

AGREEMENT FOR SERVICES

This Agreement made this 19th day of August, 2010, between Clerk of Courts, Nassau County, a municipal subdivision of the State of Florida ("Clerk"), and Realauction.com, L.L.C. ("Contractor"), for Internet-based electronic processing of bid information related to the auction sale of Clerk's Foreclosure and Tax Deed Property Sales, on the following terms:

1. Length of Agreement; Cancellation; Termination Upon Default.

A. The term of this Agreement shall terminate three years from the above date; however, the Clerk shall have the right to extend this Agreement for a period of one year at the same price terms described herein, upon giving at least 30 days written notice to Contractor prior to the first anniversary of the above date.

B. Termination for Default or Breach: This Agreement may be terminated by either party upon the failure of the other to comply with any provision or requirement of this Agreement, provided that written notice of such failure is given to the defaulting party and is not cured within thirty (30) days of the date of receipt of written notice. A party's decision not to take action upon failure of the other party to perform shall not be construed as a waiver of the ability of non-breaching party to take additional action at a later date and time.

C. The Clerk reserves the right to terminate the Contract in whole or part by giving the vendor written notice at least thirty (30) days prior to the effective date of the termination. Upon receipt of termination from the Clerk, the vendor shall only provide those services specifically approved or directed by the Clerk. All other rights and duties of the parties under the Contract shall continue during such notice period, and the Clerk shall continue to be responsible to the vendor for the payment of any obligations to the extent such responsibility has not been excused by breach of default of the vendor.

2. Services to be Provided by Contractor.

A. The Contractor shall furnish Internet Auction Services for Foreclosure and Tax Deed Property Sales for Nassau County, Florida. The Clerk of Court has real property that it wishes to sell by online auction on a regular basis, however the Clerk provides no guarantee of quantity or frequency.

B. The Contractor shall provide a host server for the Web Site. As used herein, the term "Web Site" shall mean an Internet web site that Contractor will make available to Clerk under this Agreement. The Web Site will utilize Contractor's proprietary software, which is capable of accepting and processing competitive bids for Real Property to be sold by Client. The Clerk acknowledges that the Contractor's Server may not be dedicated exclusively to the Web Site. The Contractor shall use its best efforts to make the Web Site available during all business hours and shall not schedule planned maintenance downtime to occur during business hours.

C. During each auction, the Contractor shall provide Auction Administrator(s) and the technical support necessary to facilitate the Clerk's conduct of online auction

sales of real property.

D. Contractor will assist Clerk with the following:

- i. Auction set-up. Clerk will select the auction format; e.g., sealed, proxy, etc., to be used, auction start date, end date and batch size as well as the auction's administration and execution, including but not limited to management or retrieval of user registration information and auction results.
- ii. Granting and denying various degrees of access privileges to users and Clerk's employees to the Web Site. Before any Clerk representative is given privileges to access the Web Site and its information, Clerk must provide Contractor with written authorization directing Contractor to give such employees such authority.
- iii. Monitoring network performance while auctions are in progress.
- iv. Providing technical support to resolve questions related to hardware, software or network problems encountered by the Clerk or third party users.
- v. Providing telephone and on-site training sessions for Clerk personnel designated by the Clerk as having a thorough knowledge of the transactions to be consummated through the use of the Web Site at times to be mutually determined.
- vi. Providing personal and telephonic support during normal business hours for the handling of bidder and Clerk questions relating to the general operation of the Web Site. On-site support may also be provided at the Clerk's request. Such on-site support shall be reasonable and at times mutually agreed upon by Clerk and Contractor.

E. Contractor will include on the Web Site terms and conditions, with appropriate disclaimers, which third party users (i.e., participants in auctions/bidders) will be required to give assent. Each party will have the right to reasonably approve the terms and conditions or disclaimers that are included within the Web Site.

F. The Contractor may, in its sole discretion, provide additional ancillary services through the Web Site to third party users that are intended to assist such third party users in evaluating any or all of the Real Property to be sold. Such services may include without limitation:

- i. Hyperlinks on the Web Site to third party sites that contain additional information about the properties that are the subject of sale; and

- ii. Analytical tools, such as search, sort, upload, download and other report customization features. If such services are offered by Contractor thru Web Site, these services shall be provided **at no charge** to the bidders and auction participants.

