

## **AUCTION TERMS AND CONDITIONS**

### **Tumwater, WA**

This Bidder Contract ("Agreement") is entered into between the person requesting to bid and purchase at auction ("Bidder" & "Purchaser"), and Venues Unlimited Inc., dba Bid Venues, ("Auctioneers"). Bidder/Purchaser acknowledges he/she has received, read, and understands this Agreement, a copy of which is also available at Auctioneers' sale premises where Bidder will inspect auction merchandise, and Bidder agrees to comply with and be bound by its terms and conditions.

#### **FORMAT:**

The auction will be executed on-line by offering individual or grouped items as a single unit-of-sale ("Lot"), with each Lot available for on-site pre-sale inspection at Auctioneers' auction site ("premise"). The Bidder offering the highest on-line Lot bid at the Lot sale closure time shall be the Lot purchaser ("Purchaser") of said Lot ("purchases").

#### **(1) NOTABLE OBLIGATIONS & DISCLOSURES**

BIDDER / PURCHASER OBLIGATIONS include without limitation:

- (a) Purchaser shall not retract his/her purchases; all sales are final
- (b) Purchaser shall accept Lots Where-Is, As-Is without guarantee or warranty
- (c) Purchaser shall be responsible to inspect and research Lots independently
- (d) Purchaser shall not rely on Auction Catalog information for bidding purposes
- (e) Purchaser shall pay for and remove his/her purchases within 7 days of auction closure
- (f) Purchaser shall be responsible and liable for his/her purchases
- (g) Purchaser shall be liable for his/her & agent's presence at premise

CONSIGNOR OBLIGATIONS include without limitation:

- (a) Consignor shall not bid on any of his/her Lots
- (b) Consignor shall not direct any other person to bid on his/her Lots

Note: Above applies only to Consignors who are also bidding on auction. The full set of Consignor obligations are stated within the Consignor Contract. This is the Bidder's Agreement.

AUCTIONEERS ARE NOT RESPONSIBLE for acts of their principles when acting as an agent. All rights and defenses available to Auctioneers hereunder shall extend to Auctioneers' Consignors.

#### **(2) REGISTRATION & FEES**

REGISTRATION is required to bid on each of Auctioneers' auction. By submitting a bid, the Bidder agrees that Bidder has read, fully understood, and will comply with and be bound by this Agreement.

A BUYER'S PREMIUM of fifteen percent (15%) will be added to each Purchase.

APPLICABLE SALES TAX will be collected at time of payment unless Auctioneer is provided with proof of exemption, as defined by the appropriate governing authority. Sales tax is paid on both the hammer price (high bid) and the Buyer's Premium.

#### **(3) PAYMENT, POSSESSION, REMOVAL, LIABILITY, INSURANCE**

PAYMENT shall be made in cash, by bank card, cashier's check or by, subject to Auctioneers' approval, wire transfer or regular check accompanied by a bank guarantee. The outstanding balance due must be paid within seven (7) days after auction closure. If Purchaser is also a Consignor, consignment proceeds due to Purchaser may be applied to his/her outstanding balance at Auctioneers' sole discretion.

POSSESSION by Purchaser will not occur until full payment is made for all of his/her purchases, including applicable sales tax and any title transfer fees. Auctioneers shall retain a possessory lien on all purchases if Purchaser has not paid his/her outstanding balance due within seven (7) days after auction closure.

REMOVAL of all purchases must occur within seven (7) days after auction closure. Purchaser shall be solely responsible for the liability, risk and expense for removal, loading and transport his/her purchases. A forklift will be on site to assist with loading. Auctioneers shall retain a possessory lien on all purchases when Purchaser has not removed all his/her purchases within seven (7) days of auction closure, and additional handling & storage fees may apply.

PROPERTY DAMAGE OR PERSONAL INJURY caused by Purchaser, his agents or his employees during removal, loading or transport of his/her purchases is at the sole risk and expense to the Purchaser. The Bidder acknowledges this responsibility and further agrees to hold Auctioneers and its Consignors harmless from and against any and all actions, causes of actions, liabilities, claims, damages, expenses and losses of any nature whatsoever arising from the removal, loading or transport of his/her Lots.

