



## **GENERAL TERMS AND CONDITIONS OF SALE**

### **Processing/Warehouse – Dry & Cold Storage**

**5739 & 5801 “G” Street**

**Jefferson, Louisiana 70123**

**Former Dixie Produce Packaging/Distribution Facility**

**Sold to highest bidder above \$2,600,000**

1. **INITIAL OFFER FORMAT:** Initial Offer to be submitted in the format and on the Real Estate Sales Contract provided in the Property Information Package (“PIP”). The Initial Offer must be delivered to Sperry Van Ness/Gilmore Auction & Realty Co. (SVN/GARC) by Wednesday, July 23, 2008 no later than 5:00 P.M. C.D.T. The Initial Offer must be enclosed in a sealed envelope and delivered by U.S. Mail, Overnight Express Mail or Hand Delivered to the office of Sperry Van Ness/Gilmore Auction & Realty Co., 3316 Florida Avenue, Suite 201, Kenner, LA 70065-3645. No liability will attach to Seller, Escrow Agent, SVN/GARC or any other party for failure to receive or open any Initial Offer. TELEPHONE OR FACSIMILE SUBMITTED INITIAL OFFERS WILL NOT BE ACCEPTED. AN INITIAL OFFER WHICH FAILS TO MEET THE ABOVE DEADLINE AND SUBMISSION REQUIREMENTS OR WHICH IS NONCONFORMING IN ANY OTHER RESPECT MAY BE DEEMED NON-RESPONSIVE / NON-CONFORMING AND MAY NOT BE CONSIDERED. The Initial Offer shall set forth the price which the bidder commits to pay to purchase the Property subject to all Terms of Sale. A Best and Final Live Auction, described below (2.), will be conducted on Monday, July 28, 2008 at 11:00 C.D.T.

2. **BEST AND FINAL LIVE AUCTION FORMAT:** At the Seller’s sole discretion, on Monday, July 28, 2008 at approximately 11:00 A.M. C.D.T, a Best and Final Live Auction on the Property will be conducted. The best bids will be determined by the Seller, and the corresponding Bidders will be invited to participate in the Best and Final Live Auction, to be conducted by SVN/GARC. This process will determine the Winning Bidder for the Property. The Live Auction site will be at (To be announced). The Seller reserves the right to make the final decision regarding which Bidders are allowed to bid at the Best and Final Live Auction and further reserves the right to NOT offer the Property at the Best and Final Live Auction, if it so chooses.

3. **BIDDER’S DEPOSIT:** An Initial Offer Deposit in the amount of \$100,000.00 must accompany each Initial Offer. The funds must be a certified bank check, cashiers check in U.S. Dollars from a U.S. Bank or via Wire Transfer made payable to Equity Closing Services Trust Account. The funds must accompany the Initial Offer documents in order for an Initial Offer to be considered conforming. Initial Offer Deposits of those



Bidders whose bids are not accepted will be returned on Wednesday, July 28, 2008 immediately following the Live Auction. The Winning Bidder's \$100,000.00 Initial Offer Deposit will be applied toward the required Earnest Money Deposit(s).

4. **QUALIFIED BIDDER:** A QUALIFIED BIDDER IS FURTHER DEFINED AS A BIDDER WHO HAS REVIEWED A PROPERTY INFORMATION PACKAGE (PIP) AND SUBMITTED FINANCIAL STATEMENTS, LETTER OF CREDIT OR QUALIFICATIONS SHOWING THE BIDDER HAS THE FINANCIAL WHEREWITHAL TO COMPLETE THIS TRANSACTION, AN ORIGINAL SIGNED SELLER PROVIDED REAL ESTATE SALES CONTRACT AND AN ORIGINAL SIGNED SELLER PROVIDED "GENERAL TERMS AND CONDITIONS OF SALE".

5. **EARNEST MONEY DEPOSIT(S):** The Earnest Money Deposit(s) will be held under the terms of the Real Estate Sales Contract between the Seller, the Winning Bidder and Closing / Escrow Agent as designated by the Seller. The total Earnest Money Deposit required under the Real Estate Sales Contract will be ten percent (10%) of the final total purchase price. The 10% Earnest Money Deposit is comprised of the Initial Offer Deposit (delivered with the Initial Offer) plus an amount necessary to total ten percent (10%) of the final Live Auction Bid price (if necessary). The additional amount needed to satisfy the ten percent (10%) Earnest Money Deposit shall be paid within 24 hours upon a fully executed Real Estate Sales Contract between Buyer and Seller. This additional amount will be paid by cash, cashier's check or wire transfer in U.S. Dollars from a U.S. Bank payable to Equity Closing Services.

