices with opposing counsel without waiving the attorney client privilege.

**WE SO CONSENT:**

Markham Law Firm, LLC

/s/Sean Markham

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Freeman | Wine, LLC

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