PROOF OF INSURANCE may be required by Auctioneers or Consignor from any Purchaser seeking to dismantle, disassemble/assemble or materially change his/her purchases at the premise. Auctioneers reserve to right to approve the insurance, should it be required.

LIMITED SHIPPING options are available; shipping is subject to regulation; Purchaser is ultimately responsible for his/her shipping. Shipping arrangements must be coordinated with Auctioneers for removal within seven (7) days after auction closure, or otherwise be approved by Auctioneers. Bidder may use his/her own freight carrier or select one of the Auctioneers' limited shipping options. See (16) Limited Shipping Services for more information.

#### **(4) AUCTIONEERS' RECOURSE FOR NON-PAYMENT AND/OR NON-REMOVAL**

AFTER SEVEN (7) DAYS, if the Bidder/Purchaser has failed to pay his/her outstanding balance due and/or remove all of his/her purchases, Auctioneers reserve the right to consider purchases abandoned. At their sole discretion and without notice to Purchaser, Auctioneers may take any combination of the following actions in any sequence or at different times:

- (a) charge outstanding balance on the Purchaser's bank card on file;
- (b) arrange for removal and storage of any or all purchases at the sole risk and expense to the Purchaser, including without limitation, handling and storage charges;
- (c) resell any or all purchases, either at public or private sale, and charge Purchaser a selling commission of thirty percent (30%) plus all direct expenses with a minimum commission not less than fifty dollars (\$50);
- (d) assess Purchaser interest on any overdue amounts at a rate of 18% per annum or such other maximum rate as allowed by law, together with any legal or collection expense incurred by Auctioneers.

Should Auctioneers resell any purchases, the net proceeds there from, after deducting commissions and any handling & storage expenses, shall be credited to original Purchaser's account. Should any account deficiency arising from the re-sale occur, the original Purchaser shall forthwith upon demand, pay Auctioneers the outstanding balance as damages.

#### **(5) LOT REPRESENTATION IN AUCTION CATALOG**

AUCTION CATALOG PRESENTATION (photography and descriptions) for Lots offered for bid were prepared by the Auctioneers using information from Consignors and other sources deemed reliable. However, catalog presentations are insufficient for bidding purposes and cannot be guaranteed or warranted. For example, photography may unintentionally make an item look better than its actual appearance or create a perspective that fails to adequately capture a discriminating defect; description wording is subject to space, time and human error.

NO REPRESENTATION OR WARRANTIES OF AUCTION CATALOG: Neither the Auctioneers nor its Consignors make any representation, guarantee or warranty, expressed or implied, as to the accuracy or completeness of the Auction Catalog presented to the Bidder. Neither the Auctioneer nor its Consignors shall be liable to the Bidder as relating to or resulting from the Bidder's use of any Auction Catalog information or for any errors therein or omissions therefrom, or for any oral statement concerning any item whatsoever.

BIDDER RESPONSIBLE TO INSPECT LOTS: Bidder agrees to not rely on Auction Catalog or oral statements when bidding. Bidder acknowledges that all Lots are available for inspections prior to the Auction and agrees that it's his/her sole responsibility for making thorough physical inspections of Lots and conducting his/her independent research prior to bidding.

ALL SALES ARE FINAL: No rescission of sale will occur on the basis of Auction Catalog information, nor any oral statement made concerning any item. No monetary credits or adjustment of the purchases will be allowed for defects, damage or missing components. Notwithstanding the foregoing, Auctioneers' obligations to guarantees or warranties, should any be in effect, will be honored.

QUANTITIES of items per Lot are offered in units-of-measurements deemed fit by Auctioneers and must be confirmed by the Bidder prior to bidding; no adjustment or credit will be made on shortages when items are sold as Lots with *estimated* counts. Should a shortage exist on a *precise* count, Auctioneers will make a determination based on their sole discretion. A precise count claim must be presented to Auctioneers at time of Lot removal. No adjustments or credits will be made after the Lot is removed from the premise.