6. **PROPERTY INFORMATION PACKAGE (PIP):** A detailed Property Information Package is available on the Property and MUST be reviewed as a requirement to be a qualified bidder. The PIP will contain all appropriate forms for an Initial Offer submission. A PIP can be ordered by calling SVN/GARC at 800-254-1280, or by downloading the PIP from [www.svnauctions.com](http://www.svnauctions.com) or mailing the request to: Sperry Van Ness /Gilmore Auction & Realty Co., at 3316 Florida Avenue, Suite 201, Kenner, Louisiana 70065 or by faxing to 504-468-6811.

7. **PROPERTY INSPECTION:** Property inspections are available by appointment. Please contact SVN/GARC at 504-468-6800.

8. **BROKER PARTICIPATION INVITED:** Three percent (3%) will be paid to a qualified licensed Real Estate Broker whose prospect is the successful bidder and closes on the Property, provided the real estate broker is not prohibited by law from being paid such commission. To qualify for a commission, the broker must first register their prospect on the MANDATORY REAL ESTATE BUYER BROKER PARTICIPATION REGISTRATION form with the signature of the prospective Purchaser, the signature of the Broker and the Broker's license number. The form must be faxed or mailed such that it is received by the office of SVN/GARC not later than 5:00 P.M. C.D.T. Monday, July



21, 2008. The registration MUST be sent to Sperry Van Ness / Gilmore Auction & Realty Co., via fax 504-468-6811 or mail to 3316 Florida Avenue, Suite 201, Kenner, Louisiana 70065. NO LATE REGISTRATION WILL BE ACCEPTED. In addition, to qualify for a commission, the broker or its representative MUST attend the Live Auction with the prospect. Commissions will be paid only after closing and after Sperry Van Ness /Gilmore Auction & Realty Co. has been paid in full. Brokers are not required to attend the closing. If a cooperating broker has not met all of these requirements, no commission will be paid to the cooperating broker, even if the cooperating broker's prospect purchases the Property. No oral registrations will be accepted. Under no circumstances whatsoever will any commission be paid if the sale does not close. A Broker may not participate in the purchase in any way as a principal of the Bidder, or be an affiliate of the Bidder.

9. **PROPERTY CONDITIONS:** Except as expressly set forth in the Real Estate Sales Contract, if and when executed, the Property is being sold "AS IS", "WHERE IS", and "WITH ALL FAULTS", as of the Closing Date. Neither the Seller, SVN/GARC 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. The Seller, SVN/GARC and their Agents specifically disclaim any warranty, guaranty, or representation, oral or written, past or present, express or implied concerning the Land and Improvements thereon. Bidders are expected to undertake their own independent physical inspection of the Property and thorough review of all documents prior to submitting their Initial Offer and to submit their bids based solely on their own independent investigations and findings and not in reliance on any information provided by the Seller, SVN/GARC or their Agents.

10. **FINANCING:** The Sale will be a cash sale and not contingent on Financing of any kind. All bidders must qualify by submitting financial statements, letters of credit, commitment letters from a federally insured banking institution, or other information acceptable to Seller showing that the bidder has the financial ability to complete this transaction. If any bidder proposes to finance any portion of the purchase, the Seller, in its discretion, may require satisfactory proof of such bidder's financing commitment prior to the Initial Offer or Live Auction.

11. **TITLE / CLOSING:** The sale shall be free and clear of all liens, mortgages and claims of the creditors of this estate. The Property will be conveyed by Special Warranty Deed, subject to any and all Deed Restrictions, Easements, Leases, and other Reservations and Exceptions of Record. The Seller will provide through Closing Agent an Owner's Title Insurance Commitment at the Seller's expense. All other closing costs not specified by law required to be paid by Seller will be the responsibility of the Purchaser. The Property must be closed and funded in U.S. Dollars from a U.S. Bank



within 30 days of Seller approval. Time is of the essence.

12. **MINIMUM BID:** The property will sell to the highest bidder above the suggested minimum bid of \$2,600,000.00.