G. Contractor shall record and maintain records of all activity occurring on the Web Site, and shall retain these records for a period of 5 years from the date of each auction.

H. Contractor shall ensure that the Web Site is capable of providing the following functions:

- i. Accepting, processing and displaying bid information and other data related to auctions of real property.
- ii. Accepting, processing and maintaining an ID number and password from users before users enter any auction, which they may obtain free of charge by simply registering on the Site.
- iii. Providing users with the means for reviewing the list of all Properties being offered for sale, along with, to the extent available, tax roll data and appraiser information with respect to the applicable properties.
- iv. Providing users with the means to bid and to withdraw bids on properties.
- v. Permitting the use, at the Clerk's election, a proxy bidding system, whereby a user will submit the minimum rate that he/she would be willing to receive for the applicable property. The Contractor's software will act on the bidder's behalf, submitting only the maximum rate necessary to win the bidding for any given Property, but in no event less than the minimum rate specified by the bidder. When the auction is over, third party users will see only the higher of the minimum rate submitted by each bidder or their winning bid.
- vi. Allowing users to view auction results after they are approved for release by Clerk.
- vii. Allowing Contractor's Auction Administrators and Clerk's internal auction administrators (the "Clerk Auctioneers") to observe auctions in progress and retrieve information immediately upon completion of each auction, and to release the final results of auctions so that they can be viewed by all users with authorized access to the Web Site.
- viii. Enabling the Clerk's Auction Administrators, or the Contractor Auction Administrator at Clerk's direction, to establish and modify auction parameters; to modify registration information pertaining to a particular third party user or Clerk user; and to limit or prohibit a user's access privileges to the site. Clerk will provide Contractor with the names of Clerk personnel who are permitted to access and/or authorize modifications. In the event Clerk directs Contractor to effect such modifications, Clerk will be required to give Contractor reasonable advance

notice before such modifications are to go into effect.

3. Cooperation by Clerk. Notwithstanding any other provision herein, the Clerk shall:

A. Notify Contractor of the actual date scheduled for each property sale on the Web Site at least 45 days prior to such date, and provide Contractor with all information concerning the properties which are being offered at auction at least 30 days prior to the date of each auction.

B. Providing Contractor with the names, titles and contact information for all Clerk employees who will have decision-making authority of any kind in the auction process or access to the Contractor's Web Site, as well as the names and contact information of all Clerk employees who are responsible for processing Contractor's requests for payment and supporting documentation.

C. The Web Site shall bear Clerk's name and such other trade dress (e.g., logos, introductory statement from the Clerk etc.) as reasonably directed by the Clerk. The Clerk acknowledges and agrees that every page of the Web Site may display the Contractor's name and company logo.

D. Clerk will reasonably cooperate with Contractor to ensure that Contractor has access to and is provided with all the information it needs to effectuate the real property auctions described in this Agreement and for preparation and delivery of the Contractor's requests for payment. The information provided will include the initial data load and timely updates of properties that have been purchased.

4. Payment for Services.

A. The Contractor will be paid for the Contract amount upon invoices submitted to the Clerk by the Contractor on a monthly basis within 45 days of receipt.

B. In consideration of the Services set forth in this Agreement, Clerk shall pay (or cause to be paid) the following fees to Contractor in the manner described:

i. For each individual foreclosure case that is **sold** through the website, the Clerk shall pay to Contractor a fee of \$ 49 (forty nine dollars).

ii. For each individual tax deed case that is **listed** through the website, the Clerk shall pay to Contractor a fee of \$ 49 (forty nine dollars).

C. The Contractor's request for payment shall be supported by reports or other documents reasonably required by the Clerk, and shall show the Contractor's Clerk Contract number, and the Contractor's federal identification number, in addition to any other information that may be required by the Clerk. Additionally, all requests for payment shall have attached a copy of

the original bill, containing an original signature of an authorized representative of the Contractor. Requests for payment shall be submitted not more than once every thirty days, to an address, department and/or individual designated by the Clerk.