#### **(6) LOT GUARANTEE AND WARRANTY**

A GUARANTEE OR WARRANTY is provided for a Lot only if a guarantee or warranty is explicitly stated within the specific Lot's description. For example, the phrase "Five Day Unconditional Return Guarantee" would appear in the guaranteed Lot description. If the auction includes one or more guaranteed or warranted Lots, the terms of any such guarantees or warranties will appear in this section under identical headings to those used within the respective Lot description.

NO GUARANTEE OR WARRANTY is provided for any auctioned item that does not include an explicit statement of guarantee or warranty in its respective Lot description. There shall be no guarantees or warranties, expressed or implied, of any nature whatsoever for any Lot that does not explicitly include the word "guarantee" or "warranty" within its specific description.

## **(7) SAFETY RISK**

PREMISE RISK: Bidder acknowledges that an on-site auction premise is potentially an unsafe environment if the Bidder isn't informed, cautious and requests assistance. Bidder must be aware of a variety of hazards, including without limitation: Moving machinery (e.g. forklift) and vehicles (loading and unloading); Heavy objects that must be respected for their weights and potential movement; Lots containing a variety of commercial substances and materials that are potentially pressurized, flammable, or corrosive and/or noxious if so inappropriately exposed; Electrical circuits requiring specialized expertise (e.g. generators, battery and line powered equipment); Live Power Tools (including those with batteries); Trip hazards, Slip Hazards, Cut hazards (sharp objects and moving parts on machinery).

The above list is not complete but serves to warn Bidder of safety risks at the premise. Bidder shall act responsibly and with acute awareness of his/her surroundings at all times. Parents are highly discouraged from bringing children to the premise, and shall be responsible for their children at all times.

ITEM RISK: No Safety Checks have been performed by Auctioneers on any of the items to be auctioned, nor are Auctioneers familiar with Consignor's safety history with any item.

BIDDER ACCEPTANCE OF SAFETY LIABILITY: Every person at the auction premise shall be there at his/her own risk with notice of the condition of premises and the activities thereon and Bidder shall so advise his agents and employees. Bidder has sole responsibility to verify his/her item is safe to use, make any corrections or upgrades required, and follow appropriate safety recommendations. No person shall have any claim against Auctioneers, their agents, employees, or principles for any injuries sustained, nor for damages to or loss of property which may occur from any cause whatsoever.

## **(8) BIDDER / PURCHASER ACCEPTANCE OF LIABILITY**

WHERE-IS, AS-IS: All Lots are sold in their condition and placement at auction closure. Auctioneers make no representation, guarantee or warrantee that any Lot will:

- (a) be safe to load, transport or use;
- (b) be suitable for any particular function;
- (c) conform to any regulatory standard or requirement

Bidder acknowledges he/she has access to personally examine and research his/her Lots and agrees to accept responsibility for any risk for any potential defect (a-c above) and not hold Auctioneers and its Consignors liable. Bidder further agrees to bear the entire expense of correcting and upgrading any and all defects that presently exists in his/her purchases.

INDEMNIFICATION: Bidder, whether acting as principal, agent, officer or director of a company or otherwise, in any capacity whatsoever, and the company that he/she represents, both jointly and severally agree to indemnify and hold Auctioneers and its Consignors harmless from and against any and all actions, causes of actions, legal suit or proceeding, liabilities, damages, expenses and losses of any nature whatsoever arising out of or relating to:

- (a) the removal, disassembly/assembly, loading, transport, ownership, use, transfer or re-sale of any Lot purchased on the Bidder's account at this auction;
- (b) the participation or presence of Bidder, his agents or employees, in the on-line auction sale and/or at the on-site auction premise at any time for any reason

## **(9) RESPONSIBILITY FOR PURCHASES**

AUCTIONEERS ARE RESPONSIBLE FOR PURCHASES during the seven (7) day removal period until payment is made and purchases are located at the premise for the Purchaser to begin removing. Responsibility and risk for purchases transitions to Purchaser after Auctioneers locates purchases, whether or not Purchaser immediately completes removing and/or loading his/her purchases (Where-Is, As-Is). Auctioneers are not responsible for loss or damage incurred thereto from removal, loading or transport of the Purchases.