13. **BUYER'S PREMIUM:** A 10% Buyers Premium will be added to all bids and included in the total contract price.

**ADDITIONAL NOTES:** a.) The Seller, Capital One NA and SVN/GARC reserve the absolute right, in their sole and absolute discretion, to postpone or cancel the Initial Offer, the Live Auction or both, in whole or in part, to amend, modify or add any terms and conditions to these General Terms and Conditions of Sale and to announce such modifications or additional terms and conditions on or before the Initial Offer submission deadline or the Live Auction Event. The Property may be withdrawn without notice. To the extent there is any conflict between the provisions of these General Terms and Conditions of Sale as set forth herein and the Real Estate Sales Contract, the terms of the Real Estate Sales Contract shall govern. Written and oral announcements shall take precedence over prior printed information; however, the final executed Real Estate Sales Contract will evidence all understandings and agreements between Purchaser and the Seller and will be in all respects controlling.

(b) All prospective Bidders are urged to carefully review all provisions of these General Terms and Conditions of Sale including but not limited to those provisions regarding the absence of any representations or warranties whatsoever, as to the accuracy or completeness of the Property Information Package, or any other information and as to the absence of any authority on the part of any person or entity to make any guarantees, promises, statements, representations or warranties. All Bidders will be charged with full knowledge of all documents available for inspection and all documents of public record.

(c) The Property (as more fully described in the Property Information Package) is being sold "As Is," "Where Is" condition without any warranties or representations express or implied. The accuracy and completeness of the information contained in the marketing material and in the PIP cannot be guaranteed, and prospective Bidders are advised to independently verify any information they deem important. Prospective Bidders should use the information provided herein and in the PIP only as an aid to assist their own investigation of the Property prior to submitting an Initial Offer.

(d) All square footages, acreages and sizes set forth for the Property are approximate only, based on the best information available and should be verified independently by prospective Bidder.

(e) The Winning Bidder shall not assign its right under the Real Estate Sales Contract to any other party without written consent by the Seller.



(f) THESE GENERAL TERMS AND CONDITIONS OF SALE DO NOT CREATE ANY LEGAL OBLIGATIONS ON THE SELLER, SVN/AMD and SVN/GARC. IF THE SALE FAILS TO COMPLY WITH ANY OF THESE GENERAL TERMS AND CONDITIONS OF SALE FOR ANY REASON, SELLER AND SVN/AMD SHALL HAVE NO LIABILITY OR OBLIGATION WHATSOEVER. THE WINNING BIDDER'S ONLY REMEDY WILL BE THE RETURN OF THE BIDDERS' EARNEST MONEY DEPOSIT (IF PAID). THESE GENERAL TERMS AND CONDITIONS OF SALE NEVERTHELESS ARE BINDING UPON AND MUST BE COMPLIED WITH BY ANY PERSON OR ENTITY SUBMITTING AN INITIAL OFFER.

(g) Title with respect to the Property will be delivered as provided in the Real Estate Sales Contract.

(h) Bidding increases at the Live Auction, "if conducted" will be in such increments as the Auctioneer in his or her sole and absolute discretion directs. All decisions of the Auctioneer are final as to methods of bidding, disputes among Bidders, increments of bidding, and any other related matters which may arise before, during, or after the Live Auction. The Live Auction will be recorded, and if any disputes arise following the Live Auction, the Auctioneer's records shall be conclusive in all respects.

(i) The Seller and Auctioneer reserve the right to refuse admittance or to expel anyone from the Live Auction premises for interference with auction activities, nuisance, canvassing or other reasons.

(j) SOLICITATION OF OFFERS VOID WHERE PROHIBITED. Marketing materials will not be mailed to residents of any state in which this solicitation of offers is not in compliance with the real estate laws or other laws of that state.

(k) If Purchaser defaults under the terms of the Real Estate Sales Contract, then the Seller will declare such default, terminate the Real Estate Sales Contract and retain any and all Earnest Money Deposits as liquidated damages (and not as a penalty) pursuant to the terms of the Real Estate Sales Contract.

(l) BIDS MUST BE SUBMITTED ON THE REQUIRED FORMS WITH NO ALTERATIONS / CHANGES ACCORDING TO THE PROCEDURES DESCRIBED HEREIN.

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Bidders Signature

\_\_\_\_\_  
Date