D. Unless otherwise provided on Contractor's invoice or other Instructions that Contractor provides subsequent to the execution of this Agreement, payments shall be made to:

Realauction.com, LLC
Attn: Lloyd McClendon
861 SW 78th Ave., Suite 102
Plantation, FL 33324

E. Contractor shall not be obligated to provide any Services hereunder in the event Clerk is more than 60 days delinquent in paying any invoices, provided, however, that Contractor has advised the Clerk of Court in writing that it will cease performing services unless delinquent invoices are paid in full.

5. Limited Warranty; Disclaimer of Implied Warranties; Limitation of Liability; Consequential Damages or Incidental Damages.

A. Contractor warrants that the Web Site, when provided with accurate and properly formatted data by Clerk and other third party users, and when accessed by properly functioning software and equipment of third party users, will perform substantially as required in order to facilitate Clerk's online auction sales of real property. Contractor will, at no charge to Clerk, make corrections to the Web Site so that the Web Site performs substantially as required, and will use its best efforts to make such corrections available within 24 hours, provided that Clerk reports to Contractor any failures or defects in the Web Site and provides Contractor with information sufficient to correct such failure or defect. In the event Contractor is not able to make such corrections available within 24 hours, the Contractor's chief executive officer and/or chief operating officer will confer with Clerk to advise Clerk with respect to the status of problem resolution and anticipated time of correction.

B. Except for the express limited warranty set forth in the preceding section of this Contract, Contractor makes no warranty, representation, promise or guarantee, either express or implied, statutory or otherwise, with respect to the Web Site or the Services provided hereunder, including their quality, performance, merchantability or fitness for a particular purpose, or whether any of the transactions to be conducted using the Web Site comply with any applicable federal, state, Clerk or other law or regulations. Contractor will have no responsibility for any actual or purported loss

resulting from damages associated with the auction format (e.g., Proxy Bidding) selected by Clerk for any particular auction conducted on the Web Site. In no event will Contractor be liable for indirect, special, incidental, economic, cover, consequential, tort or other damages (including without limitation damages or costs relating to the loss of profits, business, goodwill, data or computer programs, even if advised of the possibility of such damages), without regard to the legal theory of such damages, arising out of the use of or inability to use the Web Site or the services provided hereunder. Except as provided in this paragraph, in no event will Contractor's liability to Clerk arising out of or related to this Contract exceed the fees earned by Contractor under this Contract during the twelve month period immediately preceding the date that the event giving rise to Contractor's liability occurred. Notwithstanding the foregoing, Contractor's liability to Clerk arising out of claims brought against Contractor pursuant to Paragraph (a) above will be no greater than \$1,000,000 in the aggregate.

6. Confidentiality; Proprietary Information.

A. The format in which Contractor stores data provided by Clerk will be proprietary to Contractor. Clerk's retrieval and use of the data compiled by Contractor on the Web Site shall be limited to Clerk's internal use only, and Clerk agrees that it will not, unless otherwise required by law, transmit to third parties, or permit other third parties to access the data in the format and compilation created by Contractor.

B. Clerk acknowledges that with respect to bidders who provide minimum bids as part of the Web Site's proxy bidding feature, Contractor will be deemed the agent of such bidders in so far as bidders have provided such minimum bids. Such minimum bids will be the confidential information of the bidder, which Contractor will be required to maintain, and which contractor will not release except as required by law.

C. Except upon prior written approval by the Clerk, the Contractor, or its subcontractors, shall not furnish or disclose to any person and/or organization, any non-public information that Clerk designates as confidential.