NON-FULFILLMENT OF PURCHASES may occur infrequently due to theft, loss or damage. In the event of non-delivery for any reason whatsoever, Auctioneers' sole obligation and liability to the Purchaser is to return all monies deposited for any non-delivered Lot. Auctioneers' failure to deliver any portion of purchases does not relieve Purchaser of obligations to make full payment on any other purchases.

**(10) GOVERNING LAW, JURISDICTION & VENUE:** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Washington. Any legal suit, action or proceeding arising out of or related to this contract or the matters contemplated hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Washington in each case located in the city of Olympia and County of Thurston. Bidder irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

**(11) SEVERABILITY:** If any term or provision of this Agreement is determined to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

**(12) NO WAIVERS** by Auctioneers of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Auctioneers. No waiver by Auctioneers shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver.

**(13) NO FAILURE TO EXERCISE,** or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**(14) AUCTION & BIDDER-SPECIFIC PROVISIONS:** These are the complete Agreement terms and conditions for the specific auction identified above. Auctioneers reserve the right to modify this Agreement for future Auctions. Auctioneers reserve the right to amend specific terms and conditions for individual Purchaser circumstances, but any such amendment shall be executed in writing and signed by the respective Purchaser and Auctioneers. Auctioneers may revoke the bidding privileges of any Bidder registrant at any time.

## **(15) MISCELLANEOUS**

(a) **ELECTRONIC ACCEPTANCE:** Acceptance of this Agreement by electronic or other means shall be deemed to have the same legal and binding effect as execution of an original signed hard copy of said Agreement.

(b) **FORMAT:** Paragraph numbering and headings are inserted for the convenience of the Bidder / Purchaser and are not to be considered when interpreting this Contract.

(c) **TEXT:** Whenever used in this contract, the terms "Bidder", "Purchaser", "Auctioneers", etc. shall be construed in the singular, plurals or possessive as the context may require.

**(16) LIMITED SHIPPING SERVICES** are available, both in type and location. Auctioneers ship to the contiguous United States (aka "lower 48") only and exclude P.O. Boxes. Auctioneers do not ship to Alaska or Hawaii, nor do we ship to US Protectorates.

Limited shipping services include parcel (boxed), standard bulk (pallet) and limited custom bulk (crate) freight options. Purchaser may optionally directly contract with Purchaser's freight company and Auctioneers will support Purchaser with select palletization services, for a handling charge. Shipping is subject to regulation. Auctioneers will assist with weights and measurements after purchase.

**AUCTIONEERS' PARCEL SHIPMENT** is available to support Purchaser with shipment services for small purchases that can be boxed. The Processing Fee is \$10 per Lot and does not include the incurred carrier rate charge that varies as a function of weight and size.

**AUCTIONEERS' PALLETIZATION SERVICE** is available to prepare and load Purchaser's pallet(s) onto a freight carrier, contracted by either Purchaser or Auctioneers. Loading occurs at the sale premise. The Processing Fee is \$50 per pallet and includes the pallet, packing, securing, labeling and forklift FOB loading.

**AUCTIONEERS' PALLETIZED SHIPMENT** is available to support Purchaser with shipment services for larger purchases requiring pallets/crates. This service includes the contact and contract of pallet/crate freight carriers by Auctioneers.

**THIRD-PARTY PALLETIZED SHIPMENT** is available to support Purchaser with shipment services for larger purchases requiring pallets/crates. This service requires the Purchaser to contact and contract his/her own freight carrier. Auctioneers will not release Purchaser's purchase to a third-party freight carrier without a Bill of Lading provided by the Purchaser.