D. It is expressly understood and agreed that the software used to develop and operate the Web Site; any related materials and documentation provided by Contractor, including without limitation information related to security or other technical aspects of the Web Site; and the non-public pages of the Web Site constitute a valuable proprietary product and trade secret of Contractor embodying substantial creative efforts and confidential information, ideas, and expressions (collectively for the purposes of this section "Contractor's Confidential Information"). Clerk agrees to hold all such Contractor's Confidential Information in strictest confidence and take such steps as are reasonably necessary to protect the confidentiality of the Contractor's Confidential Information and other materials designated by Contractor as confidential. Such steps shall include, without limitation, refraining from taking any action in derogation of Contractor's ownership

rights and taking actions similar to those taken by Clerk with respect to protecting other third party confidential information in its possession. Clerk shall not disclose or otherwise make available the Contractor's Confidential Information in any form to any person except to those employees of Clerk or Contractor who need access to the information to facilitate Clerk's authorized use of the Web Site. Nothing herein shall be construed, however, to prohibit Clerk from making any disclosures required of Clerk pursuant to any legal process or request from any governmental authority having jurisdiction over Clerk, or from making disclosure required by Florida law, provided however that prior to disclosure to any such governmental authority, Clerk shall provide notice to Contractor in order to enable Contractor to seek relief.

E. Each party agrees to treat any information they receive that is submitted to the Web Site by third party users, including without limitation, deposit amounts, social security numbers, federal tax identification numbers, etc., in accordance with applicable law and the "privacy policy" set forth in the related link on the Web Site. Contractor will not change the "privacy policy" without Clerk's consent, which will not be unreasonably withheld.

7. Limited Agency Created; No Third Party Beneficiaries Intended.

For the purpose of providing auction services for the real property auction and other services specifically described herein, Contractor shall be an agent of the Clerk and shall be required to take direction from the Clerk as to the mechanism and effectuation of the sale. Other than with the respect to the handling of the real property auction and other services described here in, Contractor acknowledges that it does not have the authority to act on behalf of the Clerk or its agencies. Contractor's personnel shall not be employees of the Clerk. There are no intended third party beneficiaries, including without limitation any users of the Web Site described herein.

8. Force Majeure. Delay in performance or non-performance of any obligation contained herein shall be excused to the extent such failure or non-performance is caused by force majeure. For purposes of this Contract, "force majeure" shall mean any cause or agency preventing performance of an obligation which is beyond the reasonable control of either party hereto, including without limitation, fire, flood, sabotage, embargo, strike, explosion, labor trouble, accident, riot, acts of governmental authority (including, without limitation, acts based on laws or regulations now in existence as well as those enacted in the future), and delays or failure in obtaining raw materials or transportation, acts of God, telephone line outages, Internet traffic slowdowns (including any Internet transmission problems incurred by either Clerk's or Contractor's Internet service provider), down computer networks, down hardware, (head crashes, operating system hang-ups and the like), software or operating systems failure caused by a virus or other denial of service attack, and electricity outages. A party affected by a force majeure shall, upon notice to it of the force majeure, promptly notify the other party by the quickest means available, explaining the nature and expected duration thereof, and shall act diligently to remedy the interruption or delay if it is reasonably capable of being remedied.


9. Entire Understanding; Amendments. This Agreement constitutes the

entire understanding and agreement between the parties hereto with respect to its subject matter and supersedes all prior or contemporaneous agreements, representations, warranties and understandings of such parties, whether oral or written. This Agreement may only be amended by a separate document, signed by both parties.

10. Place of Execution; Governing Law; Venue. This Agreement shall be deemed to be executed in Nassau County, State of Florida, regardless of the Contractor's domicile, and shall be interpreted and construed in accordance with the laws of the State of Florida. The Contractor agrees that the venue for any and all claims between the parties arising from this Agreement shall be in the state courts in and for Nassau County, Florida.

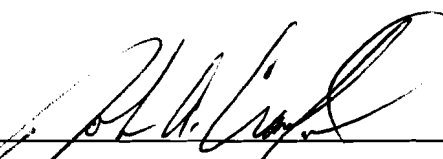
11. Severability. If this Contract contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Contract without affecting the binding force of this Contract as it shall remain after omitting such provision.

IN WITNESS WHEREOF, the parties have executed this Agreement this
30 day of AUGUST, 2010.

For Realauction.com, L.L.C.: 

Printed Name: LLOYD E M^CCLENDON III

Title: MANAGING MEMBER

For Nassau County Clerk of Court:  8/24/10

Printed Name: John A. Crawford

Title: Clerk of The Circuit Court

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8/19/10